

**HUNDRED AND FORTY-FOURTH
REPORT**

**PUBLIC ACCOUNTS COMMITTEE
(1982-83)**

(SEVENTH LOK SABHA)

**DIRECT TAXES—IRREGULAR EXEMPTIONS
AND RELIEFS AND WEALTH ESCAPING
ASSESSMENT**

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

*Presented in Lok Sabha on 22nd April, 1983
Laid in Rajya Sabha on 26th April, 1983*

**LOK SABHA SECRETARIAT
NEW DELHI**

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(1982-83)

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- (i) 17 December, 1982
- (ii) 12 January, 1983
- (iii) 18 April, 1983

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(1982-83)

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1. Shri T. R. Krishnamachari—*Joint Secretary*
2. Shri K. C. Rastogi—*Chief Financial Committee Officer*
3. Shri Ram Kishore—*Senior Financial Committee Officer*

INTRODUCTION

1. The Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Forty-fourth Report of the Committee on paragraphs 3.12(b) and 4.04(i) of the Report of the Comptroller and Auditor General of India for the year 1980-81, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes relating to 'Irregular Exemptions and reliefs' and 'Wealth escaping assessment' respectively.

2. The Report of the Comptroller and Auditor General of India for the year 1980-81, Union Government (Civil), Revenue Receipts, Volume II, Direct Tax was laid on the Table of the House on 31 March, 1982.

3. With a view to mopping up for public good the accumulated funds of trusts that were invested in modes other than the specified ones and to prevent such funds being invested for the benefit of persons connected with the trusts or for the benefit of the business controlled by such persons, the Taxation Laws Amendment Act, 1975 provided that the income of such trusts would lose exemption from tax if their funds continued to remain to be invested or deposited in any form other than those specified in Section 13(5) of the income-tax Act on or after 1 April, 1978. The operation of this provision was postponed from time to time till 1 April, 1982. The Committee consider that the extension beyond April, 1978 has enabled the big industrial houses to siphon off large incomes and wealth using the media of trusts as a safe and honourable device to avoid tax liability. Proliferation of trusts on an unprecedented scale in recent years, particularly by large industrial houses, is an eloquent testimony to this. The Committee have desired that the loophole in the present Act which leaves out the investments made by institutions notified under Section 10(23C) (iv) and (v), should be plugged immediately.

4. The Committee consider that by granting exemptions liberally and for indefinite period, Government have not only gone beyond the intention of Parliament but also clearly out-stepped the limits of delegated legislation. As such, all these notifications are clearly *ultra-vires*, illegal hence ineffective. The Committee have desired that a thorough review should be carried out without delay in all cases where indefinite exemptions have been granted to trusts and institutions under Section 10(23C) (iv) and (v) of the Income-tax Act so as to ensure that they are either taxed according to the normal law or where justified, covered by proper notifica-

tions. In future all exemption notifications should be vetted by the Ministry of Law and placed on the Table of the House as required under Section 196 of the Income-tax Act.

5. The Committee have also recommended that the question of deleting sub-sections (iv) and (v) of Section 10(23C) of the Income-Tax Act should be considered forthwith without waiting for the final report of the Economic Administration Reforms Commission (Jha Commission). The Committee consider it necessary to bring trusts other than those of national importance for which the provision was initially designed within the discipline of the law contained in Section 11 to 13 of the Act.

6. The Public Accounts Committee (1982-83) examined these paragraphs at their sittings held on 17 December, 1982 and 12 January, 1983. The Committee considered and finalised this Report at their sitting held on 18 April, 1983. Minutes of the sittings form Part II* of the Report.

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

8. The Committee place on record their appreciation of the assistance rendered to them in the examination of these paragraphs by the Office of the Comptroller & Auditor General of India.

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

NEW DELHI;

April 21, 1983

Vaisakha 1, 1905 (Saka).

SATISH AGARWAL

Chairman

Public Accounts Committee.

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CHAPTER I

A Irregular exemptions and reliefs

Audit Paragraph

Under the Income-tax Act, 1961 voluntary contributions received or income derived by a trust set up wholly for charitable purposes is exempt from income-tax, but not if such income is applied for purposes other than charitable purposes, which are defined in the Act.

