

HUNDRED AND SIXTY-FIRST REPORT

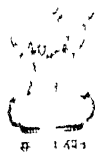
PUBLIC ACCOUNTS COMMITTEE (1988-89)

(EIGHTH LOK SABHA)

SALES TAX

MINISTRY OF HOME AFFAIRS

[Paragraphs 25—30 of the Report of C&AG of India for the year ended 31 March, 1987—Union Government (Delhi Administration)]



Presented in Lok Sabha on 25 April, 1989

Laid in Rajya Sabha on 25 April, 1989

LOK SABHA SECRETARIAT
NEW DELHI

April, 1989/Chaitra, 1911 (Saka)

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CORRIGENDA TO HUNDRED AND SIXTY-FIRST REPORT
(8TH LOK SABHA) OF PUBLIC ACCOUNTS COMMITTEE

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@ PART II

Minutes of sittings of Public Accounts Committee held on 24-1-1989 and 21-4-1989.

@Not printed. One cyclostyled copy laid on the Table of House and 5 copies placed in Parliament Library.

THE PUBLIC ACCOUNTS COMMITTEE (1988-89)

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*Appointed as Chairman w.e.f. 5-9--88 vice Shri C. Madhav Reddy resigned from Chairmanship of the Committee.

@Appointed w.e.f. 7-12-1988 vice Shri Kalpnath Rai ceased to be member of the Committee on his appointment as a Minister of State.

(iv)

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1. Shri G. L. Batra—*Joint Secretary.*
2. Shri B. D. Duggal—*Director (PAC).*
3. Shri A. Subramanian—*Senior Financial Committee Officer.*

INTRODUCTION

1. The Chairman of the Public Accounts Committee as authorised by the Committee present on their behalf this 161st Report on paragraphs 25 to 30 of the Report on the Comptroller and Auditor General of India for the year ended 31st March, 1987, Union Government (Delhi Administration) relating to Sales Tax.

2. The Report of the C&AG of India for the year ended 31 March, 1987, Union Government (Delhi Administration) was laid on the Table of the House on 10 May, 1988.

3. In this Report, the Committee have expressed their unhappiness over the pendency of assessment cases which reached the figure of Rs. 7.25 lakhs by the end of 1987-88. To deal with these cases expeditiously, the Department have raised the ceiling of taxable goods to Rs. 5 lakhs for the purpose of summary assessment. Along with the proposal for augmenting the staff strength, the Department also propose to give incentive to the staff showing more disposal of assessments. While the Committee have desired the Ministry of Home Affairs to provide full complement of staff in the Sales Tax Department, they have desired that the Summary Assessment Scheme be reviewed and the proposal for incentive scheme re-examined.

4. The Committee have also desired that the time limit for assessment should be reduced to two years from four years in order to expedite disposal of assessment cases, eliminate the scope of staff getting slack, prevent the unscrupulous dealers from engineering devices for evading tax and ensure early recovery of Government dues.

5. Under Rule 7(2) of the Delhi Sales Tax Rules, 1975 a dealer is required to file ST-I form with the Department upto the time of assessment. This enables the dealer to hold back the important documents for a period upto four years and submit the same at the fag end of the year leaving sufficient scope for malpractices being indulged into by unscrupulous dealers. The Committee have recommended amendment of the provision requiring the dealer to file all the supporting documents while filing returns and not upto

(vi)

the time of assessment. The Committee have also desired that a study be made to find out the reasons why false/fake/interpolated declaration forms could not be detected and whether any changes are required to be made in the ST-I form itself.

6. The Committee are not in favour of any leniency shown to the tax evaders in launching prosecution against them and have desired that guidelines be formulated in such a manner as to make the tax evaders realise that tax evasion is not only unrewarding but can also attract prosecution in Courts. To prevent the malpractice of issue of duplicate cash memo the Committee have suggested that cash memo books be supplied by the Department under its stamp on payment. Recognising the role of consumer as vital in checking tax evasion, the Committee feel it a duty of the Government to educate the masses through publicity media like T.V., Radio, Newspaper etc., about their rights and duties in this regard and the benefit that might accrue to them if cash memo is insisted upon for all goods purchased.

7. The Committee have also favoured strengthening of the Internal Audit Cell of the Department to detect tax evasion and setting of special courts to deal with Sales Tax cases expeditiously.

8. The Committee examined the audit paragraphs at their sitting held on 24 January, 1989. The Committee considered and adopted this report at their sitting held on 20 April, 1989. Minutes of the sitting form Part II of the Report.

9. For facility of reference and convenience, the recommendations/observations have been reproduced in the Appendix VII of the Report.

10. 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;
24 April, 1989

AMAL DATTA,
Chairman,
Public Accounts Committee.

4 Vaisakha, 1911 (Saka)

REPORT

SALES TAX

Sales tax is one of the important modes of indirect taxation and a major source of revenue to the States.

2. The law that governs the levy of tax on sale of goods in the Union Territory of Delhi i.e. the Delhi Sales Tax Act, 1975, came into force on 21 October, 1975. The Central Sales Tax Act, 1956 deals *inter alia* with the levy, collection and distribution of taxes on sale of goods in the course of inter-state trade or commerce.

3. During the course of the scrutiny of the accounts of the Sales Tax Department of the Union Territory of Delhi, the audit came across certain irregularities and shortcomings in the administration of the Delhi Sales Tax Act, 1975. These findings are contained in paragraphs 25 to 30 of the Report of the C&AG of India for the year 1986-87, Union Government (Delhi Administration)*.

4. In the succeeding paragraphs, the Committee would deal with various matters connected with the administration of the Sales Tax Laws.

Pendency of Assessment cases

5. According to Sub-paragraph 25.2 of the Audit Para 25, the position of cases of assessment in respect of Sales Tax during the years 1984-85 to 1986-87 was as follows:—

	1984-85		1985-86		1986-87	
	Local Dealers	Central Dealers	Local Dealers	Central Dealers	Local Dealers	Central Dealers
	1	2	3	4	5	6
(a) Number of assessments due for completion during the year :						
Arrear cases	2,21,732	2,04,839	2,27,096	2,13,047	2,36,131	2,21,234
Current cases	86,545	80,172	88,588	83,390	94,708	88,999

* *Vide* Appendix I.

	1	2	3	4	5	6
(b) Number of assessments completed during the year :						
Arrear cases	74,208	67,941	74,434	70,399	71,656	67,241
Current cases	684	606	520	477	321	278
(c) Number of assessments pending finalisation at the end of the year :						
Arrear cases*	1,43,621	1,34,505	1,48,398	1,39,171	1,63,771	1,53,662
Current cases*	83,475	78,542	87,733	82,063	94,387	88,272
(d) Yearwise break-up of pending assessments :						
1980-81	22	22	—	—	—	—
1981-82	67,868	63,420	—	—	—	—
1982-83	75,731	71,063	9,241	64,892	—	—
1983-84	83,475	78,542	79,157	74,279	76,968	72,427
1984-85	—	—	87,733	82,063	86,803	81,235
1985-86	—	—	—	—	94,387	88,721
					<u>2,58,158</u>	<u>2,42,383</u>

*Position of pendency as per physical verification report after reconciling and adjusting all previous years' discrepancies.

6. The position regarding the number of cases assessed during the years 1984-85 to 1987-88 and the number of cases pending for the year 1984-85 to 1987-88 both under Local and Central Acts, as on 1-4-1988 was as follows :

Year	Pending for the years as on 1-4-88		Total	Assessment made during the years		Total
	Local	Central		Local	Central	
1984-85	81279	76679	57958	74894	68545	143439
1985-86	91280	85914	177194	77954	70876	148830
1986-87	98264	925531	190817	71977	67519	139496
Total Arrear	270823	255146	525969			
1987-88 (Current)	102355	96258	198613	86108	80551	166659
	Grand Total		373178	351404	724582	

7. The Ministry of Home Affairs have attributed the following reasons to the pendency:

1. Shortage of assessing/staff.
2. Yearly increase in the number of registered dealers; and
3. Yearly increase in the volume of trade of already registered dealers.

8. Asked to indicate the special programme of action, if any, drawn to overtake the arrears by a time-bound programme, the Ministry have stated that the Delhi Administration has introduced Summary Assessment Scheme and have approached the Ministry of Home Affairs for creation of more posts of Assessing Authorities in accordance with the recommendations of Staff Inspection Unit (SIU). The Administration was also considering introduction of 'Incentive Scheme' in the Department to get more output from the Assessing Authorities with a view to clear the arrears.

9. The Committee are not happy with the pace with which the assessment cases are dealt with in the Department of Sales Tax. Year after year the cases are piling up and have reached the figure of 7.25 lakhs by the end of 1987-88. Though the amount involved in those cases can be known only after the completion of assessments, yet their number is a sufficient indication of the loss that the Government might have been suffering due to delay in their disposal. According to Ministry/Delhi Administration estimates, the additional demand created at the time of assessment could be approximately 2% of the total collection which, in their opinion, was negligible. The Committee, however, have understood from the Audit that the amount of additional demand worked out to approximately Rs. 10 crores and simple interest @18% for four years came to nearly Rs. 7.2 crores, which cannot be said to be negligible. Though the Ministry have taken certain measures (which the Committee would deal with in the succeeding paragraphs) to expedite disposal of cases yet the Committee feel that a concrete action plan should be drawn up to ensure early liquidation of the huge pendency. The Committee trust that steps would be taken in this direction with due promptitude.

Summary Assessment Scheme

10. The provisions regarding 'Summary Assessment Scheme' are contained in sub-section (2) of Section 23 of the Delhi Sales Tax Act, 1975 which reads as follows:

"If the Commissioner is satisfied that the returns furnished in respect of any period are correct and complete, he shall assess the amount of tax due from the dealers on the basis of such returns."

These provisions correspond to the provisions contained in section 143 of the Income tax Act, 1961.

11. In 1978, the Commissioner of Sales Tax, Delhi issued guidelines for being followed by the Assessing Authorities in dealing with cases relating to assessment years 1975-76 and onwards under Summary Assessment Scheme. The Scheme was applicable to those dealers whose sales of taxable goods during the relevant year did not exceed one lakh rupees.

12. In view of the experience gained after the introduction of the Summary Assessment Scheme, the Department of Sales Tax modified the Scheme to bring more dealers under it. In 1985, instructions were issued to cover the following categories of dealers:

- (a) All registered dealers having gross turnover upto Rs. 3,00,000.
- (b) All registered dealers mainly in the tax free items like food grains, textiles etc. in whose case the taxable turnover does not exceed Rs. 1 lakh.
- (c) General merchandise/Kiryana dealers presently being assessed on gatta system basis, having most of the sales as taxable sales without involved claim of exemption against statutory forms and G.T.O. does not exceed Rs. 5,00,000.
- (d) Dealers dealing in the sales of LPG, Petrol, diesel etc. who have already paid at first point (in whose case the taxable turnover does not exceed Rs. 1,00,000)*.
- (e) Dealers dealing in items like bicycles, bricks, fire bricks, drugs and pharmaceuticals and cement who have paid tax at first point in whose case the G.T.O. does not exceed Rs. 5,00,000 (subject to their furnishing a certificate from the dealers who have collected tax from them).

*Deleted w.e.f. 13-7-1987.

The Scheme did not cover the following dealers:

- (i) Dealers against whom any adverse material had been formed either in the year under assessment or in the immediate previous or subsequent year;
- (ii) Newly registered dealers in whose case no regular assessment had been framed so far;
- (iii) Cases of last assessment of the closed firms;
- (iv) Dealers who have filed the returns due;
- (v) Dealers who have been assessed under the scheme for three consecutive years;
- (vi) Dealers in whose case the G.T.O. during the year under assessment is less by 10 per cent as compared to the sales of the previous year; and
- (vii) Any other dealers where the Administrative Assistant Commissioner so directs.

13. On 3rd May, 1988, the Summary Assessment Scheme was further modified** where under all such dealers (regardless of their gross turnover) whose turnover of taxable goods did not exceed Rs. 5 lakhs were made eligible for assessment, subject to fulfilment of conditions mentioned at Para above. The dealers dealing in the sale of LPG, Petrol, Diesel who have already paid tax at the first point at the time of purchase are assessed under this scheme regardless of their gross turnover.

14. The idea behind the Summary Assessment Scheme is that the dealers having small turnover are assessed on the basis of the returns furnished by them without requiring their presence in the office. The errors of minor or technical nature are ignored as far as possible. However, in the case of major discrepancies, the assessing authorities are not precluded from calling upon the dealers personally or through legal representatives for correction. Following table indicates the extent of coverage under the scheme:

	Cases covered under Summary Assessment Scheme	Cases assessed under Scheme
1985-86	20712	9391
1986-87	16649	4658
1987-88	17002	4098

**Vide circular No. 4 dated 3-5-1988—Appendix-II.

15. Asked during evidence as to why the limit in respect of turnover for the purposes of summary assessment has been raised from time to time, the Financial Adviser, Ministry of Home Affairs informed that "principally it was in the mind of the Administration that by raising the ceiling more cases would come."

16. The Summary Assessment Scheme is aimed at expeditious disposal of assessment cases of dealers having small turnover and thereby minimising the overall pendency. Under this Scheme, the Assessing Authorities are required to identify the eligible dealers from the list of dealers allocated to them. Thereafter, all the dealers so identified are duly informed about their eligibility with the advice to furnish the desired information in the prescribed proforma within 30 days. Clearly, the Scheme envisages its voluntary acceptance by the dealers. The extent of coverage under the scheme has been hardly 20,712 in 1985-86, 16,649 in 1986-87 and 17,002 in 1987-88 and actual assessment far less than these. These figures speak volumes for the utter failure that the scheme has met due to poor response from dealers which was nearly 24% of the eligible dealers during 1987-88. The Department of Sales Tax have however, with a view to bringing more dealers under the scheme, raised the ceiling of turnover of taxable goods to Rs. 5 lakhs. But if past experience is any indication, it was not the ceiling which was responsible for the poor response, possibly it was due to some inherent weakness in the Scheme that prevented the dealers from accepting it and which need to be identified and remedied. Besides, there may be some other factors like lack of education or lack of proper guidance to the dealers, either from the Staff of the Department or from their Sales Tax adviser on account of some vested interests. The Committee therefore, desire a thorough review of the Summary Assessment Scheme by a Committee of the Senior Officers of the Department and the Ministry of Home Affairs as also the representatives of the Dealers/Traders Unions so as to examine inter-alia:

- (i) the reasons for non-acceptance of the scheme by dealers;
- (ii) whether voluntary nature of the scheme is mainly responsible for poor response to the scheme, and
- (iii) whether the procedure followed in Summary Assessment Scheme applicable to Income tax assesseees could be made applicable to sales tax assesseees also subject to suitable modifications.

and make suitable recommendations so that the objectives for which the scheme was introduced could be achieved.

Shortage of Staff

17. According to the information furnished by the Ministry of Home Affairs in February, 1989, 159 Assessing Authorities were actually in position against the sanctioned strength of 178. The position during the last four years in this regard was as follows:

As on	Sanctioned strength of Assessing Authorities	Actual in position	Shortfalls	*No. of Regd. Dealers
31-3-85	178	174	4	1,71,139
31-3-86	178	154	20	1,72,683
31-3-87	178	151	27	1,86,904
31-3-88	178	158	20	Not available

However, Delhi Administration had provided Additional Assessing Authorities every year to complete the assessment of time barring cases as under:

Period	No. of Addl. Assessing Authorities Provident
(i) Feb. & March, 86	10
(ii) Jan., Feb. & March, 1987	18
(iii) Feb. & March, 1988	13
(iv) Feb. & March, 1989	15

18. In 1981, the Administrative Reforms Department of Delhi Administration had conducted a study and assessed the additional requirements of the staff in the Sales Tax Department. On the basis of the study, a case for creation of 400 posts on regular basis and 698 posts on temporary basis was sent by Delhi Administration to the Ministry of Home Affairs in January, 1983. In 1984, the Ministry sanctioned 200 posts including 12 Sales Tax Officers, 12 Asstt. Sales Tax Officers and other allied staff on *ad hoc* basis and the Department was asked to take up the matter with the Staff

*Vide—Audit Para 25.1

inspection Unit (SIU) for assessing afresh requirement of the staff. The study was conducted by the S.I.U. and the report was received in December, 1985. The Staff Inspection Unit recommended for creation of a total of 213 posts out of which 113 posts were to be of the Assessing Authorities. Simultaneously that Unit recommended abolition of 370 posts out of which 241 posts comprised of Head Clerks/UDC/LDC Progressive Asstt./Process Server (Vide Appendices—III and IV) but did not recommend any additional staff for clearing the back log of assessment cases. On consideration of the Report, Delhi Administration approached the Ministry of Home Affairs in July 1987 for creation of 213 posts as recommended by SIU.

19. During evidence, while commenting on the recommendations of the SIU, the Home Secretary stated *inter alia*:

“The question of abolishing posts or reducing posts on one side and creating posts on the other side has been discussed and finally an agreed situation has been reached. The creation of these 213 posts with corresponding reduction of posts has been agreed by everybody. Now, we have to go to the Cabinet for approval...”

20. As on 20-3-1989, there were 50 sales tax wards in Delhi with 203998 registered dealers (105009 local and 98989 central dealers). A list indicating the ward-wise registered dealers with the no. of Assessing Authorities handling their cases, is at Appendix-V.

21. The Committee regret to note that while there has been steady increase in the number of assessment cases and the registered dealers since 1985-86, the strength of the Assessing Authorities remained static. The recommendations of the Staff Inspection Unit (SIU) given as long back as in December, 1985 for creation of 213 posts (including 113 posts of Assessing Authorities) in the Sales Tax Deptt., have become the victim of red-tapism. It is a sad commentary on the apathetic attitude of the Ministry of Home Affairs towards recommendation of SIU for creation of more posts which is so important a matter having revenue implications. The Department of Sales Tax has been clamouring for augmentation of staff strength for pretty long time without any success. The Committee can very well imagine the haphazard way in which the assessment cases might have been dealt with by the understaffed sales tax wards due to time bar drawing nearer. The Committee

strongly recommend that urgent measures be taken to complete all the requisite formalities and full complement of staff provided at the earliest to ensure timely and correct assessment of cases.