(i) A charitable trust applied Rs. 4,25,000 of its income in making donation to a sports association having the purpose of promotion of cricket. The donation was deemed by the department as income applied wholly for charitable purposes in India. The Central Board of Direct Taxes had in its Circular of 23 August, 1973 stated that such donations would not qualify for tax relief as the mere promotion of any game or sport was not regarded as a charitable purpose. The income-tax Act was, however, amended with effect from 1 April 1974, whereby for the purposes of allowing deduction of 50 per cent of such donations made to sports association approved by Government from the income subjected to tax (and only for such purposes), such associations may be deemed to be established for a charitable purpose. Earlier in 1959 it had been judicially held that the mere promotion of the practice of the game of cricket in general, either for entertainment of the public or for advancement of the game itself is not a charitable purpose and therefore income applied for such purpose by a charitable trust was not exempt from tax. Thus, in any case, income equal to 50 per cent of the donation i.e. Rs. 2,12,500 escaped tax of Rs. 1,37,545 in respect of assessment year 1975-76.

(ii) Correspondingly, under the Wealth-tax Act, 1957, the sports association in question was assessable to wealth-tax as the property held by it being not property held for any public purpose of charitable nature, was not eligible for exemption. However, its wealth aggregating Rs. 3.02 crores in respect of assessment years 1974-75 and 1975-76 was not assessed resulting in non-levy of wealth-tax of Rs. 33.10 lakhs.

1.2 The paragraph was sent to the Ministry of Finance in September, 1981; their reply is awaited (December 1981).

[Paragraph 3.12(b) of the Report of the C&AG of India for the year 1980-81, Union Government (Civil) Revenue Receipts, Volume II Direct Taxes (pp. 144-145)]

1.3 The Audit objection in this case is that the donation of monies to a sports association by a charitable trust has been wrongly treated as application of income for charitable purposes by the donor trust.

1.4 The assessee in this case is a charitable trust named Garware Foundation Trust, (donor) set up by a big industrial house viz. Garware Group, as per trust deed dated 16.3.1972 with an initial corpus of Rs. 500|. The second assessee is the Bombay Cricket Association (donee). In the previous year relevant to the assessment year 1975-76, the donor trust made a donation of Rs. 4,25,000 of its income to the afore-mentioned donee association viz., the Bombay Cricket Association. While this Cricket Association was not a charitable organisation, being a sports association notified as tax free under Section 10(23) of the Income-tax Act, 1961, the whole of this donation was incorrectly accepted as applied for a charitable purpose and exempted from income-tax under Section 11 of the Act.

1.5 Correspondingly, under the Wealth-tax Act, the Cricket Association in question, not being a charitable institution, was assessable to wealth-tax. However, its wealth aggregating Rs. 3.02 crores in respect of the assessment years 1974-75 and 1975-76 was not assessed to tax resulting in non-levy of wealth-tax of Rs. 33.10 lakhs.

1.6 The Ministry of Finance did not accept the audit objection in the first instance. In their reply dated 11 May, 1982 to Revenue Audit, it had been stated:

“The income of the donee trust, namely Bombay Cricket Association has been exempted under Section 10(23) of the Act. The association also holds a certificate under Section 80-G. The donee trust is thus also a charitable institution and Board's instruction No. 1132 of 8 January, 1978 (to the effect that income applied by a charitable trust to make donation to another charitable trust would be application of income for a charitable purpose) would, therefore, apply to the facts of the case. As the donee trust (Bombay Cricket Association) is a charitable institution, wealth tax is also not leviable, as the assets of such an institution are exempt under Section 5(1) (i) of the Wealth Tax Act, 1957.”

1.7 Section 11 of the Income-tax Act, 1961 exempts from tax, income of a charitable institution as defined in Section 2(15) in so far as it is applied to charitable purposes and fulfils the conditions laid down in Section 13.

1.8 It had been judicially held in September 1959 (37 ITR 277 Cal.) that mere promotion of practice of the game of Cricket, in general, either

for entertainment of the public or for advancement of the game itself was not charitable purpose and therefore income applied for such a purpose by a charitable trust was not exempt from tax. This position was re-affirmed by the CBDT. In their circular (Instruction No. 594) issued on 23 August, 1973, wherein it was clarified that Sports associations or institutions, which have been approved under Section 10(23) of the Income-tax Act, 1961 cannot claim exemption under Section 11 of the Act, because such associations are dealt with under a specific provision viz., Section 10(23) to qualify for deduction under Section 80-G. This decision was taken in consultation with the Ministry of Law.

1.9 Prior to 1974-75, donations made to sports bodies were not entitled to any relief. With a view to providing an incentive to tax payers to make more liberal donations to such bodies, established for promotion of specified sports, Section 80-G was amended effective from 1 April, 1974 adding institutions approved under Section 10(23) also as institutions for purposes of relief under Section 80-G. As per explanation (4) under Section 80-G, associations approved by Central Government under Section 10(23) are deemed to be charitable institutions for purposes of Section 80-G. The C.B.D.T. had issued necessary instructions for the guidance of the assessing officers in their circular of 23.8.1973 and 28.11.1973.

1.10 Section 80-G provides for the grant of a deduction at the rate of 50 per cent in respect of donations made to an institution which is established in India for charitable purpose and if it fulfils the following five conditions:

- (i) Where the institution or fund derives any income, such income would not be liable to inclusion in its total income under the provisions of Sections 11 and 12 or clause (22) or clause (22A) or clause (23) or clause (23C) of Section 10;
- (ii) the instrument under which the institution or fund is constituted does not, or the rules governing the institution or fund do not contain any provision for the transfer or application at any time of the whole or any part of the income or assets of the institution or fund for any purpose other than a charitable purpose;
- (iii) the institution or fund is not expressed to be for the benefit of any particular religious community or caste;
- (iv) the institution or fund maintains regular accounts of its receipts and expenditure; and
- (v) the institutions or fund is either constituted as a public charitable trust or is registered under the Societies Registration Act, 1860 or under any law corresponding to that Act

in force in any part of India or under Section 25 of the Companies Act, 1956, or is a University established by law, or is any other educational institution recognised by the Government or by a University established by law, or affiliated to any University approved by the Central Government for the purposes of clause (23) of Section 10, or is an institution financed wholly or in part by the Government or a local authority.

1.11 Section 5(1)(i) of the Wealth-tax Act, 1957 exempts any property held by an assessee under trust or other legal obligation for any public purpose of a charitable or religious nature in India. The Section does not exempt wealth possessed by institutions falling under Section 10(23) of the Income tax Act as such institutions are deemed to be charitable institutions only for purposes of Section 80-G and not for any other purpose.

1.12 Charitable purpose is defined in Section 2(15) of the Income tax Act to include relief of the poor, education, medical relief, and the advancement of any object of general public utility not involving the carrying on of any activity for profit.

1.13 Section 11 to 13 of the Income-tax Act, 1961 deal, *inter alia*, with public charitable trusts. Under these Sections, income derived from property held under trust wholly for charitable purposes is exempt from income-tax to the extent such income is applied for such purposes within the meaning of Section 11(1) or is accumulated after complying with the provisions of Section 11(2). The exemption under Section 11 is to be given by the Income-tax officer every year in regular assessment proceedings on the returns of income which the trusts are obliged to file under Section 139.

1.14 Asked to indicate the scope of application of Section 11 and 12 of the Income-tax Act, the Ministry of Finance (Deptt. of Revenue) has stated:

“This question is in the context of the introduction of several specific clauses of Section 10. Various clauses of Section 10 grant total exemption from income-tax to specific clauses of assessee, as for instance, Educational institutions in Section 10(22) and sports associations in Section 10(23). Section 10 also provides for partial exemption from income-tax as may be seen or in respect of exemption u/s 10(23A) under which income chargeable under the heads interest on securities, ‘income from house property’, or income received for rendering any specific services or income by way of interest or dividends derived from investments’ does not enjoy ex-

emptions from income-tax. Again provisions such as 10(23AA) provides for exemption for specific classes of assesseees such as Regimental Fund or Non-Public Fund established by the armed forces of the Union for the welfare of the past and present members of such forces or their dependents. Section 11 and 12 will continue to be applicable in cases where income is derived from the property held under trust wholly for charitable or religious purposes which cannot get exemption under different clauses of Section 10 which itself lays down the requirements."

1.15 Section 10(23) of Income-tax Act (with effect from 1.4.1962) completely exempts income of a sports association if the following conditions are fulfilled:

1. The association established in India should have as its object the control, supervision, regulation or encouragement in India of games.
2. The games are cricket, hockey, football, tennis or such other games or sports as the Central Government notified (30 games have been notified till 1-4-1981).
3. The income is applied solely to the objects or accumulated for the purpose.
4. No part of the income is distributed to members except by way of grants to any association or institution affiliated to it; and
5. The association is approved by the Central Government.

The conditions are cumulative.

1.16 The Central Government have approved 103 institutions under Section 10(23) (of which the assessee Bombay Cricket Association is one). Such institutions are not 'Charitable institutions' except for the limited purpose of the fiction embodied in Section 80-G.