Incentive Scheme

22. In order to ensure expeditious disposal of assessment cases, the Department of Sales Tax has a proposal to give financial incentive to the Assessing Authorities on the basis of the total number of assessments completed by them on monthly basis. At present, an Assessing Authority is expected to give an output of 100 units per month. Under the proposed Incentive Scheme the assessing authority giving output of 150 units would draw incentive of $\frac{1}{4}$ th of his emolument more while the assessing authority giving output of 175 units would draw $\frac{1}{3}$ rd of his emoluments as incentive. The other supporting staff like Head Clerk, Record keeper, steno etc. would be entitled to a lump sum amount depending upon the performance of their assessing authority.

23. On an enquiry during evidence, the Chief Secretary, Delhi Administration stated:

“Here we will be relating incentives to additional unit which the assessing officers will be able to do. At the moment, every assessing officer has to have hundred units every month. Apart from that the assessing authority has to do a lot of other miscellaneous duties. Therefore, unless he puts in additional hours, it would not obviate the need for additional assessment units. But we have to catch up with the arrears.”

24. The proposal for giving financial incentive to the Assessing Authorities on the basis of increased output will definitely help in clearing the arrears of assessment cases, but at the same time it may lead to certain problems affecting the revenue. The incentive of $\frac{1}{4}$ th and $\frac{1}{3}$ rd of the emoluments for Assessing Authorities showing monthly output of 150 and 175 cases respectively, is so attractive and alluring that the Assessing Authority might be swayed to show more and more output to get more and more financial benefits. In doing so, there is every possibility of incorrect assessment being done on account of omission of certain important aspects or commission of certain mistakes leading to loss of revenue or even unnecessary litigation. In effect, the emphasis will be more on quantity

and quality aspect would be given the backseat. The Committee, therefore, desire the Ministry of Home Affairs and the Delhi Administration to re-examine the proposal in the light of apprehensions expressed by the Committee, before its implementation.

Time limit for completion of Assessment

25. Under the Delhi Sales Tax Rules, 1975 every registered dealer is required to furnish return in form ST-11 quarterly within forty-five days from the expiry of each quarter.* A quarter means a unit of three months of each year:

- (i) 1st April to 31st June (both days inclusive)
- (ii) 1st July to 30th September (both days inclusive)
- (iii) 1st October to 31st December (both days inclusive)
- (iv) 1st January to 30th March (both days inclusive)

However, the assessing authority may for reasons to be recorded in writing fix a monthly 'return period' for a registered dealer. Such a monthly return is required to be filed by the fifteenth day of the next month.@ Further, a dealer whose turnover has exceeded Rs. 10 lakhs and tax payable according to returns was not less than Rs. 15,000 in the previous year, is required to make monthly payment of actual amount of tax by the end of the month following that to which the payment related. All the receipt challans in respect of the payments should be furnished along with quarterly return.**

26. As per sub-rule (4) of Rule 21 of the Delhi Sales Tax Rules, 1975, the return shall be accompanied by treasury receipt (s) in Form I ST 12 and such other documents as are specified in Form I ST 11.

27. Section 23(7) of the Delhi Sales Tax Act, 1975 prescribes specific periods beyond which the assessing authority cannot make an assessment. In respect of registered dealers, no assessment can be made after the expiry of four years from the end of the year in

*Rule 21(1)

@Rule 21(2)

**Rule 24(2)

respect of which tax is assessable. In respect of dealers to whom notice in form ST-14 is given in terms of Section 23(6), no assessment can be made after the expiry of six years from the end of the year in respect of which tax is assessable.

28. An assessee aggrieved over the assessment done by the Assessing Officer can file appeals before the Appellate Authority. Table below indicates the number of appeals filed, decided, remanded for reassessment and reassessed for the three years 1985-86 to 1987-88.

	1985-86	1986-87	1987-88
(a) Total No. of Appeals filed.	9150	9510	9172
(b) No. of appeals decided	4281	4883	6369
(c) (i) No. of cases remanded for re-assessment	792	892	1410
(ii) No. of cases re-assessed out of the above remanded cases	238	257	141

29. The Public Accounts Committee (Seventh Lok Sabha) had also examined the problem of pendency of assessment cases and recommended in para 82 of their 227th Report for reducing the period allowed for assessment of cases from four to two years. The Ministry of Home Affairs/Delhi Administration on their part took no action in that direction. Instead, they felt that only increase in the strength of the staff could help clear the arrears.

30. Again on being asked in connection with the reduction of the limitation period, the Ministry have given the stock reply that 'it is not necessary to amend the law to reduce the limitation period as the upto-date assessment can be completed even under the existing law. The main difficulty in completing upto-date assessment is the paucity of staff and the same cannot be achieved unless adequate staff is provided.'

31. As per the provisions of Section 23(7) of the Delhi Sales Tax Act, 1975, assessment of returns filed by the registered dealers should be made within four years from the end of the year in respect of which tax is assessable. Besides, the cases remanded for re-assessment by the Appellate Authorities may again pend for another 4 years. The Committee feel that this is too long a period within which the assessee can easily manage his affairs in such a fashion as to get away without paying tax. The Public Accounts Committee

(Seventh Lok Sabha) had also gone into this question and recommended reduction of the period to two years which the Ministry did not accept on the plea that the upto-date assessment could be made without amendment of Law and with the increased staff strength. Regrettably, the staff strength is still awaiting augmentation.

32. The idea behind the reduction of the limitation period is manifold, firstly, to expedite the disposal of assessment cases, secondly, to eliminate the scope of staff getting slack in discharging their duties, thirdly, to prevent the unscrupulous dealers from engineering devices to evade tax and last but not the least, to ensure early recovery of Government dues. The Committee are of a firm opinion that the reduction of the limitation period would go a long way in improving not only efficiency of the staff but also the revenue to the exchequer. However, considering the heavy pendency of assessment cases at present, the Committee feel it all the more necessary that the backlog is first cleared under a time bound Action Plan as earlier recommended by the Committee and thereafter the limitation period of two years may become applicable. The Committee hope that necessary steps both administrative as well as legislative, would be taken in this direction.

33. The pace of disposal of appeals filed with the Appellate Authorities and the reassessment of cases remanded by Appellate Authorities is no better as will be seen from the following figures :

	1985-86	1986-87	1987-88
(a) Total No. of Appeals filed	9150	9510	9172
(b) No. of appeals decided	4281	4883	6389
(c) (i) No. of cases remanded for re-assessment	792	892	1410
(ii) No. of cases reassessed out of the above remanded cases	238	257	141

In order to ensure early and expeditious disposal of appeals, the Committee recommend that a study be made into the functioning of the Appellate Authorities, especially Deputy Commissioners and Assistant Commissioners, Sales Tax and if found necessary, their strength may be increased to cope with the pendency of appeal cases. In addition to that, the question of setting up special courts for disposal of appeal cases may also be examined. . .

Failure to detect cases involving false declarations and Suppression of Sales etc. by dealers

34. ST-I form is a declaration form issued by the purchasing dealer to the selling dealer as a proof that he is registered with the department and that the purchases made by him are specified in his registration certificate. This declaration form enables the selling dealer to claim deductions of sales made to Registered Dealers from his gross turnover under section 4(2) (a) (v) of the Delhi Sales Tax Act, 1975.

35. According to information furnished by the Ministry of Home Affairs the Assessing Authority checks the cash books, ledgers, Sales & purchase vouchers and other related documents to verify the correctness of the returns filed by the dealers. It also cross verifies the heavy exemptions claimed by the dealers on account of Sales to the registered dealers and also tallies the items purchased from the items allowed in his registration certificate.

36. Cases cited in Audit para 26 involving short levy of Sales tax to the extent of Rs. 5.69 lakhs and penalty of Rs. 14.23 lakhs. According to audit the exemptions were allowed on the basis of declarations which were either false, or invalid or interpolated. Under the Act and rules framed thereunder sales of goods made by one registered dealer to another dealer are to be allowed as a deduction from the turnover of the selling dealer on his furnishing alongwith his returns a complete list of such sales duly supported by prescribed declarations in form ST-I obtained from purchasing dealer. In case the dealer conceals the particular of his sales, penalty not exceeding two and a half times the amount of tax avoided is leviable in addition to the tax payable on the sales.

37. On being asked whether all the 12 cases cited in the Audit para 26 were analysed, the Department has answered in the affirmative and added that the analysis in all these cases had revealed that the Audit was able to point out the discrepancies only when the statutory forms submitted by these Assesseees were cross verified *vis-a-vis* the assessment records of the corresponding purchasing dealers. Explaining why the assessing staff could not detect these cases, the Department have stated that because of the heavy workload, it was not always possible to cross verify each and every statutory form submitted by a dealer (The various declarations/forms being used annually are estimated to be more than 15 lakhs). The cross verification was a time consuming process, particularly when

the corresponding purchasing dealer was registered in some other ward. Moreover, assessment of the dealer was made on the presumption that the books of accounts and other related documents like declarations, etc. being produced before him by an Assessee were true. However, in order to minimise the recurrence of such incidents like failure in detecting false declarations, the Department had issued a circular to all the Assessing Authorities in 1987 requiring them to make 100 per cent cross verifications in cases where the exemption claimed by a dealer exceeded the sale amount of Rs. 1,00,000/-. And since after the issuance of the said circular, the Assessing Authorities are making 100 per cent cross verifications where heavy exemptions are involved, the chances of failure in detecting the false declarations in future are less. Besides, cross verifications would be made in 100 per cent cases irrespective of the sales amount involved after the Computerisation Cell in the Department starts functioning in a year or so.

38. Under the Delhi Sales Tax Act, 1975 and the rules made thereunder, a registered dealer can purchase goods from another registered dealer without paying tax, if the goods are required by the purchasing dealer for re-sale within the Union Territory of Delhi or for use in manufacture in Delhi, of goods, sale of which is taxable in Delhi. For availing of the facility, the purchasing dealer is required to furnish to the seller a declaration in the prescribed form to the said effect. Under the Central Sales Tax Act, 1956, a registered dealer of one State can purchase goods from a registered dealer of another State at a concessional rate of tax by furnishing declarations in prescribed form 'C'. But if the dealer makes a false representation in regard to the goods or class of goods covered by his registration certificate or conceals the particulars of his sales or files inaccurate particulars of his sales, penalty not exceeding two and a half times the amount of tax, which would thereby have been avoided, is leviable in addition to the tax payable on the sales.

39. Audit para 27 makes a mention of 14 cases involving loss of Rs. 8.78 lakhs due to suppression of sales by dealers. The penalty amounting to Rs. 21.30 lakhs also becomes leviable on that account. In all these cases, the Department has initiated recovery proceedings or has started fresh assessments. The Department have in a subsequent note in regard to the question why the Assessing authority could not detect these cases *inter-alia* stated that cross verification of purchases was not made until and unless there was adverse material against the dealer. Moreover, such cross verification was a very

time consuming process, particularly in view of the fact that there was no such statement (like 'ST-2' account) filed by a dealer at the time of assessment which might give the details of the purchases made *vis-a-vis* the 'ST-I' forms utilised exclusively for that particular year i.e. the year of assessment, because the 'ST-2' accounts were filed by a dealer from time to time whenever he came to the Department for the issuance of fresh forms. In other words, the various 'ST-2' accounts filed by a dealer contained purchases made from time to time and not during a particular year alone. Since the Audit made test check only, it selected a few files which were thoroughly probed. While doing so it segregated from various 'ST-2' accounts rendered by a particular dealer those purchases which pertain to a particular year of assessment. In this way, the Audit was able to crossverify the amount of these purchases with the figure of purchases given by the dealer in his trading account. According to the Department such a thorough probe was not feasible at the level of an assessing authority keeping in view the work load and the time at his disposal.

40. The Public Accounts Committee (7th Lok Sabha) had also, in their 227th Report, with a view to ensuring effective control over the declaration forms and their cross-verification with the returns of purchasing dealers, recommended stream-lining of the existing procedure. The Ministry of Home Affairs had, in response thereto, stated* *inter alia* that with the setting up of Electronic Data Processing Cell, it would be possible to cross-verify the exemption claims made by registered dealers.

41. Asked to explain whether the cross checking was done in all the cases, the Ministry of Home Affairs have informed:

"Before the cross-checking through E.D.P. Cell could be started, it was necessary, to amend certain statutory forms especially the ST-2 forms in which the dealer submits the utilisation account of the ST-I forms issued to him on previous occasion. The procedure for amendment for ST-2 account was quite cumbersome and time consuming. However, now the necessary notification for amendment in the ST-2 forms has been issued. National Information Centre (N.I.C.), Ministry of Planning, Government of India which has been entrusted with the implementation of the computerisation programme in India has been approached

*Paragraph 1-11 of 15th Report of PAC (7th Lok Sabha)

to prepare software and render necessary technical advice to the department. As soon as the necessary software is prepared and the required equipment is installed, the work relating to cross-verification of future Sales and purchases would be started."

42. On being asked during evidence, the Chief Secretary, Delhi Administration informed that the National Information Centre is at the stage of giving us the software.

43. According to Audit para 28, no single declaration form (ST-I) would cover more than one transaction of sale *w.e.f.* 10 November, 1982, except in cases where total amount of sales made in a year covered by one declaration was equal to or less than Rs. 30,000. Sub-paras 28-1 and 28-2 of the Audit Para make mention of cases where these instructions were not heeded and declarations exceeding the prescribed limits were filed which resulted in irregular exclusion of sales of more than 5 lakhs. In one case, obsolete and old declaration forms were accepted.

44. On being asked as to why the Assessing staff allowed these irregularities to take place, the Department stated that the preliminary enquiries had not established any *mala fide* intention on the part of assessing authority in allowing the exemption with a view to giving undue benefit to the dealers. As each assessing authority had to deal with a large number of declaration forms, the possibility of such lapses occurring inadvertently could not be ruled out. Therefore, it was not fit for initiating disciplinary action against the concerned assessing authority. Clarifying further, the Department stated that :

"The declaration forms for claiming the exemption are filed with the assessing authority at the time of assessment who after examining these accepts the same. There is no provision under the Act & Rules under which the higher officers could be required to re-check these declaration forms submitted at the time of assessment unless in a specific case complaints are received in which case senior officer can call for the records."

The Department have however admitted that due to frequent changes in the notifications relating to the validity of the statutory

forms, the exemption from payment of tax was allowed on obsolete and defective forms.

45. The Delhi High Court in a case viz., Commissioner of Sales Tax, New Delhi Vs. Standard Match Industries (1980) held that calcium carbide, oxygen gas, electrodes and acetylene gases used for welding were not materials that went into the manufacture of any finished product and therefore could not be included in the certificate of registration as raw materials for manufacture. The Commissioner of Sales tax also circulated the clarification in this connection saying that such items should be deleted from the registration certificates of dealers.

46. According to Audit*, the Assessing authority made assessment in two cases checked by them without taking into account the judicial pronouncement and the clarification issued by the Commissioner of Sales tax resulting in non-realisation of tax amounting to more than Rs. 90,000.

47. The Ministry of Home Affairs have attributed these irregularities to an oversight on the part of assessing staff. As to the steps taken to avoid recurrence of such irregularities, they have stated that instructions have been issued in this regard.

48. Further details about the cases referred in Audit Paragraphs 26, 27 and 28, as furnished by the Ministry of Home Affairs under their communication dated 6 December, 1988 are at Appendix-VI.

49. ST-I form is a declaration form issued by the purchasing dealer as proof that he is registered with the Department and the purchases made by him are specified in his registration certificate. A test check by Audit of certain returns filed by dealers disclosed serious mistakes having been committed by the Assessing Authorities in 12 cases** during their scrutiny, by accepting false/fake/interpolated declarations without any check, leading to loss of revenue to the extent of lakhs of Rupees. Non-detection of false/fake/interpolated figures in these declarations has been attributed to the heavy work-load incapacitating the staff in cross-verifying the declarations of corresponding purchasing dealers of some other wards, which the Committee do not consider sufficient justification for their failures. It only proves that the Department has not profited from their experience. No attempt seems to have been made

*Vide Audit paras 28.3.1 & 28.3.2

**Vide Audit Para 26

to evolve some device to ensure that the ST-I form which is one of the most important documents, is not allowed to be misused or interpolated. What is more surprising is the fact that none of these cases was detected by the Internal Audit. The Committee, however, find that in 1987 instructions were issued to Assessing Authorities asking them to make 100 per cent cross verification in cases where exemptions claimed by a dealer exceeded the sale amount of Rs. 1 lakh. But considering the work load of the Assessing staff stated to be heavy and the ST-I forms are submitted at the time of assessment, the Committee have doubts if the Assessing Authorities would be able to find time to cross verify the sales/purchases effected in other wards. In the circumstances, the Committee recommend that a study be conducted as to the reasons why false/fake/interpolated declaration forms could not be detected by the Assessing Authorities and whether any changes in the ST-I form itself are necessary to eliminate the scope of the malpractices being indulged into by the wilful tax evaders.

50. The Committee would also like to be apprised whether the dealers involved in those cases were proceeded against or are proposed to be proceeded against under the criminal laws.

51. During evidence, the Committee were informed that it was not a statutory requirement to submit ST-I forms alongwith the return but it was required to be submitted upto the time of assessment. Rule 7(2) of the Delhi Sales Tax Rules, 1975 provides that the declaration in Form ST-I shall be furnished by the selling dealer to the appropriate assessing authority upto the time of assessment by it. Presently, the period for making assessment under the law is four years. As such, the assessee can hold back from the Assessing Authorities important documents for a period upto four years, and submit the same at the end of the prescribed period. This leaves sufficient room for the unscrupulous assesseees to indulge in malpractices of the kind reported in the Audit Paragraphs. The Committee recommend that relevant provisions should be so amended as to make it obligatory on the part of the assesseees to submit all the requisite supporting documents while filing returns and not upto the time of assessment as at present. The Committee trust that appropriate legislative measures would be taken in this direction with due expedition.

52. Under the Delhi Sales Tax Act, 1975, the purchasing dealer is required to keep in ST-2 form the record of his purchases made on the strength of ST-I forms. In 14 cases cited in Audit Para 27,

the short accountal of purchases by dealers resulted in suppression of corresponding sales whereby the Government suffered loss amounting to Rs. 8.78 lakhs on account of short levy of tax and Rs. 21.30 lakhs being leviable penalty. The main reason for non-detection of these cases is stated to be the inability on the part of Assessing Authority to cross verify the fact from the corresponding selling dealer's accounts due to the procedure being very time consuming and the statement in ST-2 forms becoming available to the Department only when the dealer comes to have the ST-1 forms. The Committee are constrained to observe that there seems to be lack of sincere efforts on the part of the Department to go into the working of the Delhi Sales Tax Act, 1975 to find out the loopholes therein with an intent to plug the same for preventing the revenue leakages. The Department has been functioning in a stereotyped manner accepting whatever information was furnished by the dealers as true. The Committee have no doubt that the Government must have suffered huge loss of revenue since inception of the Delhi Sales Tax Act, 1975 on account of complacency on the part of the Department and the Ministry of Home Affairs.

53. The problem of cross-verification does not appear to be as insurmountable as claimed by the Ministry. It could very well have been overcome by requiring the dealer to furnish ST-2 form or its zerox copy in support of the facts mentioned in his return. The Committee recommend that furnishing of ST-2 account on the financial year basis alongwith the last quarterly return of the relevant year be made obligatory on the part of the registered dealers through suitable legislative measures.

54. The Committee are informed that the cross-verification of sales and purchases would be made easy through computerisation of the system and the National Information Centre is at the stage of developing the soft ware. The Committee would like to be apprised of the latest position in this regard.

55. The Committee are unhappy to note that the Assessing Authorities do not keep their knowledge upto date as to the Departmental instructions, Notifications, judicial pronouncements etc. issued/made from time to time, which costs the exchequer heavily. The instances cited in Audit para 28 are indicative of the perfunctory manner in which these cases were dealt with without having any regard for the procedures, laid down and judicial decisions given by Courts. Strange enough, even the old and obsolete forms were accepted. Merely saying that there was no mala fide intention

on the part of assessing authorities or that frequent changes in Notifications led to irregular exemptions or that due to oversight of judicial pronouncement, the mistakes were committed do not absolve the Assessing Authorities of their responsibility. The Committee need hardly point out that the Assessing Authorities are charged with quasi-judicial functions and they cannot function efficiently without full knowledge of all the changes in law, rules or the judicial decisions made from time to time. Being final authority in assessment cases, the degree of their responsibility is rather high especially because of the frequent changes in the Notification etc., to keep themselves abreast of the day to day developments. The Committee feel that there should be a sound monitoring system so as to update systematically the knowledge of the Assessing Authorities from time to time. The Committee also feel that disciplinary action should invariably be taken in such cases against the erring officials in order to improve the functioning of the Department.

56. During the course of test check, the Audit had also come across a case in which omission to levy interest for non-payment of tax in a case resulted in loss of revenue to the extent of Rs. 59,235.*

57. Asked to intimate the reasons for the omission, the Ministry informed on 6 December, 1988 as follows:

“Audit para 29 pertains to M/s. Shiraz Restaurant, a registered dealer of Ward-17. As a matter of fact, the dealer had not deposited the tax in view of the judgement passed by the Hon’ble Supreme Court of India in the case of M/s. Northern India Caterers (India) Ltd. Vs. Lt. Governor of Delhi. However, subsequently the Parliament had passed 46th Constitutional Amendment Bill and based on that, the Assessing Authority at the time of assessment created the additional demand of due tax against the dealer but levying of interest for non-payment of the tax demand inadvertently escaped. However, when the discrepancy was pointed out by the Audit, the Assessing Authority levied interest of Rs. 59,235/- upon the dealer for non-payment of the due tax in time. Aggrieved of these orders the dealer preferred an appeal and the Appellate Authority stayed the recovery of the additional demand subject to the condition that the dealer

*Vide Audit Para 29.

shall pay 10 per cent of the additional demand and furnish surety for the balance amount. The dealer had complied with both these conditions. However, subsequently, the Appellate Authority remanded the case to the Assessing Authority on the ground that a reasonable opportunity of being heard was not afforded to the dealer while levying interest upon him. In compliance with the directions of the Appellate Authority the Assessing Authority after hearing the dealer re-assessed him on 28-11-1988 and again created the additional demand of Rs. 59,235. Recovery proceedings would be initiated only after the prescribed period of 30 days is over."

58. Under the Delhi Sales Tax Act, 1975 and the rules made thereunder every registered dealer is required to furnish a quarterly return of sales in the prescribed form and before the date prescribed for submission of such returns, pay into appropriate Government Treasury, the tax due and payable according to such return. Failure to pay the tax due would incur simple interest on the amount so due at the rate of one per cent per month (from the date immediately following the last date for submission of the return) for a period of one month and at the rate of one and half per cent per month thereafter as long as the failure continues or till the date of completion of assessment whichever is earlier.

59. The case relating to M/s. Shiraz Restaurant is another instance of carelessness on the part of Assessing Authority who omitted to levy interest under the provisions of law which would, but for the audit having pointed out, have resulted in loss of Rs. 59,235 to Government. The Committee feel that such omissions take place only due to the procedure followed in assessments not being streamlined. The Committee are of the opinion that in order to eliminate scope for such omissions, a check list is all the more essential for use of the assessing authorities to ensure that nothing has escaped their notice while scrutinising the returns.

60. Keeping in view the prevalent rate of interest on loans in the market, the Committee find that the rate of interest (i.e. one per cent or one and half per cent) leviable on the defaulters under Section 27 of the Delhi Sales Tax Act, 1975 is too low to motivate the assessee to deposit the tax due in time. The Committee recommend that the matter be examined and a rate of interest prescribed which would have enough deterrent effect on the assessee not to wilfully withhold Government dues for long periods.

61. Audit para 30 mentions five such cases where the Assessing Authorities could not detect the misrepresentation by the dealers as to the goods covered by their registration certificates.

62. Under Section 50(d) of the Delhi Sales Tax Act, 1975, whoever, being a registered dealer, represents, when purchasing any goods or class of goods not covered by his certificate of registration, that such goods or class of goods are covered by such certificate, shall be punishable with rigorous imprisonment for a term which may extend to six months or with fine, or with both, and where the offence is a continuing one, with a daily fine not exceeding two hundred rupees during the period of the continuance of the offence. Section 56(3) of that Act provides that in such cases, the authority which granted the certificate of registration may, after giving the dealer a reasonable opportunity of being heard, impose upon him a penalty not exceeding two and a half times the amount of tax, which would have been levied under the Act in respect of the sales of goods to him, if the offence had not been committed.

63. After Audit pointed out the mistakes, the Department initiated measures to reassess the cases and to raise demands but did not launch any prosecution against the guilty assesseees. The Ministry however clarified further:

“A dealer who is registered with the Department is at liberty to engage himself/herself with any kind of trade and can seek amendment in Registration Certificate within a period of 30 days from the date of first purchase. Thus, the items purchased not covered by the Registration Certificate is merely a technical lapse which is rectified either by amending the Registration Certificate or by levying tax on the goods so purchased. Moreover, the Assessing Authorities at the time of Assessment exercise only test check and do not function as Auditors and therefore, possibility of such items escaping notice always remains there.”

64. The Committee are surprised to note that the Ministry of Home Affairs have taken very lightly the crime of misrepresentation allegedly committed by the dealers to evade tax. It is a human psychology that once escaped undetected, one would try to repeat the offence more brazenly. The plea that “the items purchased not covered by the Registration Certificate is merely a technical lapse which is rectified either by amending the Registration Certificate or by levying tax on the goods so purchased” indicates the apathe-

tic attitude of the Ministry to a very serious matters and in a way that will only encourage the unscrupulous dealer to resort to the malpractice till it is detected thereby rendering the provisions of Section 50(d) of Delhi Sales Tax Act 1975 inoperative. The leniency coupled with the fact that no prosecution has been launched also shows that the Department is not interested in taking deterrent action against the tax evaders. The Committee desire that the Ministry should formulate guidelines for action by the Sales Tax Department in such a manner as to make the tax evaders realise that the tax evasion is not only unrewarding but can also attract prosecution in courts. The evasion of tax should also be made unrewarding by making procedure applicable to assessee who have been quality of evasion, more rigorous.

Sales tax collections and evasion

65. During the years 1985-86, 1986-87 and 1987-88, the total revenue collected by way of local and Central sales tax against their targets is as given below :

	Targets	(In crores of Rupees)		
		Actual Collections		Total
		Local (a)	Central (b)	(a + b)
1985-86	308.00	203.90	122.02	325.92
1986-87	368.00	241.32	137.87	379.19
1987-88	410.00	279.27	152.54	431.81

The targets for revenue collection for the years 1988-89 and 1989-90 have been set at Rs. 500 crores and Rs. 560 crores, respectively.

66. According to tentative or rough estimates, the extent of tax evasion due to suppression of sales and purchases by dealers, during the years 1985-86, 1986-87 and 1987-88 is as detailed below:

	Tax evasion	(In crores of Rupees)	
		No. of cases involving tax evasion	
1985-86	17.09	348	
1986-87	4.28	405	
1987-88	72.05	284	

These estimates are based on the *prime facie* scrutiny of the documents/loose papers seized during the course of raids etc., from the business premises of the defaulting dealers. According to the Department, the final outcome regarding the exact suppression of sales and purchases would be known only when the dealers involved are confronted with the seized documents. The Department has got a 'special investigation branch' known as 'Enforcement Branch' which conducts raids and surprise checks on unscrupulous/defaulting dealers.

67. Regarding the *modus operandi* of tax evaders, the Ministry have stated:

- (i) It was observed that in most of the cases, all the sales and purchases transactions actually conducted by the dealers were not accounted for in the books of account by either not issuing the cash memos at all or by issuing the duplicate cash memos.
- (ii) In some cases the exemptions were claimed by the dealers on the basis of false declarations.

68. Regarding the nature of action taken against the tax evaders, the Ministry of Home Affairs have stated that in cases where suppression of sales and purchases of the nature mentioned in category (i) above is concerned, books of account of such dealers are rejected and their assessment is completed on 'best judgement' basis by enhancing the sales appropriately and penalty upto 2-1/2 times of the taxed amount involved is also levied. And in cases of serious irregularities like mis-representation by way of false declarations etc. criminal proceedings under Indian Penal Code are also launched. For instance during the last 3 years F.I.Rs were filed against 360 dealers (i.e. 67 in 1985-86, 227 in 1986-87 and 66 in 1987-88) found to be indulging in evasion of sales tax. Out of these cases, 254 cases were under investigation and challans had been filed in the remaining 106 cases in courts. No case has yet been decided.

The year-wise break of 254 cases and their nature is as under :

Nature of cases	1985-86	1986-87	1987-88
(a) Fake forms	20	37	16
(b) Wrong utilisation account i.e. wrong 'ST-2' account	25	110	46

69. During evidence, on a suggestion made by the Committee for requiring the dealers to keep inventories of stocks for inspection by the sales tax authorities, the Commissioner of Sales Tax informed that the dealer was supposed to keep a record of all transactions which were taking place and that there was no statutory requirement for inventories. However, the assessing authority could check the stock record in case of doubt. On further enquiry the Chief Secretary, Deeni Administration agreed that the matter would be examined to see how to plug the loopholes.

70. The Committee note that apart from claiming exemptions on the basis of false declarations, the tax is evaded by way of sales and purchases not being accounted for in the books of account either by not issuing the cash memo at all or by issuing the duplicate cash memo. According to rough estimates, the suppression of sales and purchases by dealers resulted in tax evasion to the extent of Rs. 17.09 crores in 348 cases during 1985-86, Rs. 4.28 crores in 405 cases during 1986-87 and Rs. 72.05 crores in 284 cases during 1987-88. Although the aggregate collections both under local and Central Sales Tax Acts were more than the targets fixed therefor during 1985-86 to 1987-88 yet the collections would have been much higher if tax evasion had not taken place. The Committee, therefore, favour a stricter vigil over the activities of at least the habitual tax evaders. The Committee desire that the sales tax authorities be armed with powers to inspect the inventories of the dealers' stocks from time to time subject to the condition that these powers are not indiscriminately used to harass the honest tax payers.

71. So far as the question of issue of duplicate cash memo by dealers is concerned, the Committee would like to suggest that the cash memo books may be got printed and supplied by the Department under their stamp on payment to the dealers who may be required to account for the utilisation thereof at the time of assessment.

72. The role of consumer/buyer is very vital in checking tax evasion. He has to be very vigilant and should insist on a cash memo on every sale made to him while paying "local tax extra". Generally, people do not so insist and in doing so, they forfeit their right to claim any damages etc., in case the product turns out to be sub-standard or spurious one. In the circumstances, the Committee feel that a duty is cast upon the Government to educate the masses

through publicity media like T.V., Radio, Newspapers etc., of their rights and duties in this regard and the benefits that might accrue to them if cash memo is taken on all goods purchased.

73. The Committee are not happy with the progress of cases filed with the Police in as much as out of 360 cases registered with Police during the years 1985-86 to 1987-88, challans have been filed only in 106 cases and investigations are under-way in 254 cases. None of the cases filed in the courts has yet been decided. Surprisingly, the Ministry are not even aware of the position of cases at present under investigation with the Police. The Committee need hardly point out that close liaison with the Police is all the more necessary for expeditious investigation of cases. As regards the cases filed in courts, the Committee desire the Ministry to take up the matter with the High Court to set up special courts to deal with such cases which will not only prevent revenue from being locked up for long periods but shall itself have a deterrent effect on those assesseees who are now taking advantage of protracted court proceedings which acts as a time buffer between their tax evasion and the punishment which law requires them to suffer if caught.

Internal Audit Cell

74. The main purpose of Internal Audit Cell is to detect irregularities in the assessment and registration orders passed by the Assessing/Notified Authority and to suggest corrective measures. It consists of 6 Audit teams and in each team, there are two U.D.C. (Auditors), 1 L.D.C. under the charge of 3 ASTOs and these 6 teams are headed by 1 Sales Tax Officer. Internal Audit Cell select cases for audit at random basis. Special Audit is also conducted on the instructions of Commissioner of Sales Tax in case where complaints relating to irregularities committed by the Officers are brought to his notice. While conducting audit, the following points are kept in view:—

- (1) That the assessment file contains all the documents/lists furnished/filed by the assessee forming basis of assessment order;
- (2) That the adverse survey reports, surrendered papers have been taken into account by the Assessing Authorities/Notified Authorities;
- (3) That the GTO determined by the Assessing/Notified Authorities in the assessment order tallied with the turnover reflected in trading account. Difference, if any, has been properly examined or not;
- (4) That the exemption/deductions have been allowed in accordance with law or not;

- (5) That the concessional rates of tax under the Central Act is supported by proper declarations or not; and
- (6) That the taxable turnover has been correctly determined and the correct rate of tax has been applied or not.

After scrutiny of each case, the auditor completes the check list prescribed for assessment done separately under the Local Act as well as the Central Act and submits them to STO/ASTO/ Incharge Officer for examination. STO Incharge after examining the objections raised sends them after approval of Commissioner of Sales Tax to Ward Officers through the Assistant Commissioner advising him to settle the objection raised on priority basis.

75. The STO personally ensures that the objections raised by the Internal Audit Cell are immediately removed. During the course of audit for the last 3 years the Internal Audit Cell has detected irregularities in 5320 cases. In cases of dereliction of duty on the part of the Assessing Authority, action against the erring officer/ official is taken.

76. The Internal Audit Cell is expected to act as a check on the irregularities that might have occurred due to human failures etc., during the course of assessment of sales tax cases. Unfortunately, the cell could not put its hands on any of the irregularities pointed out by the C&AG in audit paragraphs 26-30, though it (internal audit) detected 5320 cases of irregularities during audit for the last 3 years. This goes to indicate that there is no tight system in the Department to ensure that no mistake or irregularities escape undetected. Presently, the Internal Audit Cell consists of 6 Audit teams to check, on random basis, cases of dealers whose number has risen to more than 2 lacs*. Considering the increasing number of dealers in Delhi the Committee are of the view that the Internal Audit Cell should be strengthened and the guidelines for selection of cases reviewed and so designed that no suspected cases escape audit and thus make it an effective instrument for helping the Department in plugging the revenue leaks.

NEW DELHI;
24 April, 1989
4 Vaisakha, 1911 (Saka)

AMAL DATTA
Chairman,
Public Accounts Committee

*Registered dealers as on 20-3-1989

APPENDIX—I

*Report of the Comptroller and Auditor General of India for the
year ended 31 March 1987 No. 8 of 1988, Union Government*

(Delhi Administration).

Audit Paragraph 25 to 30

SALES TAX

25. General

25.8 Total number of registered dealers—Under the Delhi Sales Tax Act, 1975, a dealer, who is a trader, is required to get himself registered and pay tax, if his gross turnover exceeds Rs. 1 lakh in a year. A dealer, who is a manufacturer, is required to do so, if his turnover exceeds Rs. 30,000 in a year. Halwais are required to get themselves registered, if their turnover exceeds Rs. 75,000 in a year. The dealers are required to get themselves registered under the Central Sales Tax Act, 1956 also, if they engage themselves in inter-State sales or purchases for any amount. The number of registered dealers during the last three years ending 31st March 1987 is given below. The figures within brackets indicate the number of dealers who are registered under the Central Sales Tax Act, 1956.

	As on 31st March 1985	As on 31st March 1986	As on 31st March 1987
1. Total Number of registered dealers	88,180* (82,959)	89,179 (83,504)	96,080 (90,824)
2. (a) Number of dealers having turnover of Rs. 10 lakhs and more	15,751 (15,095)	16,761 (15,813)	18,654 (17,802)
(b) Number of dealers having turnover exceeding Rs. 5 lakhs but below Rs. 10 lakhs	12,259 (11,570)	15,792 (14,929)	7,221 (16,184)
(c) Number of dealers having turnover exceeding Rs. 1 lakhs but below Rs. 5 lakhs	33,508 (31,177)	33,523 (31,148)	35,001 (32,924)
(d) Number of dealers having turnover less than Rs. 1 lakh	25,769 (24,330)	23,103 (21,614)	25,204 (23,914)

*Includes 893 (Local) and 787 (Central) dealers who were not classified for want of tax returns.

25.2 *Assessments pending finalisation.*—The table below indicates the number of assessments due for completion during the years 1984-85, 1985-86 and 1986-87; the number of assessments completed during those years and the number of assessments pending finalisation at the end of those years. It also shows the yearwise break up of outstanding assessments at the end of the years 1984-85, 1985-86 and 1986-87.