1.17 The Committee desired to know the circumstances which led the Department to treat the Bombay Cricket Association as a charitable institution. The Ministry of Finance have in a note stated:

"Bombay Cricket Association is an institution notified u/s. 10(23) of the Income-tax Act, 1961. Since such institutions have been held to be not charitable institutions, the Bombay Cricket Association has not been treated as a charitable institution."

1.18 The Bombay Cricket Association does not hold property for any public charitable purpose. In this context, the Committee enquired about the reasons for not levying in the first instance wealth tax on the Association in respect of assessment years 1974-75 to 1978-79. The Ministry of Finance (Department of Revenue) stated :

“Section 5(1) (i) of the Wealth-tax Act, 1957 exempts from the levy of wealth tax any property held under trust or other legal obligation for any purpose of a charitable nature in India. It appears that in view of this the proceedings under the wealth tax were not initiated.”

1.19 The Committee enquired whether the Bombay Cricket Association was ever assessed to Income-tax/Wealth-tax in the past. In reply, the Ministry of Finance (Department of Revenue) have stated:

“Bombay Cricket Association has not so far been assessed to income-tax or wealth-tax. However, notices under Section 17 of the Wealth-tax Act, 1957 have been issued in respect of assessment years 1973-74 to 1980-81.”

1.20 Asked about the latest position of the wealth-tax assessments of the Bombay Cricket Association in respect of assessment years 1973-74 to 1980-81, the Ministry of Finance (Department of Revenue) stated :

“A writ has been filed in Bombay High Court against proceedings under Section 17 of the Wealth-tax Act, 1957. Writ petition has been admitted and assessment proceedings have been stayed.”

1.21 The Committee desired to know the year-wise accumulations by Bombay Cricket Association from the years 1975-76 to 1980-81. In reply, the Ministry of Finance stated:

“Since there is no question of allowing any accumulation under Section 10(23) separately the question of year-wise accumulation does not arise.”

1.22 Referring to the list of 103 institutions including Bombay Cricket Association approved under Section 10(23), as furnished by the Ministry, the Committee enquired about the position of assessments to wealth-tax in the other 102 cases. The Ministry of Finance (Deptt. of Revenue) have stated :

"Information about 102 institutions is not readily available. However, enquiries have been made in regard to 10 institutions details of which are given below :

S.No.	[S. No. in the list at Ann.	Name of the Institution	Remarks												
1.	7 . .	Delhi District Cricket Associations.	It is a company.												
2.	8 . .	Durani Football Association.	No action under Wealth-tax												
3.	21 . .	All India Lawns Tennis Association.	Do.												
4.	51 . .	Tamil Nadu Tennis Association	Do.												
5.	55 . .	Delhi Polo Club	Do.												
6.	66 . .	Indian Olympic Association	Do.												
7.	70 . .	Bombay Presidency Golf Club Ltd.	Company limited by guarantee. Exempt from wealth-tax.												
8.	76 . .	Madras Motors Sports, Madras	Notice u/s 17 of the W.T. Act for assessment year 1971, 1972, 1973, 1973-74 1976-77 and 1977-78 have been issued. First four on 31-3-81 and the latter on 24-2-82. Wealth-tax assessment for assessment years 1970-71, 1974-75 and 1975-76 have been completed with the following results.												
<table border="1"> <thead> <tr> <th>Assessment year</th> <th>Net wealth assessed</th> <th>Demand created</th> </tr> </thead> <tbody> <tr> <td>1970-71 . .</td> <td>58,000</td> <td>Nil</td> </tr> <tr> <td>1974-75 . .</td> <td>112,383]</td> <td>1,123</td> </tr> <tr> <td>1975-76 . .</td> <td>124,490]</td> <td>1,244</td> </tr> </tbody> </table>				Assessment year	Net wealth assessed	Demand created	1970-71 . .	58,000	Nil	1974-75 . .	112,383]	1,123	1975-76 . .	124,490]	1,244
Assessment year	Net wealth assessed	Demand created													
1970-71 . .	58,000	Nil													
1974-75 . .	112,383]	1,123													
1975-76 . .	124,490]	1,244													
9.	86 . .	Dalmia Sports Association	Not assessed to wealth-tax												
10.	94 . .	Sub-Committee for holding IX Asian Games, 1982	Do.												

1.23 The Committee enquired about the total loss of revenue in all the 103 cases. In reply, the Ministry of Finance stated:

"At present, no material is available to estimate the amount of revenue involved in these cases."

In accordance with the Board's circular instructions of 23-8-1973 and 28-11-1973, promotion of any game of sport is not a charitable purpose. According to the Board's latest circular dated 23 August, 1982 donations to a sports association by a charitable trust would not qualify for tax relief, as mere promotion of sports was not considered a 'Charitable purpose'. In view of the above position, the Committee enquired about the factors responsible for such patent errors in the assessments made in the cases cited in the Audit paragraph, as also the steps taken to avoid recurrence of such mistakes. The Ministry of Finance (Department of Revenue) have stated:

"Although it may *prima facie* appear that the Income-tax Officer had committed a mistake in this case, a fuller examination of the relevant facts and the law would show that the relief allowed by the Income-tax Officer is sustainable in law. In this regard, the following facts need to be taken into consideration :

- (a) Under the instructions dated 23-8-1973 and 28-11-73 issued by the Board, mere promotion of sports was not considered to be a charitable purpose. The objects of the donee association in the case are, however, much wider.
- (b) The concept of "charitable purpose" has become considerably wider as a result of ruling by courts since the issue of the circular/instruction by the Board in 1973.

A reference in this regard has been made to the Ministry of Law on the 13th December, 1982. A copy of this referral note has been sent to the office of the Comptroller & Auditor General."

1.24 The Committee desired to know if the Board had taken a view on the following judgments :

- (i) Cricket Association of West Bengal Vs. C.I.T. [(1959) 37 ITR, 285 (Cal.)]
- (ii) Coimbatore Cosmopolitan Club Vs. I.T.O.
- (iii) C.I.T. Vs. Federation of Indian Chamber of Commerce and Industry (136 ITR, 186)

The Ministry of Finance stated in reply :

"The case of Cricket Association of West Bengal was in favour of the Department and, therefore, there was no question of the Department having gone in appeal. The Department instruction No. 594 dated 23-8-73 and Public Circular No. 126 dated 28-11-1973 would appear to indicate that the

Board was of the view that mere promotion of any game or sport is not regarded as a charitable purpose. As far as FICCI case is concerned, this being a Supreme Court decision no view as such has been taken and no instructions have been issued, yet following this decision."

1.25 Asked if in the light of the aforesaid judgments, any guidelines were issued to the assessing officers as to what objects constitute charitable purpose, the Ministry of Finance stated in reply:

"Instruction No. 594 dated 23-8-1973 is a guideline issued by the Board in the light of the decision in the case of Cricket Association of West Bengal Vs. CIT. Instruction No. 1231 dated 20-3-82 issued in the light of the Supreme Court decision in the case of Surat Art & Silk Cloth Manufacturers Association which has been followed in the FICCI case can be taken as a guideline."

1.26 Section 11 of the Income-tax Act exempts from tax, income of a Charitable Institution as defined in Section 2(15), in so far as it is applied to charitable purposes and fulfils the conditions laid down in Section 13. A donation made by a charitable institution to another charitable institution has been held to be application of income by the former for charitable purpose (133 ITR 494—Bombay and CBDT Instructions No. 1132 dated 5 January, 1978). It has, however, been held that mere promotion of practice of the game of cricket, in general, either for entertainment of the public or for advancement of the game itself is not a charitable purpose (37 ITR 277 Cal.). Therefore, income applied for such a purpose by a charitable Trust is not exempt from tax under Section 11. CBDT Circular instructions dated 23 August, 1973 and 28 November, 1973, affirmed that the promotion of any game or sports was not a charitable purpose.

1.27 The Income-tax Act, 1961 was amended by Finance Act, 1973 with effect from 1 April, 1974 allowing deduction of 50 per cent of donations made to sports associations approved by the Government under Section 80-G. An explanation was added in that Section to clarify that such associations would be deemed to be charitable institutions only for this purpose. In other words, even after amendment, the earlier position that for purposes of Section 2 (15) and Section 11 such sports associations were not "charitable institutions" continued to prevail.

1.28 As pointed out in the Audit paragraph in the previous year relevant to the assessment year 1975-76, the Garware Foundation Trust made a donation of Rs. 4,25,000 of its income to Bombay Cricket Association (donee Association). In spite of the clear position of law aforementioned the entire amount was exempted in the hands of the donor. The incorrect exemption involved a short levy of tax of Rs. 1,37,545.