	1984-85		1985-86		1986-87	
	Local Dealers	Central Dealers	Local Dealers	Central Dealers	Local Dealers	Central Dealers
(a) Number of assessments due for completion during the year						
Arrear cases	2,21,732	2,04,839	2,27,096	2,13,047	2,36,131	2,21,234
Current cases	86,545	80,172	80,588	83,390	94,708	88,999
(b) Number of assessment completed during the year :						
Arrear cases	74,208	67,941	74,434	70,399	71,656	67,241
Current cases	684	606	520	477	321	278
(c) Number of assessments pending finalisation at the end of the year :						
Arrear cases*	1,43,621	1,34,505	1,48,398	1,39,171	1,63,771	1,53,662
Current cases*	83,475	78,542	87,733	82,063	94,387	88,721
(d) Yearwise break-up of pending assessments :						
1980-81	22	22	..	..	..	..
1981-82	67,868	63,420	..	..	..	..
1982-83	75,731	71,063	69,241	64,892	..	..
1983-84	83,475	78,542	79,157	74,279	76,968	72,427
1984-85	..	..	87,733	82,063	86,803	81,235
1985-86	..	..	..	..	94,387	88,721
					2,58,158	2,42,383

*Position of pendency as per physical verification report after reconciling and adjusting the previous years' discrepancies.

The number of assessments completed in the month of March 1987 was 17,906 under Local Act and 17,077 under Central Act, which constituted 24.8 and 25.2 per cent, respectively, of the total number of assessments done during the year. Similarly, net demand raised during March 1987 was Rs. 6,233.81 lakhs and Rs. 913.44 lakhs under the Local and Central Acts respectively which constituted 74.15 and 56.46 per cent of the total net demand raised during the year.

26. Short-levy due to non-detection of false/invalid declarations or interpolations in the declarations.

Under the Delhi Sales Tax Act, 1975, tax at prescribed rates is leviable on sales turnover of the dealers after allowing such deductions as are admissible under the Act. As per the Act and the rules framed thereunder, sales of goods made by one registered dealer to another registered dealer are to be allowed as a deduction from the turnover of the selling dealer, on his furnishing along with his returns, a complete list of such sales, duly supported by prescribed declarations in form ST-I obtained from the purchasing dealer. But, if the dealer conceals the particulars of his sales, penalty not exceeding two and a half times the amount of tax which would thereby have been avoided is leviable, in addition to the tax payable, on the sales.

A cross verification in audit, with the assessment records of the purchasing dealers from whom the declarations were purported to have been obtained by these selling dealers revealed the following:—

26.1 A registered dealer in Delhi had claimed and was allowed exemption from levy of tax in respect of sales amounting to Rs. 8,49,160 on the ground that these sales had been made to other local registered dealers during the years 1980-81 and 1981-82. The exemption allowed was not correct as the sales were supported by declarations (in form ST-I) which were false as the concerned blank declaration forms had, in fact, been issued by the department to some other registered dealers and not to the alleged purchasing dealers. The irregular grant of exemption resulted in tax being realised short by Rs. 59,441. Besides, penalty not exceeding Rs. 1,48,602 was leviable on the dealer for furnishing incorrect particulars of sales.

On the short-levy being pointed out in audit (November 1986), the department reassessed (March 1987), the dealer ex-parte, on best judgement basis, and raised an additional demand for tax

amounting to Rs. 59,441 and interest amounting to Rs. 61,486. Report on recovery of demand of tax and interest and imposition of penalty is awaited (November 1987).

26.2 While assessing a registered dealer in Delhi sales amounting to Rs. 13,36,163 made during the year 1982-83 were excluded from his taxable turnover. It was seen in audit that the declarations (in form ST-I) as furnished by him in support of the sales made to a certain purchasing dealer were false, owing to the fact that these declarations had actually been given by that purchasing dealer to some other dealers in respect of his purchases for Rs. 2,96,317 made from those dealers and not from this dealer. The irregular exclusion of sales from the assessee's taxable turnover resulted in tax being levied short by Rs. 93,531. Besides, penalty not exceeding Rs. 2,33,829 was leviable on the dealer for furnishing inaccurate particulars of sales.

On the irregularity being pointed out in audit (February 1986), the department reassessed (June 1987) the dealer and raised additional demand for tax amounting to Rs. 1,49,960. Report on recovery of the tax and levy of penalty is awaited (November 1987).

26.3 A registered dealer in Delhi had claimed and was allowed exemption from levy of tax in respect of sales amounting to Rs. 3,69,782 on the ground that these sales had been made to other local registered dealers during the year 1981-82. The exemption allowed was not correct as (a) sales amounting to Rs. 30,000 were supported by declarations which, in fact, had been given by the corresponding purchasing dealer in respect of purchases amounting to Rs. 300 only, and (b) the declarations in support of the remaining sales for Rs. 3,39,782 were false as (i) the declarations for Rs. 1,87,540 had been obtained from purchasing dealer who was not even registered with the department, (ii) the blank declaration forms in support of sales amounting to Rs. 63,402 were not issued to the alleged purchasing dealer by the department and (iii) the declarations in support of the sales for Rs. 88,840 had been issued by the alleged purchasing dealer in favour of certain other registered dealers in respect of purchases for Rs. 2,365 only made from that dealer and not in favour of this selling dealer. The irregular grant of exemption resulted in tax amounting to Rs. 36,978 not being realised. In addition, penalty not exceeding Rs. 92,445 was also leviable on the dealer for furnishing inaccurate particulars.

On the irregularity being pointed out in audit (July 1986) the department revised (January 1987) the assessment and raised an

additional demand for tax amounting to Rs. 36,948. Report on levy of penalty and recovery of additional tax is awaited (November 1987)

26.4 A registered dealer in Delhi had claimed and was allowed exemption from payment of tax on his sales amounting to Rs. 11,36,461 during the year 1980-81 although the declarations (ST-I) furnished by him in support of these had been issued by the buying dealers in favour of certain other registered dealers and not in favour of this assessee. The irregular grant of exemption resulted in tax being levied short by Rs. 1,13,646. Besides, penalty not exceeding Rs. 2,84,115 was also leviable on the dealer for furnishing incorrect particulars of sales to the assessing authority.

On the irregularity being pointed out in audit (June 1986) the department re-assessed (August 1987) the dealer and raised an additional demand for tax amounting to Rs. 1,13,646. Report on recovery of the demand and levy of penalty is awaited (November 1987).

26.5 Sales amounting to Rs. 10,00,000 made by a registered dealer during the year 1980-81 were excluded from his taxable turnover although the declarations (ST-I) furnished by the assessee were from a dealer (i) who was not even registered with the department and (ii) the blank declaration form had, in fact, been issued by the department to some other dealer. The irregular exclusion of sales from the taxable turnover resulted in short-levy of tax amounting to Rs. 70,000. Besides, penalty not exceeding Rs. 1,75,000 was leviable on the dealer.

On the irregularity being pointed out in audit (February 1986), the department raised (September 1987) demand for Rs. 70,000. Report on recovery of the demand and levy of penalty is awaited (November 1987).

26.6 In the assessment year 1981-82, a registered dealer in Delhi claimed exemption from payment of tax on his sales amounting to Rs. 2,76,000 by furnishing a declaration (in form ST-I) from a purchasing dealer, which was accepted (March 1986) by the assessing authority. The exemption allowed was not correct as (i) the registration of the purchasing dealer had been cancelled in February 1982 while the declaration covered the sales made during March 1982 and (ii) the blank declaration form had not been issued to the alleged purchasing dealer by the department. The irregular grant of exemption resulted in short-levy of tax amounting to Rs. 19,320. Besides, penalty not exceeding Rs. 48,300 was leviable on the dealer for furnishing incorrect particulars.

On the irregularity being pointed out in audit (December 1986), the department reassessed (August 1987) the dealer and raised an additional demand amounting to Rs. 38,640 (including penalty of Rs. 19,320).

26.7 Sales amounting to Rs. 2,95,583 made by a registered dealer in Delhi during the year 1981-82 were excluded from his taxable turnover although the declarations (ST-I) furnished by him in support of the sales made to other registered dealers had actually been issued by the alleged purchasing dealer in favour of certain other registered dealers and not in favour of this assessee. The irregular exclusion of sales from the assessee's taxable turnover resulted in tax being levied short by Rs. 11,823. Besides, penalty not exceeding Rs. 29,558 was also leviable on the dealer for furnishing inaccurate particulars.

On the irregularity being pointed out in audit (October 1986), the department stated (August 1987) that demand for Rs. 11,823 had since been raised against the dealer. Report on recovery of demand and levy of penalty is awaited (November 1987).

26.8 A registered dealer in Delhi had claimed and was allowed exemption from payment of tax on his sales amounting to Rs. 1,47,418 for the year 1981-82 although the declaration (ST-I) furnished by him in support of the sales made to another registered dealer (purchasing dealer) had actually been issued by that purchasing dealer to another dealer in respect of his purchases worth Rs. 4,036 made from other dealers and not from this dealer. The irregular grant of exemption resulted in tax being levied short by Rs. 10,319. In addition, penalty not exceeding Rs. 25,797 was leviable on the dealer for furnishing incorrect declaration.

The omission was pointed out in audit to the department in March 1987; their reply has not been received (November 1987)

26.9 A registered dealer in Delhi had claimed exemption from levy of tax in respect of sales amounting to Rs. 5,50,352 by furnishing prescribed declarations (in form ST-I) from the purchasing dealers, which were accepted by the assessing authority. The exemption allowed was not correct as (i) the sales amounting to Rs. 2,36,102 were supported by declarations which had been issued by the concerned purchasing dealer in respect of purchases amounting to Rs. 1,20,240 only and (ii) the declarations in support of the remaining sales for Rs. 3,14,250 the declaration forms used had, in fact, been issued by the department to certain other dealers and

not to the alleged purchasing dealer. The irregular grant of exemption in respect of sales amounting to Rs. 4,30,112 resulted in tax being levied short by Rs. 43,011, addition, penalty not exceeding Rs. 1,07,527 was leviable on the dealer for furnishing inaccurate particulars of sales.

The short levy was pointed out to the department in April 1987. Their reply has not been received (November 1987).

26.10 A registered dealer in Delhi claimed and was allowed exemption from payment of tax on his sales amounting to Rs. 3,52,050 for the year 1981-82 although the declarations (in form ST-I) furnished by him were on forms which had been issued by the concerned purchasing dealers in favour of certain other registered dealers in respect of their purchases for Rs. 12,410 made from those dealers and not from this assessee. The irregular grant of exemption resulted in tax being levied short by Rs. 35,405. In addition, penalty not exceeding Rs. 88,512 was leviable on the dealer for furnishing inaccurate particulars of sales.

The mistake was pointed out in audit to the department in January 1987; their reply has not been received (November 1987).

26.11 In the assessment year 1981-82, a registered dealer in Delhi claimed exemption from payment of tax on his sales amounting to Rs. 7,45,801 by furnishing two declarations (ST-I) received from a purchasing dealer, which were accepted (January 1987) by the assessing authority. Cross-checking of the declarations with the assessment records of the purchasing dealer (assessed in the same ward) showed that those were issued by the purchasing dealer in favour of certain other dealers in respect of his purchases for Rs. 57,574 made from those dealers and not from this assessee. The irregular grant of exemption resulted in tax being levied short by Rs. 52,206. In addition penalty not exceeding Rs. 1,30,015 was leviable on the dealer for furnishing false declarations. It was further observed that the dealer had applied for cancellation of his registration from December 1984, and the same was accepted (November 1985) by the assessing authority although the dealer did not render the account of 20 blank declaration forms issued (May 1982) to him by the department nor did he return the forms to the department.

The omission was pointed out in audit to the department in December 1986. Their reply has not been received (November 1987).

26.12. A registered dealer in Delhi claimed and was allowed deductions amounting to Rs. 6,57,227 during the year 1980-81 on account of sales made to other local registered dealers. Out of this amount, a deduction of Rs. 2,36,521 was, however, irregularly allowed as (i) the declarations (ST-I) furnished by the dealer in support of sales for Rs. 2,22,850 were not valid (the declaration forms were old and obsolete) and (ii) sales amounting Rs. 13,671 were not supported by prescribed declarations (ST-I). The assessing authority's failure to properly check the returns and supporting documents resulted in tax being levied short by Rs. 23,652. Besides, penalty not exceeding Rs. 59,130 was also leviable on the dealer for furnishing inaccurate particulars.

On the failure being pointed out in audit (August 1985) the department reassessed (September 1985) the dealer and raised an additional demand of Rs. 23,652 and imposed (July 1987) penalty amounting to Rs. 55,000. Report on recovery is awaited (November 1987).

The above cases were reported to the Ministry of Home Affairs between July 1987 and September 1987; their reply has not been received (November 1987).

27. Short levy due to non-detection of suppression of sales.

Under the Delhi Sales Tax Act, 1975 and the rules made thereunder, a registered dealer can purchase goods from another registered dealer without paying tax, if the goods are required by the purchasing dealer for re-sale within the Union Territory of Delhi or for use in manufacture in Delhi, of goods, sale of which is taxable in Delhi. For availing of the facility, the purchasing dealer is required to furnish to the seller a declaration in the prescribed form to the said effect. Under the Central Sales Tax Act, 1956, a registered dealer in one State can purchase goods from a registered dealer of another State at a concessional rate of tax by furnishing declarations in prescribed form 'C'. But if the dealer makes a false representation in regard to the goods or class of goods covered by his registration certificate or conceals the particulars of his sales or files inaccurate particulars of his sales, penalty not exceeding two and a half times the amount of tax, which would thereby have been avoided, is leviable, in addition to the tax payable on the sales. A cross verification with the assessment records of the selling dealer or other documents submitted by the purchasing dealer himself, revealed the following:—

27.1 A registered dealer in Delhi engaged in the business of re-sale and manufacture of furniture, had purchased without payment of tax, steel almirahs valuing Rs. 24,14,275 from another registered dealer during the year 1980-81 but had accounted for purchases of finished goods amounting to Rs. 19,41,618 only in his account records. The short accountal of purchases amounting to Rs. 4,72,657 resulted in suppression of corresponding sales amounting to Rs. 4,96,290 (including estimated profit margin at 5 per cent). The suppression of sales was not detected by the assessing authority. This resulted in tax being levied short by Rs. 49,629. Further, penalty not exceeding Rs. 1,24,072 was also leviable on the dealer for furnishing inaccurate particulars.

On this being pointed out in audit (September 1985) the department stated (July 1987) that an additional demand for Rs. 92,182 (including interest of Rs. 44,916) had been raised against the dealer. Report on recovery of additional demand and levy of penalty is awaited (November 1987).

27.2 A registered dealer in Delhi had purchased without payment of tax, goods valuing Rs. 14,41,183 and Rs. 8,55,957 during the years 1980-81 and 1981-82 respectively from other registered dealers by furnishing the prescribed declarations (ST-II) under the local Act, as per utilisation account in respect of declaration forms issued to him. The same dealer had also purchased, at a concessional rate of tax, goods valuing Rs. 8,311 and Rs. 23,460 during the years 1980-81 and 1981-82 respectively by furnishing the prescribed declarations (Forms 'C') under the Central Sales Tax Act. He, however, accounted for purchases amounting to Rs. 6,98,586 in 1980-81 and Rs. 8,41,755 in 1981-82. The short accountal of purchases amounting to Rs. 7,88,570 (Rs. 7,50,908 in 1980-81 and Rs. 37,662 in 1981-82) resulted in suppression of corresponding sales amounting to Rs. 2,27,998 (including estimated profit margin at 5 per cent). The suppression of sales was not detected by the assessing authority resulting in tax being levied short by Rs. 57,960. Further, penalty not exceeding Rs. 1,44,900 was leviable on the dealer for furnishing inaccurate particulars.

On the omission being pointed out in audit (December 1986) the department revised (July 1987) the assessment and raised an additional demand of tax amounting to Rs. 57,960 and penalty amounting to Rs. 1,44,890. Report on recovery is awaited (November 1987).

27.3 A registered dealer in Delhi engaged in the business of iron and steel had purchased, without payment of tax, goods valuing Rs. 73,04,851 from other registered dealers during the year 1981-82

by furnishing prescribed declarations (ST-I) as verified with reference to utilisation account in respect of declaration forms issued to him but accounted for purchases amounting to Rs. 47,96,460 only in his account records. The short accountal of purchases amounting to Rs. 25,08,391 resulted in suppression of corresponding sales amounting to Rs. 25,33,475 (including 1 per cent profit margin). The suppression of sales was not detected by the assessing authority. The failure resulted in tax being levied short by Rs. 1,01,339. Further, penalty not exceeding Rs. 2,53,347 was leviable on the dealer for furnishing inaccurate particulars.

On the failures being pointed out in audit (April 1987) the department revised (July 1987) the assessment and raised an additional demand of tax amounting to Rs. 1,01,339 and imposed penalty amounting to Rs. 2,53,347. Report on recovery is awaited (November 1987).

27.4 A registered dealer in Delhi had purchased, without payment of tax, goods valuing Rs. 2,34,013 from another registered dealer during the year 1980-81 by furnishing a prescribed declaration (ST-I), as seen in audit from the assessment records of the selling dealer. He had, however accounted for purchases amounting to Rs. 766 only in his account records against that declaration.

100 blank declaration forms had been issued by the department to this dealer (between May 1980 and March 1981) but he had not furnished the utilisation account of these forms, while the short accountal of purchases against aforesaid one form only amounted to Rs. 2,33,247; this resulted in suppression of corresponding sales amounting to Rs. 2,56,572 (including estimated profit margin at 10 per cent). The suppression of sales was not detected by the assessing authority, resulting in tax being levied short by Rs. 25,657.

On the failure being pointed out in Audit (May 1985) the Department re-opened the assessment and re-assessed the dealer *ex parte* on the assumed turnover of Rs. 330 lakhs on the basis of average purchases of Rs. 3 lakhs on each of the 100 declaration forms issued to him and raised a total demand of Rs. 33 lakhs.

Report on recovery of demand and imposition of penalty are awaited (November 1987).

27.5 A registered dealer in Delhi had purchased, without payment of tax, goods valuing Rs. 2,20,151 from another registered dealer during the year 1981-82 by furnishing five prescribed declarations (ST-I), as seen in audit from the assessment records of the

selling dealer, but he had accounted for purchases amounting to Rs. 29,991 only in his account records against those declarations. The short accountal of purchases amounting to Rs. 1,90,160 resulted in suppression of corresponding sales amounting to Rs. 2,09,176 (including profit margin at 10 per cent). The suppression of sales was not detected by the assessing authority and as a result, tax was levied short by Rs. 14,642. Further, penalty not exceeding Rs. 36,605 was leviable on the dealer for furnishing inaccurate particulars.

On this being pointed out in audit (March 1986), the department re-assessed (July 1987) the dealer and raised an additional demand for Rs. 15,344. Report on recovery of demand and imposition of penalty is awaited (November, 1987).

27.6 A registered dealer in Delhi had purchased without payment of tax, goods valuing Rs. 9,79,360 from other registered dealers during the year 1981-82 by furnishing prescribed declarations (ST-I), but accounted for purchases amounting to Rs. 6,46,358 only in his account records. The short accountal of purchases amounting to Rs. 3,33,002 resulted in suppression of corresponding sales amounting to Rs. 3,49,652 (including 5 per cent profit margin). The suppression of sales was not detected by the assessing authority. The failure resulted in tax being levied short by Rs. 13,986. Further, penalty not exceeding Rs. 34,965 was leviable on the dealer for furnishing inaccurate particulars.

On this being pointed out in audit (December 1986), the department re-assessed (September 1987) the dealer and raised an additional demand of Rs. 13,986 and imposed penalty amounting to Rs. 34,965. Report on recovery is awaited (November 1987).

27.7 A registered dealer in Delhi had purchased, without payment of tax, goods valuing Rs. 7,78,870 from other registered dealers during the year 1980-81 by furnishing prescribed declarations (ST-I), but accounted for purchases amounting to Rs. 6,73,375 only in his account records. The short accountal of purchases amounting to Rs. 1,05,495 resulted in suppression of corresponding sales amounting to Rs. 1,18,154 (including 12 per cent profit margin). The suppression of sales was not detected by the assessing authority. The failure resulted in tax being levied short by Rs. 11,815. Further, penalty not exceeding Rs. 29,537 was leviable on the dealer for furnishing inaccurate particulars.

On the failure being pointed out in audit (February 1986), the department raised (September 1987) demand for Rs. 11,815. Report on recovery of the demand and levy of penalty is awaited (November 1987).

27.8 A registered dealer had purchased, without payment of tax, goods valuing Rs. 7,14,382 from another registered dealer during the year 1980-81 by furnishing ten prescribed declarations (ST-1), as seen in audit from the assessment records of the selling dealer, but he had accounted for purchases amounting to Rs. 84,573 only in his account records. The short account of purchases amounting to Rs. 6,29,809 resulted in suppression of corresponding sales amounting to Rs. 6,45,554 (including profit margin at 2.5 per cent). The suppression of sales was not detected by the assessing authority and, as a result, tax was levied short by Rs. 64,555. Further, penalty not exceeding Rs. 1,61,387 was leviable on the dealer for furnishing inaccurate particulars.

On the omission being pointed out in audit (April 1986), the department stated (January 1987) that action for re-assessment was being taken. Further progress is awaited (November 1987).

27.9 A registered dealer in Delhi had purchased, without payment of tax, goods valuing Rs. 11,69,616 from other registered dealers during the year 1980-81 by furnishing prescribed declarations, but accounted for purchases amounting to Rs. 10,59,652 only in his account records. The short account of purchases amounting to Rs. 1,09,964 resulted in suppression of corresponding sales amounting to Rs. 1,20,960 (including 10 per cent profit margin). The suppression of sales was not detected by the assessing authority. The failure resulted in tax being levied short by Rs. 12,096. Further, penalty not exceeding Rs. 30,240 was leviable on the dealer for furnishing inaccurate particulars.

On this being pointed out in audit (June 1986), the department re-assessed (September 1987) the dealer and raised an additional demand of Rs. 12,096. Report on recovery of the demand and levy of penalty is awaited (November 1987).

27.10 A registered dealer in Delhi purchased, without payment of tax, goods valuing Rs. 3,00,075 from another registered dealer during the year 1982-83 by furnishing two prescribed declarations (ST-1), as seen in audit from the assessment records of the selling

dealer. However, he accounted for purchases amounting to Rs. 2,375 only against those declarations in his account record for that year. The short account of purchases amounting to Rs. 2,97,700 resulted in suppression of corresponding sales amounting to Rs. 3,12,585 (assuming a profit margin of 5 per cent). The suppression of sales was not detected by the assessing authority and, as a result, tax was levied short by Rs. 21,881. Further, penalty not exceeding Rs. 54,702 was leviable on the dealer for furnishing inaccurate particulars.

On the omission being pointed out in audit (July 1986), the department re-assessed (September 1987) the dealer and raised an additional demand of tax amounting to Rs. 21,015. Report on recovery of demand raised and levy of penalty is awaited (November 1987).

27.11 During the period from 1st February 1978 to 9th November 1981, control over issue of blank declaration forms (ST-I) by the department to the purchasing dealers was relaxed and an account of the forms utilised during the quarter was only required to be rendered with the quarterly returns to be submitted by the dealers. With effect from 10th November 1981, fresh declaration forms were to be issued only after the dealer had rendered a complete account of the declaration forms issued to him earlier. The Central Sales Tax (Delhi) Rules, 1957 envisaged from the beginning that fresh declaration forms 'C' were to be issued to a dealer only after he had rendered an account of such forms issued to him on earlier occasion.

27.11.1 In assessing a dealer for the years 1978-79 and 1979-80, the assessing authority determined his turnover at 'NIL' for both the years. As seen in audit from the assessment record of another selling dealer, the dealer had, in fact, purchased without payment of tax, goods valuing Rs. 1,07,740 and Rs. 86,831 during the years 1978-79 and 1979-80 respectively from this selling dealer alone by furnishing two declarations (one in each year). 56 blank declaration forms had been issued (20 in October 1978 and 36 in May 1979) by the department, to this dealer but he had not furnished the utilisation account of these forms with the quarterly returns. Even if it is assumed that the dealer had not made any other purchases against the remaining 54 declaration forms, his turnover during the years could not be less than Rs. 1,94,571 (excluding the estimated profit margin in the absence of his trading account). The concealment, which could not be detected by the assessing authority,

resulted in tax being levied short by a minimum amount of Rs. 19,457. Further, penalty not exceeding Rs. 48,642 was leviable on the dealer for suppression of sales.

On the short-levy being pointed out in audit (December 1984) the department re-assessed (November 1986) the dealer *ex parte* on best judgement basis and raised a demand for Rs. 2,52,000 (Rs. 82,000 for the year 1978-79 and Rs. 1,70,000 for the year 1979-80 including penalty of Rs. 5,000 for each year). Report on recovery is awaited (November 1987).

27.11.2 The turnover of a registered dealer in Delhi, who did not submit the prescribed quarterly returns for the years 1978-79 and 1979-80 (except for the second quarter of the year 1978-79) was determined by the assessing authority at 'NIL' and Rs. 25,000 for the years 1978-79 and 1979-80 respectively *ex parte* on best judgement basis. As verified in audit with reference to the records of another selling dealer, the dealer had purchased goods valuing Rs. 10,68,568 and Rs. 5,10,804 during the years 1978-79 and 1979-80 respectively from this selling dealer alone by furnishing three prescribed declarations (two in 1978-79 and one in 1979-80). 87 blank declaration forms had been issued (between May 1978 and May 1979), by the department to this dealer but he had not furnished the utilisation account of these forms. Even if it is assumed that the dealer had not made any purchases against the remaining 84 declaration forms, the aggregate of his turnover during the years could not be less than Rs. 15,79,372 (excluding the estimated profit margin in the absence of his trading account). This amount was more than the turnover assessed (Rs. 25,000 for 1979-80) by the assessing authority by Rs. 15,54,372. The incorrect determination of the dealer's turnover, thus resulted in a minimum under assessment of tax of Rs. 1,55,437. Penalty not exceeding Rs. 3,88,592 was also leviable on the dealer for suppression of this element of sales.

On the short-levy being pointed out in audit (December 1984) the department re-assessed (October 1986) the dealer and raised additional demands for Rs. 1,55,437. Report on levy of penalty and recovery of demands is awaited; Action taken regarding accountal of the remaining 84 declaration forms is also awaited (November 1987).

27.11.3 A registered dealer of Delhi had been issued by the department, 75 blank declaration forms (70 'ST-I' forms and 5 'F'

forms) between 20th December 1980 and 24th January 1981. He had submitted utilisation account for 10 forms only claiming to have purchased goods valuing Rs. 17,966. In assessing the dealer for the year 1980-81, the assessing authority determined (January 1985) his turnover at Rs. 80,00,000 *ex parte* on best judgement basis. The dealer had, in fact, purchased, without payment of tax, goods valuing Rs. 1,04,51,557 from three other registered dealers by furnishing 13 of the declarations (ST-I); this included four declarations for which accounts were rendered by him for an aggregate of Rs. 7,560 only (included in the total of Rs. 17,966) against actual purchases of Rs. 23,26,524 against these declarations. Against the remaining 6 declarations for which accounts were rendered, purchases to the extent of Rs. 10,406 were only indicated by him in his account records. Even ignoring the purchases, if any, made by the dealer against the remaining 51 declaration forms (ST-I) and transfer of goods from head office, if any, against the 5 'F' forms for which no accounts were rendered, his sale turnover for that year would be at least Rs. 1,15,08,159 (including an estimated profit margin at 10 per cent). This was more than the turnover assessed (Rs. 80,00,000) by the assessing authority by Rs. 35,08,159. The incorrect determination of the dealer's turnover thus resulted in under assessment of tax amounting to Rs. 2,45,572. Penalty not exceeding Rs. 6,13,930 was also leviable on the dealer for suppression of sales.

On the short levy being pointed out in audit (September 1985) the department re-assessed (December 1986) the dealer *ex parte* on best judgement basis estimating the turnover in respect of all the 70 ST-I forms and 5 'F' forms at Rs. 7,04,20,000 and raised an additional demand for tax amounting to Rs. 43,68,000. Report on recovery of the demand and levy of penalty is awaited (November 1987).

27.11.4 While determining the turnover of a registered dealer for the year 1980-81 at Rs. 4,99,137 (December 1984), the assessing authority enhanced the sales, as returned by the assessee, by Rs. 20,000 on the ground of non-production of books of accounts. As verified in audit with reference to the records of a selling dealer, this dealer had purchased goods valuing Rs. 25,91,296 from this selling dealer, without payment of tax, by furnishing two prescribed declaration (ST-I). The department could not indicate the date of issue of those forms nor could it intimate the number of such other forms issued to the dealer over and above these two forms, but stated that 55 blank declaration forms (which did not include the

two declaration forms mentioned above) were issued to the dealer between January 1980 and June 1981. Another set of 40 blank declaration forms (ST-I) were issued to the dealer on 16th October 1982 in spite of the fact that he had not furnished, along with his quarterly returns the account of the forms issued to him on earlier occasion.

Even if it is assumed that the dealer had not made any purchases against any other declaration form, his turnover during the year could not be less than Rs. 25,91,296 (excluding estimated profit margin in the absence of the trading account). This was considerably more than the assessed turnover by Rs. 20,92,159. The incorrect determination of the dealer's turnover thus resulted in under assessment of tax amounting to Rs. 83,686. Penalty not exceeding Rs. 2,09,215 was also leviable on the dealer for suppression of sales.

On the short levy being pointed out in audit (August 1985), the department re-assessed (July 1987) the dealer's turnover at Rs. 30,41,872 and raised a demand of Rs. 4,84,901 (including penalty of Rs. 2,63,220 and interest of Rs. 1,16,393). The reply of the Department was silent with regard to the utilisation account of the remaining forms (ST-I). Report on recovery is awaited (November 1987).

The above cases were reported to the Ministry of Home Affairs between July and September 1987; their reply has not been received (November 1987).

28. Short levy due to irregular grant of exemption from tax

Under the Delhi Sales Tax Act, 1975 and the rules framed thereunder, sales of goods made by one registered dealer to another registered dealer are to be allowed as a deduction from the turnover of the selling dealer, on his furnishing along with his returns a complete list of such sales, duly supported by prescribed declarations in form 'ST-I' obtained from the purchasing dealer.

With effect from 10th November 1982 no single declaration from (ST-I) shall cover more than one transaction of sale except in cases where the total amount of sales made in a year covered by one declaration is equal to or less than Rs. 30,000.

28.1. While assessing a registered dealer in Delhi sales amounting to Rs. 5,84,276 made during the year 1980-81 were excluded from his gross turnover on the basis of five declarations (ST-I) issued to

this dealer by the purchasing dealers between March and June 1982. It was, however, observed that more than one transaction were included in each of the five declarations and the total of such transactions covered by a single declaration exceeded Rs. 30,000. The aggregate of the amounts in excess of the monetary limit would work out to Rs. 3,97,896. The irregular exclusion of sales of Rs. 3,97,896 involved a tax of Rs. 15,916.

On the mistake being pointed out in audit (Oct. 1985) the department re-assessed (September 1987) the dealer and raised an additional demand for Rs. 15,916. Report on recovery is awaited (November 1987).

28.2. Sales amounting to Rs. 1,97,459 made by a registered dealer in Delhi during the year 1981-82, were claimed as deduction from his sales turnover on the basis of four declarations (ST-I) issued by the purchasing dealers after November 1981. It was noticed that (i) two declarations furnished by the dealer in support of sales for Rs. 5,252 were not valid (the declarations were old and obsolete) and (ii) more than one transaction was included in the two other declarations furnished in support of the remaining sales of Rs. 1,92,207 and the aggregate of such transactions covered by each declaration in excess of the monetary limit of Rs. 30,000 worked out to Rs. 1,38,097. The irregular exclusion of sales of Rs. 1,43,349 from the assessee's turnover involved a tax effect of Rs. 10,034.

On the mistake being pointed out in audit (Dec. 1986) the department re-assessed (September 1987) the dealer and raised an additional demand for Rs. 10,034. Report on recovery is awaited (November 1987).

28.3. Under the provisions of the Delhi Sales Tax Act, 1975, a registered dealer can purchase goods from another registered dealer, without payment of tax, if the goods are intended for use as raw material in the manufacture, in Delhi, of goods, sale of which is taxable in Delhi. This facility is allowed if the purchasing dealer furnishes to the seller a declaration in the prescribed form to the said effect and also indicates that the goods are covered by his certificate of registration. In November 1979, the High Court of Delhi had held [Commissioner of Sales Tax, New Delhi Vs. Standard Match Industries (1980) (45-STC-229)] that calcium carbide, oxygen gas, electrodes and acetylen gases used for welding were not materials that went into the manufacture of any finished product and could not, therefore, be included in the certificate of registration as raw

materials for manufacture. The Commissioner of Sales Tax also clarified in July 1979 that goods, which did not go into the manufacture of finished products of manufacture, could not be purchased without payment of tax and that such items should be deleted from the registration certificate of the dealers.

28.3.1. During the years 1979-80 to 1982-83 a registered dealer in Delhi, engaged in the business of spun pipe etc., had purchased from other registered dealers lubricants and welding electrodes valuing Rs. 1,92,552 and declared that the goods purchased were covered by his registration certificate. While making the assessment in August 1984, the assessing authority failed to disallow the dealer's claim and delete the items from his registration certificate in the light of the aforesaid judicial pronouncement and the departmental clarification. The failure resulted in non-realisation of tax amounting to Rs. 13,479.

This omission was brought to the notice of the department in February 1986, their reply has not been received (November 1987).

28.3.2 A registered dealer in Delhi had purchased welding electrodes valuing Rs. 2,19,641 and Rs. 8,95,219 during the years 1981-82 and 1982-83 respectively, without payment of tax on the ground that these were covered by his registration certificate. While making the assessment in November 1984, the assessing authority failed to disallow the dealer's claim and delete the item from his registration certificate in the light of the aforesaid judicial pronouncement and the departmental clarification. The failure resulted in non-realisation of tax amounting to Rs. 78,040.

On this being pointed out in audit (July 1986), the department re-assessed (August 1987) the dealer and raised a demand for Rs. 78,048. Report on recovery is awaited (November 1987).

The above cases were reported to the Ministry of Home Affairs between July 1987 and September 1987; their reply has not been received (November 1987).

29. *Non-levy of interest*

Under the Delhi Sales Tax Act, 1975 and the rules made thereunder, every registered dealer is required to furnish a quarterly return of sales in the prescribed form and before the date prescribed for submission of such return, pay into appropriate Government Treasury, the tax due and payable according to such return. If any dealer fails to pay the tax due, he shall, in addition to the tax due, be liable to pay simple interest on the amount so due, at one per cent

per month (from the date immediately following the last date for the submission of the return) for a period of one month, and at one and a half per cent per month thereafter, so long as he continues to make default in such payment or till the date of completion of the assessment, whichever is earlier.

A registered dealer in Delhi who was running a restaurant, failed to deposit into tax due and payable before the submission of returns of sales for the second, third and fourth quarter of the year 1980-81. While finalising his assessment (February 1985) for this year, the assessing authority did not take any action to levy interest for non-payment of tax. The omission resulted in non-realisation of interest amounting to Rs. 59,235.

On the mistake being pointed out in audit (Oct. 1985), the department stated (June 1987) that the dealer was directed (March 1987) to pay a sum of Rs. 59,235 towards interest. Report on recovery is awaited (November 1987).

The above case was reported to the Ministry of Home Affairs in July 1987. their reply has not been received (November 1987).

30. *Dealing in goods not covered by certificate of registration.*

Under Section 50(d) of the Delhi Sales Tax Act, 1975, whoever, being a registered dealer, represents, when purchasing any goods or class of goods not covered by his certificate of registration, that such goods or class of goods are covered by such certificate, shall be punishable with rigorous imprisonment for a term which may extend to six months or with fine, or with both, and where the offence is a continuing one, with a daily fine not exceeding two hundred rupees during the period of the continuance of the offence. Under section 56(3) of the Act in such cases, the authority which granted the certificate of registration may, after giving the dealer a reasonable opportunity of being heard, impose upon him a penalty not exceeding two and a half times the amount of tax, which would have been levied under the Act in respect of the sale of goods to him, if the offence had not been committed.