Initially, in May, 1982, the Ministry of Finance did not accept the audit objection treating the income as having been applied by a charitable trust as donation to another charitable trust. After the Audit paragraph was selected by the Public Accounts Committee for examination, the Ministry changed their view and indicated (September 1982) that since such institutions notified under Section 10(23) have been held to be not charitable institutions, the Bombay Cricket Association has not been treated as a charitable institution. Again in December, 1982 the Ministry stated that although it may prima facie appear that the Income-tax Officer had committed a mistake in this case, a fuller examination of the relevant facts and the law would show that the relief allowed by the Income-tax Officer is sustainable in law considering the facts that (a) under the Board's instructions dated 23 August, 1973 and 28 November, 1973 mere promotion of sports was not considered to be a charitable purpose; however, the objects of the donee association in this case are much wider; (b) the concept of charitable purpose has become considerably wider as a result of ruling by Courts since the issue of instructions by the Board in 1973. A reference has accordingly been made to the Ministry of Law on 13 December, 1982. It is obvious that but for the Committee's enquiries in the matter, the Board would have allowed the interests of revenue to go by default. The Committee would like to be apprised of the law Ministry's opinion in the matter and the action taken in pursuance thereof.

1.29 The Committee further observe that the Bombay Cricket Association (Assessee), being only a deemed charitable institution for purposes of Section 80 G of the Income-tax Act and not a charitable institution as such, was assessable to Wealth Tax. However, proceedings under the Wealth-Tax Act were not initiated under the wrong premise that the assets of the donee association were exempt from wealth-tax under Section 5(1) (i) of the Wealth-Tax Act, 1957. Thus, no wealth-tax was levied on its wealth aggregating to Rs. 3.02 crores in respect of assessment years 1974-75 and 1975-76 resulting in non-realisation of revenue to the extent of Rs. 33.10 lakhs. On realising that institutions notified under Section 10(23) of the Income-tax Act have been held to be not charitable institutions, notices under Section 17 of the Wealth-Tax Act, 1957 were issued in respect of assessment years 1973-74 to 1980-81. The Committee have been informed that the assessee has filed a writ in Bombay High Court. The same has been admitted and assessment proceedings have been stayed (December 1982). The Committee desire that action to get the stay vacated should be initiated forthwith, if not already done. The Committee would like to be apprised of the final position of the wealth-tax demand raised and collected in this case.

1.30 The Committee find that in all, 103 institutions have been approved under Section 10(23) of the Income-Tax Act, 1961 for purposes of Section 80 G. Apart from the Bombay Cricket Association, the Minis-

try of Finance have furnished details of assessment to wealth-tax in respect of only 10 such institutions. Two of them, viz., Delhi District Cricket Association and Bombay Presidency Golf Club Ltd., hold the status of a company, 7 institutions do not seem to have been assessed to wealth-tax. The Committee would like to know for how long and for what reasons wealth-tax proceedings have not been initiated against these institutions.

1.31 Only in one case of Madras Motors Sports, Madras, notices were issued for assessment years 1971-72 to 1973-74 and 1976-77 on 31-3-1981 and for assessment year 1977-78 on 24-2-1982. Assessments have been completed for assessment years 1970-71, 1974-75 and 1975-76. It is not known whether the demand created has since been realised. The Committee desire that these assessments should be completed expeditiously and the Committee apprised of the position.

1.32 The Committee recommend that the CBDT should immediately carry out a review in respect of the remaining 92 associations/institutions with a view to initiating action for levy of wealth tax, if not already levied, on assets held by them, wherever due. The Committee would like to be apprised of the results of the review together with reasons for default and the action taken to fix responsibility in the matter in six months' time.

B. Corpus Build Up of Garware Foundation Trust

1.33 Garware Foundation Trust was created by a deed of Trust dated 16-3-1972 with an amount of Rs. 500/- settled upon it by Shri B. D. Garware. The Trust has been receiving substantial donation towards its corpus most of which have been made by the Companies of the Garware Group. By 31-3-1981, the corpus of Rs. 500 had grown into a huge amount of Rs. 21,88,220/-. The trust received income in the form of interest, dividends and voluntary contributions.

1.34 Particulars of income, expenditure and accumulation for the earlier years viz., 1973-74 and 1974-75 are given below:

Assessment Years	Income	Expenditure	Accumulation
1973-74	12,734	12,500	nil
1974-75	21,329	12,725	nil

1.35 Details of income and application of income for assessment years 1975-76 to 1981-82 as furnished by the Ministry of Finance are given below:

Assessment year	Gross income	Nature of application	Amount applied	Income Accumulated
1975-76	Rs. 4,68,351	Donations to a) Swami Viveka Nanada Kendra b) Duke of Edinbrough Award Scheme c) ME Society, Pune d) Bombay Cricket Association e) Trinity Club	1000/- 10000/- 23000/- 425000/- 500/-	8,851
1976-77	Rs. 1,33,968	a) Garware Charitable Trust b) Aurangabad Distt. Badminton Association c) Bombay Cricket Association d) Employees Coop. Credit Society	20000/- 500/- 65000/- 995/-	Nil
1977-78	Rs. 135,972	Donations to a) National Institute of Deaf.	250/-	1,00,014
1978-79	Rs. 77,983	..	77850/-	..
1979-80	Rs. 1,18,640	Talgaon General Hospital	52500/-	1,441
1980-81	Rs. 1,16,000	..	45250/-	50,000
1981-82	Rs. 1,13,877	..	47786/-	40,000

1.36 The sources of income of the Trust for the assessment years 1973-74 to 1981-82, as intimated by the Ministry of Finance, are given below :—

Assessment Year	Source (s) of Income
1973-74	Interest
1974-75	Interest and voluntary contributions
1975-76	Do.
1976-77	Interest and dividend
1977-78	Interest, dividend and profit on sale of share
1978-79	Interest and dividend
1979-80	Interest and voluntary contribution
1980-81	Interest
1981-82	Interest

1.37 At the instance of the Committee, the Ministry of Finance furnished the following information indicating the year wise growth of the corpus of the Garware Foundation since its creation on 16 March, 1972 :

Corpus Build up of Garware

Foundation Trust

1. Amount of initial corpus Rs. 500

2. Date of settlement 16-3-1972

Assessment Year	Addition to corpus	Accumulative total of corpus	Name of Contributors	Amount of contributors
1973-74	Rs. 5,10,000	Rs. 5,10,500	Garware Synthetic Bristles P. Ltd.	50,000
			Garware Plastics Pvt. Ltd.	2,50,000
			Garware Nylons Ltd.	2,00,000
			Garware Filaments Corpn. P. Ltd.	10,000
				5,10,000
1974-75	Rs. 1,25,000	Rs. 6,35,500	Garware Plastics Pvt. Ltd.	75,000
			Garware Synthetics P. Ltd.	50,000
				1,25,000
1975-76	Rs. 8,18,000	Rs. 14,53,500	Manglamurti Ch. Trust	17,000
			Nilai Ch. Trust	19,000

1	2	3	4	5
			Sushma Ch. Trust	15,000
			Avita Ch. Trust	14,000
			Koyne Ch. Trust	15,000
			Monina Charity Trust	14,000
			Ramesh Charity Trust	15,000
			Vaukatesh Charity Trust	19,000
			Saraswati Education Trust	10,000
			Savita Charity Trust	14,000
			Sumitra Charity Trust	15,000
			Kalavaislav Charity Trust	14,000
			Garware Commerce College Trust	14,000
			Vayee Charity Trust	17,000
			Arogaya Wardhan Trust	17,000
			Jaideep Charity Trust	18,000
			Ashok Charity Trust	14,000
			Bombay Welfare Trust	38,000
			Garware Charitable Trust	2,50,000
			Bombay Welfare Trust	75,000

				Poona Charitable Trust	75,000
				Do.]	9,000
				Ganga Charity Trust	10,000
					<u>8,18,000</u>
1976-77	.	.	Rs. 2,17,455	Rs. 16,60,955	As per Statement attached
					<u>2,17,455</u>
1977-78	.	.	Rs. 16,500	Rs. 16,77,455	Bharney & Co.
					2,000
					Keshavlal Bhatilal
					3,000
					Indus. Engg. Co.
					5,000
					Rangaswami & Co.
					3,000
					Nylons Twins Traders
					[2,000
					I.G. Gandhi
					1,000
					<u>16,000</u>
1978-79	.	.	..	Rs. 16,77,455	..
1979-80	.	.	Rs. 80,000	Rs. 17,57,455	Modern Nets
					50,000
					Garware Synthetics
					30,000
					<u>80,000</u>
1980-81	.	.	..	Rs. 17,57,455	..
1981-82	.	.	..	Rs. 17,57,455	..
1982-83	.	.	Return notified.		