30.1 During the year 1980-81, a registered dealer in Delhi had purchased from other registered dealers, goods valuing Rs. 2,62,247 without payment of tax, by misrepresenting that the goods purchased were covered by his registration certificate. The assessing authority, while finalising the assessment in September 1984, failed to detect the misrepresentation and to initiate prosecution proceedings or to impose penalty on the dealer. Besides, the dealer did not furnish

utilisation account of 141 declaration forms (101 ST-I and 40 'C' forms) issued by the department during September 1979 to March 1981. Even if it is assumed that the dealer had not made any purchases against those declaration forms, of goods, which were not covered by his registration certificate a penalty not exceeding Rs. 45,893 could be levied for the aforesaid misrepresentation involving goods valuing Rs. 2,62,247.

On this being pointed out in audit (May 1986), the department determined (September 1987) the quantum of purchases made by the dealer by misrepresentation at Rs. 16,37,247 ex parte on best judgement basis and raised an additional demand of tax for Rs. 1,55,642 (Rs. 1,14,607 under the Local Act and Rs. 41,035 under the Central Act) but did not levy any penalty. Report on recovery of the demand is awaited. The reply of department was also silent regarding the utilisation of the declaration forms for which the dealer had still not rendered account (November 1987).

30.2 A registered dealer in Delhi engaged in the business of re-sale of rubber foam and its products purchased, without payment of tax, chemicals valuing Rs. 1,56,632 and Rs. 2,39,089 during the years 1980-81 and 1981-82 respectively by misrepresenting that these goods were covered by his registration certificate resulting in loss of revenue of Rs. 27,700. The assessing authority failed to notice the misrepresentation and consequently, no prosecution proceedings were launched against the dealer for this misrepresentation, nor did the assessing authority alternately impose any penalty on him for compounding the offence. Penalty upto Rs. 69,250 was leviable for this misrepresentation.

This was brought to the notice of the department in March 1987; their reply has not been received (November 1987).

30.3 A registered dealer in Delhi engaged in the business of photo offset printing had purchased from other registered dealers chemicals valuing Rs. 74,924 and Rs. 1,38,959 during the years 1980-81 and 1981-82 respectively, by misrepresenting that the goods purchased were covered by his registration certificate and did not pay tax amounting to Rs. 15,654 (Rs. 5,507 and Rs. 10,147 during 1980-81 and 1981-82 respectively). The assessing authority failed to notice the misrepresentation and consequently no prosecution proceedings were launched against the dealer for this misrepresentation, nor did the assessing authority impose any penalty on him for compounding the offence, while making assessments (in July 1984 and February 1985). Penalty upto Rs. 39,135 (Rs. 13,757 for the year 1980-81 and Rs. 25,368 for the year 1981-82) could be levied for this misrepresentation.

The same dealer had also been allowed deductions amounting to Rs. 1,60,560 and Rs. 2,18,594 during the years 1980-81 and 1981-82 respectively, treating these as sales supported by declarations (in form ST-I) received from the purchasing dealers. The deductions allowed were not correct as the amounts represented payments received by the assesseees for job work (printing) done and which were excluded from his gross turnover on which the dealer had also claimed and had accordingly been allowed exemption from payment of tax. The irregular grant of deductions resulted in tax being levied short by Rs. 26,611. Further, penalty not exceeding Rs. 66,527 was leviable on the dealer for furnishing inaccurate particulars.

On the failure being pointed out in audit (June 1986), the department re-assessed (September 1987) the dealer and raised additional demand of tax amounting to Rs. 42,265 (including Rs. 15,654 on account of tax on purchase made by misrepresentation) and imposed penalty amounting to Rs. 34,569 for misrepresentation. Report on recovery of demands raised and levy of penalty (for furnishing of inaccurate particulars) is awaited (November 1987).

30.4 A dealer in Delhi, engaged in the business of cement products, light and heavy chemicals, etc., was granted registration under the Local Act, with liability and validity with retrospective effect from 25th July 1975, under an order passed on 20th November 1975. In the registration certificate, the item 'Iron and Steel' was allowed for resale purpose upto 31st October, 1975 the date upto which the item was taxable at the last point. The incidents of tax on the item 'Iron and Steel', however, shifted again from first point to last point of taxation with effect from 29th September, 1976, but the dealer did not apply for inclusion of the item in his registration certificate from that date or from any subsequent date.

It was noticed in audit that during the year 1980-81, the dealer had purchased from other registered dealers, "Iron and Steel" valuing Rs. 54,91,970, without payment of tax, by misrepresenting that the goods purchased were covered by his registration certificate and thereby had avoided payment of tax of Rs. 2,19,269. While computing the assessment in January, 1985, the assessing authority failed to detect the misrepresentation and consequently did not initiate any prosecution proceedings or impose any penalty on the dealer. Penalty upto Rs. 5,49,197 was liable to be levied for this misrepresentation.

On the failure being pointed out in audit (Dec. 1985), the department stated (August 1986) that the resale of the item "Iron and

Steel" was restricted upto 31st October, 1975 in the registration certificate of the dealer due to a *bona fide* mistake on the part of the then assessing authority. It was pointed out that the contention is not tenable as the then assessing authority, while passing orders on 20th November, 1975, restricted the operation of the registration certificate in regard to "Iron and Steel" only upto 31st October, 1975, keeping in view the changed incidents of levy of tax on that item on the date of passing orders. Further developments are awaited (November 1987).

30.5 A registered dealer engaged in the business of manufacture and sale of PVC footwears was allowed to purchase "PVC compound" for the purpose of manufacture only. He had, however, sold PVC compound worth Rs. 5,08,310 during the year 1981-82 and claimed exemption from payment of tax on the sale by misrepresenting that the sale of these goods were covered by his registration certificate. While completing the assessment in August 1985, the assessing authority failed to detect the misrepresentation and consequently did not initiate any prosecution proceedings or impose any penalty on the dealer. Penalty upto Rs. 88,954 could be levied on the dealer for this misrepresentation.

On the omission being pointed out in audit (June 1986) the department re-assessed (July 1987) the dealer and raised a demand for Rs. 1,58,744 (including interest of Rs. 34,208 and penalty of Rs. 88,954). Report on recovery is awaited (November 1987).

The above cases were reported to the Ministry of Home Affairs in July and September 1987, their reply has not been received (November 1987).

APPENDIX II

(Vide Para 13 of the Report)

OFFICE OF THE COMMISSIONER OF SALES TAX: L BLOCK

VIKAS BHAWAN: I.P. ESTATE: NEW DELHI-110002

No. F-23(3)/81-PPR|2744-3243

Dated the 3rd May, '88.

CIRCULAR No. 4

All the Assessing Authorities,
Sales Tax Department
Delhi Administration, Delhi.

Subject: Summary Assessment Scheme.

Attention is invited to Para 3 of the instructions on 'Summary Assessment Scheme' conveyed vide this Office U.O. Note No. F-23(3)|81|PPR/CST/3301-49, dated 11th April, 1985.

2. It has now been decided that, instead of five categories of dealers as defined under sub paras (a) to (e) of Para 3 of the instructions referred to above so far covered under the Summary Assessment Scheme, *all such dealers regardless of their gross turnover, whose turnover of taxable goods does not exceed Rs. 5 lakhs, will henceforth be eligible for assessment under the Summary Assessment Scheme subject to fulfilment of the conditions enumerated in Para 4.*

3. Accordingly, all the assessing authorities are hereby directed to identify such dealers from the list of dealers allocated to them in accordance with the alphabetical distribution of work in their wards. It may be clarified that dealers identified under this scheme will be assessed both by the Sales Tax Officers and Asstt. Sales Tax Officers in respect of cases falling within their respective jurisdiction. Lists of such dealers qualifying for Summary Assessment under the modified scheme will be prepared in triplicate latest by 31st May, 1988 and a copy of the same will be sent to the respective Zonal Asstt. Commissioner and another to the Private Secretary to the Commissioner of Sales Tax, Delhi. All the assessing authorities will also ensure that all the dealers identified for Summary Assessment Scheme are duly informed about their eligibility and advised to furnish the desired information

in the prescribed proforma within 30 days of the receipt of the communication referred to above. Copy of the proforma should also invariably be sent to the dealer.

4. *The desired information in the prescribed proforma shall be personally received by the concerned assessing authorities from the dealers identified for summary assessment against receipt under their own signature. These applications will be entered in seriatum in a register maintained for the purpose and it should be ensured that assessment orders are issued within 3 weeks from the date of the receipt of the information from the dealers.*

Sd/-

(SUBHASH SHARMA)

2.5.88

*Commissioner of Sales Tax
Sales Tax Department.*

APPENDIX III

(Vide Para 18 of the Report)

Statement showing Posts to be created

Sl. No.	Category of Post	Sanctioned	Assessed	Proposed to be created
1	Deputy Commissioner	2	3	1
2	Asstt. Commissioner	10	11	1
3	Sales Tax Officer	81	145	64
4	Asstt. Sales Tax Officer	96	145	49
5	Administrative Officer	1	2	1
6	Superintendent	3	4	1
7	S.A.S. Accountant	1	2	1
8	Inspector	117	123	6
9	Caretaker . . . . .	..	1	1
10	Asstt. Librarian . . . . .	..	1	1
11	Junlor Stenographer	192	213	21
12	Despatch Rider . . . . .	..	21	21
13	Peon	186	225	39
14	Programmer . . . . .	..	2	2
15	Codar . . . . .	..	4	4
Total		689	902	213

APPENDIX IV

(Vide Para 18 of the Report)

Statement of showing Posts to be abolished

Sl. No.	Category of Post	Sanctioned	Assessed	To be abolished
1	Programmer	2	..	1
2	Research Officer	1	..	2
3	Key Punch Operator	18	16	4
4	Sepoy	4	..	63
5	Head Clerk	68	5	8
6	Statistical Asstt.	16	8	
7	Upper Division Clerk	208	168	40
8	Lower Division Clerk	285	225	60
9	Progressive Asstt.	66	2	64
10	Daftary	6	2	4
11	Process Server	114	..	114
12	Chowkidar	16	12	4
13	Safaiwala }	17	15	2
14	Messenger }	3	1	2
Total		824	494	370

APPENDIX V

(Wide Para 20 of the Report)

Statement showing Registered dealers and the Assessing Authorities in various Sales Tax Wards in Delhi

Sl. No.	No. of Regd. Dealers as on 20-3-1989		No. of Assessing Authorities	
	Local	Central	Assessing Authorities	Addl. Assess- ing Authorities provided by D.A. in Feb.' 89 upto 31-3-89
1	2	3	4	5
1	1801	1778	2	..
2	1334	1228	2	1
3	1347	1266	2	..
4	1695	1613	2	1
5	1565	1508	2	..
6	1790	1686	2	..
7	1795	1742	2	..
8	1308	1306	2	..
9	1307	1291	2	..
10	2044	1966	2	1
11	1605	1584	3	.
12	1503	1416	2	.
13	1406	1305	4	..
14	1842	1775	3	..
15	1775	1741	2	1
16	1090	956	2	..
17	1930	1570	3	1
18	1884	1517	3	..
19	1372	1103	2	..
20	1340	1086	2	..
21	2094	1902	2	1

D.A. Delhi Administration.

1	2	3	4	5
22	1620	1486	2	.
23	2717	2617	8	.
24	1935	1837	2	1
25	1296	1189	2	..
26	1417	1262	2	..
27	2172	2148	3	..
28	1840	1827	3	..
29	3540	3429	4	1
30	2047	2036	3	.
31	1375	1272	2	
32	1960	1893	5	1
33	1382	1324	2	..
34	1163	1141	2	..
35	1858	1759	2	..
36	2757	2574	3	1
37	2318	2150	3	..
38	1943	1836	2	..
39	2497	2400	3	1
40	3736	3572	4	..
41	3064	2889	5	..
42	2569	2333	3	..
43	4575	4434	4	..
44	3209	3112	4	..
45	1447	1424	1	1
46	3410	3248	3	1
47	2924	2768	4	..
48	3344	3294	6	1
49	2158	1798	3	..
50	4919	4597	6	..
Total	105009	98989	139	15

APPENDIX VI

(Vide Para 48 of the Report)

Further details relating to cases cited in paragraphs 26 to 28 of the Audit Report (Delhi Administration) for the year 1986-87, as furnished by the Ministry of Home Affairs

AUDIT PARA 26

Audit Para 26 involves 12 cases as under :—

26.1 This pertains to M/s. Jain Rubber Inds., a regd. dealer of Ward No. 39.

The dealer was assessed for the year 1981-82 *vide* assessment order dated 27-1-86 when a demand of Rs. 1,79,733/- was created. This was on the basis of ST-I forms amounting to Rs. 25,64,607/64 not being found in order on verification. On checking of assessment orders and statutory forms submitted by the dealer at the time of assessment, the Audit Party noticed that there were certain fake ST-I forms which had escaped the notice of the Assessing Authority. Accordingly the case was re-assessed *vide* order dated 26-3-87 and an additional demand of Rs. 99712/- was further created. Aggrieved of the original assessment order dated 27-1-86 the dealer preferred an appeal before the Deputy Commissioner who *vide* his order dated 3-3-88 set aside the original demand of Rs. 1,79,733/- and remanded the case back to the Assessing Authority for fresh examination of the case. For the additional demand created *vide* re-assessment order dated 26-3-87 also the dealer had preferred an appeal before the A.C. (VI) who dismissed the same on 11-4-88. Accordingly the recovery proceedings for an additional demand of Rs. 99712/- were initiated by the Assessing Authority. Out of these Rs. 25000/-, recovery proceedings for the balance amount are in progress.

The dealer's file for the year 1980-81 was also audited by the Audit Party. On the basis of objections raised by the

Audit, the case was re-assessed and an additional demand of Rs. 21215/- was created. Aggrieved of this order the dealer had filed an appeal before the Assistant Commissioner (Appeal) which was, however, rejected. Thereafter the dealer filed an appeal before the Sales Tax Tribunal who has stayed the recovery proceedings till the disposal of the appeal. Further progress in the matter shall, therefore, be intimated only when out-come of the appeal in the Tribunal is known.

26.2:—This case pertains to M/s. Budhia Oil Traders, a regd. dealer of Ward No. 43.

On the basis of the objections raised by the Audit, the case was re-assessed for the year 82-83 and a demand of Rs. 1,49,960/- was created. Having aggrieved with the re-assessment orders, the dealer went in appeal and the Appellate Authority remanded the case back to the Assessing Authority *vide* his orders No. DCST|87-88|381 dated 2-5-88. Re-assessment proceedings of the remanded case shall be completed by February, 1989.

26.3:—This case pertains to M/s. Mohan Industries, a regd. dealer of Ward No. 37.

On the basis of the objections raised by the Audit, the dealer had already been issued penalty notice and his case was filed for 22-8-88, 7-9-88, 21.9.88 and 22.9.88. Penalty action is likely to be completed by Feb. 1989.

26.4:—This case relates to M/s. N.U. Foam Industries. In compliance with the discrepancies pointed out by the Audit Party, the dealer was re-assessed and a demand of Rs. 1,15,864.20 was created. Aggrieved with the aforesaid order, the dealer filed an appeal before the Additional Commissioner, Sales Tax, who after hearing the dealer stayed the aforesaid amount till disposal of the appeal subject to the condition that the dealer shall deposit Rs. 11,500/- and furnish surety bond for the balance amount. The dealer has complied these stay orders. Matter is still sub-judice. Further action shall be taken after the disposal of appeal.

26.5:—This case relates to M/s. Panipat Food Ltd., a regd dealer of Ward No. 50.

At the time of assessment, Sales amounting to Rs. 10,00,000/- made by the dealer during the year 80-81 were excluded from his taxable turnover although the declarations (ST-I) furnished by the assessee were from the dealer (i) who was not registered with the department (ii) the blank declaration form had, in fact, been issued by the Deptt., to some other dealer. The irregular exclusion of sales from the taxable turnover resulted in short levy of tax amounting to Rs. 70,000/-. On the irregularity being pointed out by the Audit the case was re-assessed and an additional demand of Rs. 70,000/- was created *vide* orders dated 3-9-87. Aggrieved of this order, the dealer filed an appeal in the Sales Tax Tribunal who has stayed the recovery of the demand till disposal of the appeal. Regarding penalty, the audit has already been intimated that in view of the legal position on the point involved in this case, it is not a fit case for imposition of penalty.

26.6:—This pertains to M/s. Amar General Industries, a regd. dealer of Ward No. 15.

The audit objection was considered and the case was re-assessed on 24-8-87 and a demand of Rs. 38640/- was created, including penalty.

The recovery certificate for the above amount was issued to dealer. The dealer, however, went in appeal against the above order and the Assistant Commissioner-II had remanded the case *vide* his order dated 13-6-88. The assessment of the remanded case shall be completed by Feb. 1989.

26.7:—This case pertains to M/s. Veer Traders, a regd. dealer of Ward No. 11.

Taking into consideration the observations of the Audit, the case was re-assessed on 20-1-86. An additional demand of Rs. 1645/- under local Act and Rs. 312/- under Central Act was created. Having aggrieved with the re-assessment, the dealer has filed an appeal before the Assistant Commissioner-II. The Assistant Commissioner-II has admitted the appeal *vide* his order No. 4044 dated 16-5-88 and remanded the case back to the Assessing Authority. The re-assessment proceedings of the remanded case are under way and the same shall be completed by February, 1989.

26.8:—This relates to M/s. Modern Lamination Pvt. Ltd., a regd. dealer of Ward No. 43

On the basis of the objections raised by the Audit; the notice for re-assessment of the case for 81-82 was issued to the dealer, in reply to which the dealer clarified that the purchasing dealer namely M/s. Lamina Packers of Ward No. 44 had filed the revised ST-II account and an affidavit declaring therein that the ST-I form under objection was actually issued to the dealer (M/s. Modern Lamination Pvt. Ltd.) for Rs. 1,47,418/- for the year 81-82. These facts were also got confirmed from the STO of the ward where the purchasing dealer is registered. This position has also been intimated to the Audit for dropping the para in question.

26.9:—This pertains to M/s. Dax Electronics, a regd. dealer of Ward No. 50.

The dealer was allowed exemption of tax on sales amounting to Rs. 4,21,112/- made to other Regd. dealer against ST-I forms. On varification it was found that either these forms were not issued to the purchasing dealer or there was variation in the utilisation account filed by the purchasing dealer. Thus the amount of Rs. 4,21,112/- was to be taxed @10% which comes to Rs. 42,111/-

Re-assessment proceedings have been completed and additional demand of Rs. 42,111/- created *vide* orders dated 4-2-1988. In addition a penalty of Rs. 50,000/- was imposed *vide order* dated 25-4-88. The recovery proceedings are in progress.

26.10:—This pertains to M/s. G. G. Foam, a regd. dealer of Ward 4.

The dealer was assessed for the year 1981-82 and allowed deductions against the ST-I forms amounting to Rs. 3,54,000/-. On Audit it was found that the ST-I forms were issued to some other dealers and as such deductions claimed were irregular. Tax effect on such sales @10% calculated to Rs. 35,405/- and penalty @2% and 1/2 times calculated to Rs. 88512/-. The total amount involved calculated to Rs. 1,23,917/-. The dealer was re-assessed U/s. 24 on 24-11-87 and an additional

demand of Rs. 71336/- was created. Aggrieved of the order the dealer had filed an appeal before the Assistant Commissioner (VII) who had granted stay subject to the condition of deposit of Rs. 35,000/- in cash and filing of the surety for the balance. However, these stay orders were not complied with the dealer in full as he had deposited Rs. 5,000/- only. Accordingly recovery proceedings are in progress.

26.11:—This pertains to M/s. Punjeet Udyog, a regd. dealer of Ward No. 47.

The dealer was allowed deductions to the tune of Rs. 7,45,801/- against the ST-I forms for the year 1981-82. On verification by the Audit, it was found that the same were issued to some dealers and thus deductions allowed were irregular and liable to be taxed @7%. The dealer was re-assessed U/s. 24 and an additional demand of Rs. 52,206/- was created *vide* orders passed on 31-3-88. Aggrieved of these orders the dealer went in appeal before the Sales Tax Tribunal who modified the orders of the first Appellate Authority to the extent that the additional demand shall remain stayed subject to the filing of surety by the dealer. The stay orders have been complied with by the dealer and the appeal is pending before the learned A.C. Further progress in the matter shall be intimated only when the outcome of the appeal is known.

26.12:—This pertains to M/s. Harvey Radio Corporation, a regd. dealer of Ward No. 31.

The dealer was originally assessed on 19th December, 1984 and re-assessed on 6th September, 1985. Additional demand of Rs. 23,652/- was created and a penalty of Rs. 55000/- was imposed. The assessee went in revision petition against the re-assstt. order and in appeal against the penalty order. Both the re-assessment orders and penalty order have been set aside by the Appellate Authority and remanded back to the Assessing Authority. The remanded proceedings have been fixed for 5th December, 1988 and the same are likely to be completed by February, 1989.

AUDIT PARA 27

The Audit Para 27 involves the following cases:

Para 27.1:—This pertains to M/s. A. K. Industries, a regd. dealer of Ward No. 5.

When the audit pointed out the suppression of sales on the part of the dealer, the case was re-assessed vide orders dated 16.7.85 thereby creating an additional-demand of Rs. 92181.72. Aggrieved of these orders, the dealer preferred an appeal before the Deputy Commissioner Sales Tax. Further progress in the matter shall be intimated when the out come of the Appeal is known.

27.2:—This pertains to M/s. Sardar Enterprises, a regd. dealer of Ward No. 9.

On the basis of the objections raised by Audit, the dealer was reassessed on 17-7-87 for the year 1980-81 and an additional demand of Rs. 1,93,496/- was created. Aggrieved of these orders the dealer preferred an appeal before the Addl. C.S.T. Vide orders dated 22-6-88, the case was remanded back for fresh orders after affording reasonable opportunity to the dealer. For the purpose of re-assessment, the remanded case is now fixed for 7-12-88.

For the year 1981-82 the case was re-assessed and the addl. demand of Rs. 10236/- was created. Though the dealer had filed an appeal against these re-assessment orders before the Asstt. Commissioner (II) but no stay has been granted so far with the result recovery proceedings were initiated against the dealer. In order to recover the Sales tax dues, warrant of arrest were issued on 9-8-88 though the police could not arrest the defaulter. Fresh warrant of Arrest has been issued to produce the defaulter on 12-12-88.

27.3:—This pertains to M/s. S. C. Mehta & Sons, a regd. dealer of Ward No. 48.

On the basis of the objections raised by the Audit, the case was re-assessed and an additional demand of Rs. 3,55,385/- including (Penalty) was created. When the dealer failed to make the payment of Sales Tax dues, he was arrested and put in detention in Tihar Jail for 15 days. In spite of all this, the dealer has failed to make the pay-

ment of the dues. Fresh efforts are being made to find out moveable/immovable property of the dealer for attachment.

27.4:—This pertains to M/s. Kapoor Traders, a Regd. dealer of Ward No. 43.

On the suppression of Sales being pointed out by the Audit, the dealer was re-assessed and an additional demand of Rs. 33,00,100/- was created under the Local Act, 1975. Recovery of Rs. 10000/- from the Surety Dealer has been made so far. Recovery proceedings against the dealer are in progress. Warrant of arrest had been issued on 5-4-88. No further progress has been received from the Police so far.

27.5:—This pertains to M/s. N. S. Enterprises, a regd. dealer of Ward No. 41

On the basis of suppression of sales being pointed out by the Audit, the dealer was re-assessed and an additional demand of Rs. 15344/- was created on 23-7-1988 over and above the original demand of Rs. 22146/-. FIR was lodged with the police Authorities. The police Authorities reported that none of the partners was traceable. Recovery Certificates have already been issued. An amount of Rs. 6500/- has been recovered from the surety dealer.

27.6:—This pertains to M/s. Indian Iron Store, a regd. dealer of Ward No. 29.

On the basis of objections raised by the audit, the case was re-assessed on 3-9-87 and an additional demand of Rs. 49072.00 was created including the penalty of Rs. 34965.25. The entire additional demand has been deposited by the dealer. The para may therefore be dropped.

27.7:—This pertains to M/s. Gopalji Electronics, a regd. dealer of Ward No. 50.

The dealer was engaged in the business of electronic goods. Purchases actually made by the dealer against ST-I amounted to Rs. 7,80,064.75 p. whereas in the Trading account the purchases shown as Rs. 6,73,375.38. Thus the dealer concealed purchases of Rs. 1,06,689.57 which comes

to Rs. 119492/- after adding profit margin of 12 per cent. The tax effect comes to Rs. 11,949.00 @10 per cent. The penalty @2½ time makes out to be Rs. 29872/-.

Re-assessment proceedings completed and an additional demand of Rs. 11,815/- created on 3-9-1987.

In addition, penalty under section 56 of Rs. 20,000/- is imposed vide order dated 23-3-1988.

Additional demand of Rs. 11815/- penalty of Rs. 20,000/- stayed vide orders dated 21-4-1988 and 23-11-1988 by the Ld. Asstt. Commissioner (VII) respectively.

27.8:—This pertains to M/s. Standard Auto Sales (W-28).

Re-assessment order was passed *ex-parte* on 5th April, 1988 wherein tax was imposed on the corresponding sale figures of suppressed purchases and a penalty of 2½ times of the tax involved was also levied. The suppression of the purchases came to notice only when the Audit Party checked the Assessment orders of the selling dealer. Since Assessee had in his ST-2 Account reflected purchases of only Rs. 84,573/- it could not have been detected by the assessing Authority at the time of initial assessment. To recover the Additional demand created the notices were issued to the assessee and Two Surety dealers. The assessee has been reported to be not residing at the address available in the record. Addresses of the Two Surety dealers were obtained from the concerned ward and notices were issued on 14th September 1988 to them. There have also been returned un-delivered. An FIR has been lodged against the assessee for filing the wrong ST-2 account on 26-10-1988. Warrant of arrest are being issued in respect of the assessee as well as Surety dealer.

27.9:—Re-assessment orders were passed on 17th September 1987 creating an additional demand of Rs. 12006/- and penalty order was passed on 25th March, 1988 imposing penalty of Rs. 30240/-. The dealer went in appeal against both the orders and the Appellate Authority has stayed the additional demands. Since the matter is *sub-judice* it will be premature to comment as to how and why the suppression of purchases escaped the attention of the Assessing Authority at the time of initial assessment.

27.10:—This pertains to Durga Enterprises, a regd. dealer of Ward-29.

In this case the initial assessment was framed on 6th March, 1987 and re-assessment was framed on 3rd September, 1987. Initial assessment as well as re-assessment were framed *ex-parte*. While framing the initial assessment the then Assessing Authority took into the account the purchases shown by the dealer in his ST-2 account available on the record. Subsequent to the framing of the assessment, from the information sent by the concerned Wards of the selling dealer it was noticed that the dealer had suppressed his purchases. Accordingly the re-assessment was framed. Out of Additional demand of Rs. 1,37,624 a recovery of Rs. 10,000/- has been made from the Surety dealer (Rs. 5000/- on 30th March, 1988 and Rs. 5000/- on 25th October, 1988). Warrant of arrest had been issued in respect of assessee on 5th April, 1988. Fresh warrants have been issued which are valid upto 8-12-1988 since no arrest was made by the Police on the basis of earlier warrants.

27.11.1:—This pertains to M/s. Jugglie Enterprises a Regd. dealer of Ward No. 25.

Initial assessment for the assessment year 1978-79 was framed on 5th July, 1982 and for 1979-80 was framed on 22nd March, 1984. Initial assessment of both these years was of Nil demand. Re assessment was framed for both the years on 10th November, 1986, *ex-parte* creating additional demand of Rs. 82,000/- and Rs. 1,70,000/- in the assessment year 1978-79 and 1979-80 respectively. Additional demand created included the penalty levied of Rs. 5000/- in each assessment years.

To recover the additional demand created recovery notices were issued to the assessee. Rs. 5,000/- were deposited by the dealer on 29th January, 1988. Since the balance demand had not been deposited in spite of number of notices issued earlier warrants of arrest were issued on 23rd March, 1988, 19th May, 1988 and 18th August, 1988. It was reported by the Police that Shri Amarjeet Singh partner was residing at Noida. On receipt of this information recovery certificate has been issued on 28th October, 1988 for sending to Collector Ghaziabad for effecting the recovery.

At the time of initial assessment the assessee had filed affidavit declaring that no sales were conducted in the year under assessment. Books of accounts produced also did not evidence any sales. ST-II account was not available on record. It was only during Audit of M/s. Rajaji Electronics, a dealer of Ward-15 that it was detected that M/s. Jugglie Enterprises had made purchases which he had not reflected in his account. Since this information was not available at the time of initial assessment the assessment framed were of nil demand.

27.11.2—This pertains to M/s. Amit Electronics. (W-22).

In view of the discrepancies pointed out by the Audit Party, the dealer has been re-assessed and a demand of Rs. 52,280 and a penalty of Rs. 1,27,701/- was created against the dealer for the year 1978-79. Similarly, a demand of Rs. 1,09,557/- and a penalty of Rs. 2,67,192/- was created against the dealer for the year 1979-80. After creating the aforesaid demand various actions were taken to trace the whereabouts of the dealer including the Surety dealer M/s. Time Electronics a registered dealer of Ward-I but neither the assessee nor the the surety dealer are traceable. In the instant case, dealer did not appear at the time of assessment before the S.T.O. for the year 1978-79 as well 1979-80. This was the only reason as to why the suppression made by the dealer could not be detected. In this case, collusion between the assessing staff and the dealer has not been noticed so far.

27.11.3:—This pertains to M/s. Joys Rubber a regd. dealer of Ward 49.

On the basis of Audit objection pointed out by the Audit, the case was reassessed and an additional demand of Rs. 5,275100.00 under the Local Act and Rs. 2877/- under the Central Act was created. Accordingly the recovery notices were issued to the dealer to recover the Sales tax dues. Warrant of arrest were also issued against the dealer. On further enquiries it was found that the dealer had left Delhi and gone to Kerala. Accordingly the recovery certificates have been sent to the Distt. Collector Kottayam (Kerala) to recover the Sales tax dues.

27.11.4:—This pertains to M/s. Supreme Sales Corpn. (W-15).

The audit objections were considered and the case was re-assessed for the year 1980-81 and a demand of Rs. 5,12,364/-

including interest and penalty was created. The dealer went in appeal before the Additional Commissioner and demand has been stayed subject to the deposit of Rs. 30,000/- in cash and filing of surety for Rs. 2,00,000/-. The dealer has filed a surety for Rs. 2 lakhs and wanted that a refund of Rs. 30,000/- which is due to him, may be adjusted against the cash deposit of Rs. 30,000/-. The dealer has been informed, that his application for refund has been rejected and as such, the dealer should deposit a sum of Rs. 30,000/- in cash.

AUDIT PARA 28

The Audit Para 28 involves the four cases as under:—

28.1 This pertains to M/s. International Steel Agency (W-20)

After noticing the discrepancies in the ST-I forms dealer has been re-assessed and a demand of Rs. 15,9,16.00 has been created. Aggrieved with the aforesaid orders, dealer went into appeal and the demand created above has been stayed till disposal of appeal subject to the condition that dealer shall deposit 20 per cent of the demand and furnish a surety of remaining amount. Dealer has complied with the conditions of aforesaid stay order. So further progress in the matter shall be intimated only when the appeal is decided by the Appellate Authority.

28.2 This pertains to M/s. Rajan Silicate Chemical Works (W-29).

The dealer was initially assessed on 13th Sep. 1965 re-assessment order was passed *ex-parte* on 13th Sep. 1967. The dealer went in appeal against the re-assessment order and additional demand created was stayed. The appellate Authority has set aside the *ex-parte* re-assessment order and remanded the case back to the Assessing Authority on 10-11-1968. The assessment proceedings of the remanded case are likely to be completed by Feb. 1969.

28.3.1:—This pertains to M/s. Himalaya Spun Pipe (Ward-50).

The dealer was engaged in the business of spun pipe etc. He purchased welding Electrodes amounting to Rs. 1,92,552

on the strength of Local Registration Certificate but these items are not admissible to the dealer in the Local Registration Certificate as per Judgement of the Delhi High Court and instructions issued by the Ld. Commissioner, Sale Tax. As per the above instructions, the items, Lubricants and Electrodes have been deleted from the Local Registration Certificate of the dealer. Penalty proceedings under section 56 of the Act are in progress and the same shall be completed by February, 1989.

28.3.2:—This pertains to M/s. Murti Enterprises, a regd. dealer of Ward No. 43.

On the basis of objections raised by the Audit, the dealer was re-assessed on 12.7.1987 and an additional demand of Rs. 15374/- for the year 1881-82 and Rs. 68670/- for the year 1982-83 was created under the Local Act (i.e. Delhi Sales Tax Act, 1975). Aggrieved of these orders the dealer had preferred appeals before the Asstt. Commissioner who had dismissed the same. Thereafter the dealer went in for second appeal before the Sales Tax Tribunal who has stayed the additional demand *vide* its Orders dated 7-7-1988. In view of these facts further progress in the matter shall be intimated only when the decision of both the appeals is known from the Tribunal.

APPENDIX VII

Conclusions and Recommendations

Sl. Para No.	Ministry concerned	Conclusions/Recommendations
1 2	3	4

1 9 Home Affairs

The Committee are not happy with the pace with which the assessment cases are dealt with in the Department of Sales Tax. Year after year the cases are piling up and have reached the figure of 7.25 lakhs by the end of 1987-88. Though the amount involved in those cases can be known only after the completion of assessments, yet their number is a sufficient indication of the loss that the Government might have been suffering due to delay in their disposal. According to Ministry/Delhi Administration estimates, the additional demand created at the time of assessment could be approximately 2 per cent of the total collection which, in their opinion, was negligible. The Committee however, have understood from the Audit that the amount of additional demand worked out to approximately Rs. 10 crores and simple interest @ 18% for four years came to nearly Rs. 7.2 crores which cannot be said to be negligible. Though the Ministry have taken certain measures (which the Committee would deal with in the succeeding paragraphs) to expedite disposal of cases yet the Committee feel that a concrete action plan should be drawn up to ensure early liquidation

of the huge pendency. The Committee trust that steps would be taken in this direction with due promptitude.

2 16 Home Affairs

The Summary Assessment Scheme is aimed at expeditious disposal of assessment cases of dealers having small turnover and thereby minimising the overall pendency. Under this Scheme, the Assessing Authorities are required to identify the eligible dealers from the list of dealers allocated to them. Thereafter, all the dealers so identified are duly informed about their eligibility with the advice to furnish the desired information in the prescribed proforma within 30 days. Clearly, the Scheme envisages its voluntary acceptance by the dealers. The extent of coverage under the scheme has been hardly 20,712 in 1985-86, 16649 in 1986-87 and 17,002 in 1987-88 and actual assessment far less than these. These figures speak volumes for the utter failure that the scheme has met due to poor response from dealers which was nearly 24 per cent of the eligible dealers during 1987-88. The Department of Sales Tax have, however, with a view to bringing more dealers under the scheme, raised the ceiling of turnover of taxable goods to Rs. 5 lakhs. But if past experience is any indication, it was not the ceiling which was responsible for the poor response, possibly it was due to some inherent weaknesses in the Scheme that prevented the dealers from accepting it and which need to be identified and remedied. Besides, there may be some other factors like lack of education or lack of proper guidance to the dealers, either from the Staff of the Department or from their Sales Tax advisers on account of some vested

interests. The Committee, therefore, desire a thorough review of the Summary Assessment Scheme by a Committee of the Senior Officers of the Department and the Ministry of Home Affairs as also the representatives of the Dealers/Traders Unions so as to examine *inter-alia*:

- (i) the reasons for non-acceptance of the scheme by dealers;
- (ii) whether voluntary nature of the scheme is mainly responsible for poor response to the scheme; and
- (iii) whether the procedure followed in Summary Assessment Scheme applicable to Income tax assesseees could be made applicable to sales tax assesseees also subject to suitable modifications,

and make suitable recommendations so that the objectives for which the scheme was introduced could be achieved.

3 21 Home Affairs

The Committee regret to note that while there has been steady increase in the number of assessment cases and the registered dealers since 1985-86, the strength of the Assessing Authorities remained static. The recommendations of the Staff Inspection Unit (SIU) given as long back as in December, 1985 for creation of 213 posts (including 113 posts of Assessing Authorities) in the Sales Tax Deptt., have become the victim of red-tapism. It is a said

commentary on the apathetic attitude of the Ministry of Home Affairs towards recommendation of SIU for creation of more posts which is so important a matter having revenue implications. The Department of Sales Tax has been clamouring for augmentation of staff strength for pretty long time without any success. The Committee can very well imagine the haphazard way in which the assessment cases might have been dealt with by the understaffed sales tax wards due to time bar drawing nearer. The Committee strongly recommend that urgent measures be taken to complete all the requisite formalities and full complement of staff provided at the earliest to ensure timely and correct assessment of cases.

The proposal for giving financial incentive to the Assessing Authorities on the basis of increased output will definitely help in clearing the arrears of assessment cases, but at the same time it may lead to certain problems affecting the revenue. The incentive of 1/4th and 1/3rd of the emoluments for Assessing Authorities showing monthly output of 150 and 175 cases, respectively, is so attractive and alluring that the Assessing Authority might be swayed to show more and more output to get more and more financial benefits. In doing so, there is every possibility of incorrect assessment being done on account of omission of certain important aspects or commission of certain mistakes leading to loss of revenue or even unnecessary litigation. In effect, the emphasis will be more on quantity and quality aspect would be given the backseat. The Committee, therefore, desire the Ministry of Home Affairs and the

Delhi Administration to re-examine the proposal in the light of apprehensions expressed by the Committee, before its implementation.

5 31 Home Affairs

As per the provisions of Section 23(7) of the Delhi Sales Tax Act, 1975, assessment of returns filed by the registered dealers should be made within four years from the end of the year in respect of which tax is assessable. Besides, the cases remanded for re-assessment by the Appellate Authorities may again pend for another 4 years. The Committee feel that this is too long a period within which the assessee can easily manage his affairs in such a fashion as to get away without paying tax. The Public Accounts Committee (Seventh Lok Sabha) had also gone into this question and recommended reduction of the period to two years which the Ministry did not accept on the plea that the uptodate assessment could be made without amendment of Law and with the increased staff strength. Regrettably, the staff strength is still awaiting augmentation.

6 32 Do.

The idea behind the reduction of the limitation period is manifold, firstly, to expedite the disposal of assessment cases, secondly, to eliminate the scope of staff getting slack in discharging their duties, thirdly, to prevent the unscrupulous dealers from engineering devices to evade tax and last but not the least, to ensure early recovery of Government dues. The Committee are of a firm opinion that the reduction of the limitation period would go a long way in

improving not only efficiency of the staff but also the revenue to the exchequer. However, considering the heavy pendency of assessment cases at present, the Committee feel it all the more necessary that the back-log is first cleared under a time bound Action Plan as earlier recommended by the Committee and thereafter the limitation period of two years may become applicable. The Committee hope that necessary steps both administrative as well as legislative, would be taken in this direction.

The pace of disposal of appeals filed with the Appellate Authorities and the reassessment of cases remanded by Appellate Authorities is no better as will be seen from the following figures:

	1985-86	1986-87	1987-88
(a) Total No. of Appeals filed	9150	9510	9172
(b) No. of Appeals decided	4281	4883	6389
(c) (i) No. of cases remanded for re-assessment	792	892	1410
(ii) No. of cases reassessed out of the above remanded cases	238	257	141

In order to ensure early and expeditious disposal of appeals, the Committee recommend that a study be made into the functioning of the Appellate Authorities especially Deputy Commissioners and Assistant Commissioners, Sales Tax and if found necessary, their strength may be increased to cope with the pendency of appeal cases. In addition to that, the question of setting up special courts for disposal of appeal cases may also be examined.

8 49 Home Affairs

ST-I form is a declaration from issued by the purchasing dealer as proof that he is registered with the Department and the purchases made by him are specified in his registration certificate. A test check by Audit of certain returns filed by dealers disclosed serious mistakes having been committed by the Assessing Authorities in 12 cases* during their scrutiny, by accepting false/fake/interpolated declarations without any check, leading to loss of revenue to the extent of lakhs of Rupees. Non-detection of false/fake/interpolated figures in these declarations has been attributed to the heavy work-load incapacitating the staff in cross-verifying the declarations of corresponding purchasing dealers of some other wards, which the Committee do not consider sufficient justification for their failures. It only proves that the Department has not profited from their experience. No attempt seems to have been made to evolve some device to ensue that the ST-I form which is one of the most important documents, is not allowed to be misused or interpolated. What is more surprising is the fact that none of these cases was detected by the internal Audit. The Committee, however, find that in 1987 instructions were issued to Assessing Authorities asking them to make 100 per cent cross verification in cases where exemptions claimed by a dealer exceeded the sale amount of Rs. 1 lakh. But considering the work load of the Assessing staff stated to be heavy and ST-I forms are submitted at the time of assessment, the Committee have doubts if the Assessing Authorities

would be able to find time to cross verify the sales/purchases effected in other wards. In the circumstances, the Committee recommend that a study be conducted as to the reasons why false/fake/interpolated declaration forms could not be detected by the Assessing Authorities and whether any changes in the ST-I form itself are necessary to eliminate the scope of the malpractices being indulged into by the wilful tax evaders.

9 50 D.D.

The Committee would also like to be apprised whether the dealers involved in those cases were proceeded against or are proposed to be proceeded against under the criminal laws.

10 51 D.D.

During evidence, the Committee were informed that it was not a statutory requirement to submit ST-I forms alongwith the return but it was required to be submitted upto the time of assessment. Rule 7(2) of the Delhi Sales Tax Rules, 1975 provides that the declaration in Form ST-I shall be furnished by the selling dealer to the appropriate assessing authority upto the time of assessment by it. Presently, the period for making assessment under the law is four years. As such, the assessee can hold back from the Assessing Authorities important documents for a period upto four years, and submit the same at the fag end of the prescribed period. This leaves sufficient room for the unscrupulous assesseees to indulge in malpractices of the kind reported in the Audit Paragraphs. The Committee recommend that relevant provisions should be so

amended as to make it obligatory on the part of the assessee to submit all the requisite supporting documents while filing returns and not upto the time of assessment as at present. The Committee trust that appropriate legislative measures would be taken in this direction with due expedition.

11 52 Home Affairs

Under the Delhi Sales Tax Act, 1975, the purchasing dealer is required to keep in ST-2 form the record of his purchases made on the strength of ST-I forms. In 14 cases cited in Audit Para 27, the short accountal of purchases by dealers resulted in suppression of corresponding sales whereby the Government suffered loss amounting to Rs. 8.78 lakhs on account of short levy of tax and Rs. 21.30 lakhs being leviable penalty. The main reason for non-detection of these cases is stated to be the inability on the part of Assessing Authority to cross verify the facts from the corresponding selling dealer's accounts due to the procedure being very time consuming and the statement in ST-2 forms becoming available to the Department only when the dealer comes to have the ST-I forms. The Committee are constrained to observe that there seems to be lack of sincere efforts on the part of the Department to go into the working of the Delhi Sales Tax Act, 1975 to find out the loopholes therein with an intent to plug the same for preventing the revenue leakages. The Department has been functioning in a stereotyped manner accepting whatever information was furnished by the dealers as true. The Committee have no doubt that the Government must have suffered huge loss of revenue since inception of

the Delhi Sales Tax Act, 1975 on account of complacency on the part of the Department and the Ministry of Home Affairs.

12 53 Do. The problem of cross-verification does not appear to be as insurmountable as claimed by the Ministry. It could very well have been overcome by requiring the dealer to furnish ST-2 form or its zerox copy in support of the facts mentioned in his return. The Committee recommend that furnishing of ST-2 account on the financial year basis alongwith the last quarterly return of the relevant year be made obligatory on the part of the registered dealers through suitable legislative measures.

13 54 Do. The Committee are informed that the cross-verification of sales and purchases would be made easy through computerisation of the system and the National Information Centre is at the stage of developing the software. The Committee would like to be apprised of the latest position in this regard.

14 55 Do. The Committee are unhappy to note that the Assessing Authorities do not keep their knowledge upto date as to the Departmental instructions, Notifications, judicial pronouncements etc. issued/made from time to time, which costs the exchequer heavily. The instances cited in Audit para 28 are indicative of the perfunctory manner in which these cases were dealt with without having any regard for the procedures laid down and judicial decisions given by Courts. **Strange enough, even the old and obsolete forms were accepted. Merely saying that there was no mala fide intention**

on the part of assessing authorities or that frequent changes in Notifications led to irregular exemptions or that due to oversight of judicial pronouncement the mistakes were committed do not absolve the Assessing Authorities of their responsibility. The Committee need hardly point out that the Assessing Authorities are charged with quasi-judicial functions and they cannot function efficiently without full knowledge of all the changes in law, rules or the judicial decisions made from time to time. Being final authority in assessment cases, the degree of their responsibility is rather high especially because of the frequent changes in the Notifications etc., to keep themselves abreast of the day to day developments. The Committee feel that there should be a sound monitoring system so as to update systematically the knowledge of the Assessing Authorities from time to time. The Committee also feel that disciplinary action should invariably be taken in such cases against the erring officials in order to improve the functioning of the Department.

15 58 Home Affairs

Under the Delhi Sales Tax Act, 1975 and the rules made thereunder every registered dealer is required to furnish a quarterly return of sales in the prescribed form and before the date prescribed for submission of such returns, pay into appropriate Government Treasury, the tax due and payable according to such return. Failure to pay the tax due would incur simple interest on the amount so due at the rate of one per cent per month (from the

date immediately following the last date for submission of the return) for a period of one month and at the rate of one and half per cent per month thereafter as long as the failure continues or till the date of completion of assessment whichever is earlier.

16 59

Do.

The case relating to M/s. Shiraz Restaurant is another instance of carelessness on the part of Assessing Authority who omitted to levy interest under the provisions of law which would, but for the audit having pointed out, have resulted in loss of Rs. 59,235 to Government. The Committee feel that such omissions take place only due to the procedure followed in assessments not being streamlined. The Committee are of the opinion that in order to eliminate scope for such omissions, a check list is all the more essential for use of the assessing authorities to ensure that nothing has escaped their notice while scrutinising the returns.

3

17 60

Do.

Keeping in view the prevalent rate of interest on loans in the market, the Committee find that the rate of interest (i.e. one per cent or one and half per cent) leviable on the defaulters under Section 27 of the Delhi Sales Tax Act, 1975 is too low to motivate the assessee to deposit the tax due in time. The Committee recommend that the matter be examined and a rate of interest prescribed which would have enough deterrent effect on the assessee not to wilfully withhold Government dues for long periods.

18 64 Home Affairs

The Committee are surprised to note that the Ministry of Home Affairs have taken very lightly the crime of misrepresentation allegedly committed by the dealers to evade tax. It is a human psychology that once escaped undetected, one would try to repeat the offence more brazenly. The plea that "the items purchased not covered by the Registration Certificate is merely a technical lapse which is rectified either by amending the Registration Certificate or by levying tax on the goods so purchased" indicates the apathetic attitude of the Ministry to a very serious matter and in a way that will only encourage the unscrupulous dealer to resort to the malpractice till it is detected thereby rendering the provisions of Section 50(d) of Delhi Sales Tax Act 1975 inoperative. The leniency coupled with the fact that no prosecution has been launched also shows that the Department is not interested in taking deterrent action against the tax evaders. The Committee deserve that the Ministry should formulate guidelines for action by the Sales Tax Department in such a manner as to make the tax evaders realise that the tax evasion is not only unrewarding but can also attract prosecution in courts. The evasion of tax should also be made unrewarding by making procedure applicable to assesses who have been guilty of evasion, more rigorous.

19 70 Do.

The Committee note that apart from claiming exemptions on the basis of false declarations, the tax is evaded by way of sales and purchases not being accounted for in the books of account either by

not issuing the cash memo at all or by issuing the duplicate cash memo. According to rough estimates, the suppression of sales and purchases by dealers resulted in tax evasion to the extent of Rs. 17.09 crores in 348 cases during 1985-86, Rs. 4.28 crores in 405 cases during 1986-87 and Rs. 72.05 crores in 284 cases during 1987-88. Although the aggregate collections both under local and Central Sales Tax Acts were more than the targets fixed therefor during 1985-86 to 1987-88 yet the collections would have been much higher if tax evasion had not taken place. The Committee, therefore, favour a stricter vigil over the activities of at least the habitual tax evaders. The Committee desire that the sales tax authorities be armed with powers to inspect the inventories of the dealers' stocks from time to time subject to the condition that these powers are not indiscriminately used to harass the honest tax payers.

81

20 21 Do.

So far as the question of issue of duplicate cash memo by dealers is concerned, the Committee would like to suggest that the cash memo books may be got printed and supplied by the Department under their stamp on payment to the dealers who may be required to account for the utilisation thereof at the time of assessment.

21 72 Do.

The role of consumer/buyer is very vital in checking tax evasion. He has to be very vigilant and should insist on a cash memo on every sale made to him while paying "local tax extra". Generally, people do not so insist and in doing so, they forfeit their right to claim any damages etc., in case the product turns out to be substandard or spurious one. In the circumstances, the Committee

feel that a duty is cast upon the Government to educate the masses through publicity media like T.V., Radio, Newspapers etc., of their rights and duties in this regard and the benefits that might accrue to them if cash memo is taken on all goods purchased.

22 73 Home Affairs

The Committee are not happy with the progress of cases filed with the Police in as much as out of 360 cases registered with Police during the years 1985-86 to 1987-88, challans have been filed only in 106 cases and investigations are under-way in 254 cases. None of the cases filed in the courts has yet been decided. Surprisingly, the Ministry are not even aware of the position of cases at present under investigation with the Police. The Committee need hardly point out that close liaison with the Police is all the more necessary for expeditious investigation of cases. As regards the cases filed in courts, the Committee desire the Ministry to take up the matter with the High Court to set up special courts to deal with such cases which will not only prevent revenue from being locked up for long periods but shall itself have a deterrent effect on those assesseees who are now taking advantage of protracted court proceedings which acts as a time buffer between their tax evasion and the punishment which law requires them to suffer, if caught.

23 76 Do.

The Internal Audit Cell is expected to act as a check on the irregularities that might have occurred due to human failures etc., during the course of assessment of sales tax cases. Unfortunately,

the cell could not put its hands on any of the irregularities pointed out by the C&AG in audit paragraphs 26-30, though it (internal audit) detected 5320 cases of irregularities during audit for the last 3 years. This goes to indicate that there is no tight system in the Department to ensure that no mistake or irregularities escape undetected. Presently, the Internal Audit Cell consists of 6 Audit teams to check, on random basis, cases of dealers whose number has risen to more than 2 lakhs*. Considering the increasing number of dealers in Delhi the Committee are of the view that the Internal Audit Cell should be strengthened and the guidelines for selection of cases reviewed and so designed that no suspected cases escape audit and thus make it an effective instrument for helping the Department in plugging the revenue leaks.

*Registered dealers as on 20-3-1989.

**LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA
SECRETARIAT PUBLICATIONS**

Sl. No.	Name of Agent	Sl. No.	Name of Agent
ANDHRA PRADESH		UTTAR PRADESH	
1.	M/s. Vijay Book Agency, 11-1-477, Mylargadda, Secunderabad-500361	12.	Law Publishers, Sardar Patel Marg, P.B. No. 77, Allahabad, U.P.
BIHAR		WEST BENGAL	
2.	M/s. Crown Book Depot, Upper Bazar, Ranchi (Bihar)	13.	M/s. Manimala, Buys & Sells 123, Bow Bazar Street, Calcutta-1.
GUJARAT		DELHI	
3.	The New Order Book Company, Ellis Bridge, Ahmedabad-380006. (T.No. 79065)	14.	M/s. Jain Book Agency, C-9, Connaught Place, New Delhi (T.No. 351663 & 350806).
MADHYA PRADESH		15.	M/s. J.M. Jaina & Brothers, P.Box 1020, Mor. Gate, Delhi- 110005. (T.No. 2915064 & 230936)
4.	Modern Book House, Shiv Vilas Palace, Indore City. (T. No. 35289).	16.	M/s. Oxford Book & Stationery Co., Sindia House, Connaught Place, New Delhi-110001. (T.No. 3315303 & 45896).
MAHARASHTRA		17.	M/s. Bookwell, 2/72, Sant Niran- kari Colony, Kingsway Camp, Delhi-110009. (T.No. 7112309).
5.	M/s. Sunderdas Gian Chand, 601, Girgaum Road, Near Princes Street, Bombay-400002.	18.	M/s. Rajendra Book Agency, IV-D/59, Lajpat Nagar, Old Double Storey, New Delhi-110024, (T.No. 6412362 & 6412131).
6.	The International Book Service, Deccan Gymkhana, Poona-4.	19.	M/s. Ashok Book Agency, BH-82, Poorvi Shalimar Bagh, Delhi-110033.
7.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-400001.	20.	M/s. Venus Enterprises, B-2/85, Phase-I, Ashok Vihar, Delhi.
8.	M/s. Usha Book Depot, 'Law Book Seller and Publishers' Agents Govt. Publications, 5/5, Chira Bazar Khan House, Bom- bay-400002.	21.	M/s. Central News Agency Pvt. Ltd., 23/90, Connaught Circus, New Delhi-110001. (T.No. 344448, 322705, 344478 & 344508).
9.	M&J Services, Publishers, Re- presentative Accounts & Law Book Sellers, Mohan Kunj, Ground Floor, 68, Jyotiba Fuele Road, Nalgaum-Dadar, Bom- bay-400014.	22.	M/s. Amrit Book Co., N-21, Connaught Circus, New Delhi. (T. No. 40398).
10.	Subscribers Subscription Services India, 21, Raghunath Dadaji Street, 2nd Floor, Bombay- 400001.	23.	M/s. Books India Corporation Publishers, Importers & Ex- porters. L-27, Shastri Nagar, Delhi-110052. (T.No. 269631 & 714465).
TAMIL NADU		24.	M/s. Sangam Book Depot, 4378/4B, Murari Lal Street, Ansari Road, Darya Ganj, New Delhi-110002.
11.	M/s. M.M. Subscription Agencies, 14th Murali Street (1st Floor); Mahalingapuram, Nungambak- kam, Madras-600034. (T.No. 476558).		

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