NOTE: The balance sheet as on 31-3-1982 shows the total figure of Rs. 21,88,223.27. Of this amount Rs. 17,57,455/-represents corpus funds Rs. 3,00,000/-are accounted for as other earmarked funds and the balance of Rs. 1,50,768.27 represents the final figure under the income and expenditure account.

Details of contributions received in 1976-77

Name of the donor	Amount donated
	Rs.
1. Ajanta Roadways	1,000
2. Mettur Boardsell Ltd.	5,000
3. Acme Rayon Doubling Mills Pvt. Ltd.	2,500
4. Kishanchand Savlani & Sons	2,000
5. Widerance Corporation	1,000
6. M.J. Traders	351
7. Industrial Packers	1,000
8. Maharashtra Finishing Material Co. Ltd.	3,000
9. Vijay Laxmi Transport Corporation	1,000
10. Raghunath Agarwala	1,000
11. J. G. Sequeria Bros.	500
12. Natsyn Fibre Processors	500
13. Zaveri Ahemed Brothers	500
14. Biseswarlal Jagdishprasad	1,000
15. Balkrishna Shah & Co.	1,000
16. Hajee A. K. Aboobackar	500
17. Pelasa napali & Co.	3,000
18. Hazrat & Co.	5,000
19. Jaylaxmi Credit Corporation	1,500
20. Standard Pipes & Fitting Co.	751
21. Arco Tools Pvt. Ltd.	501
22. Modi Industries Corporation	251
23. Saurashtra Packaging Pvt. Ltd.	3,500
24. Polycene Papers Pvt. Ltd.	2,500
25. Gansons Ltd.	10,000
26. Diamond Shamrock (India)	2,500
27. Surat Goods Transport Service	2,100
28. Asha Packing Industries	2,500
29. Llyod Insulations (India)	2,500
30. Excel Tube Corporation	501

Name of the donor	Amount donated
	Rs.
31. Dhobale Transport Corporation	2,500
32. Balco Engineering Pvt. Ltd.	3,500
33. Bharat Rayon Processors	1,000
34. Cotton Yarn Traders	3,000
35. Industrial & Agricultural Engg. Co.	2,500
36. Punyavaibhav Vishwasta Nidhi	10,000
37. Sadopyoc Vishwasta Nidhi	10,000
38. Shradha Vishwasta Nidhi	10,000
39. Protsdhan Charity Trust	10,000
40. Namata Charity Trust	10,000
41. Diya Charity Trust	10,000
42. Shikshan Prasarak Trust	10,000
43. Shefali Charity Trust	10,000
44. Sheela Charity Trust	10,000
45. Deccan Charity Trust	10,000
46. Shiya Charity Trust	10,000
47. Sona Charitable Trust	36,000
	2,17,455

1.39. Sections 11 to 13 of the Income-tax Act, 1961 and Section 139 (4A) *ibid* which apply to incomes of trusts and institutions set up wholly for charitable or religious purposes contain, *inter alia* the following important conditions for exemption of their incomes from tax:

- (i) The obligation to file a return of income.
- (ii) The obligation to apply the income wholly to charitable or religious purposes or to accumulate it for application to such purposes. The Act gives a definition of charitable/purposes and it is a matter for judicial determination whether the application of income in any particular cases falls within the scope of that definition.
- (iii) A ceiling of 75 per cent on income to be accumulated coupled with an obligation to notify the purpose as well as the period of such accumulation and the further obligation to invest the related funds in specified securities.

1.40 The Committee enquired whether in the past the assessee Trust had filed income-tax returns and had been assessed to tax. The Ministry of Finance stated.

“Garware Foundation Trust has been filing its return of income regularly from the time of inception. Returns have been received upto assessment year 1981-82. Assessments have been completed upto assessment year 1979-80. In the assessments barring assessment year 1977-78, the income of the trust was held to be exempt u/s 11 of the Income-tax Act, 1961.”

1.41 Details of returns filed, income returned, income assessed, tax recovered etc. furnished by the Ministry subsequently are given below :

GARWARE FOUNDATION

Assessment year	Returned Income	Date of return	Assessed Income	Date of assessment under which assessed	Section	Gross Demand raised	tax deducted at source	Taxes self assessed	Net-demand
1973-74	734	14-8-73	234	31-1-74/143 (3)		No demand	Nil	Nil	Nil
1974-75	3,640	23-8-75	8,604	23-2-77/143 (3)/11		441	Nil	Nil	441
1975-76 . . . . .	..	5-8-75	8,851	4-2-78/143 (3)		376	Nil	Nil	376
1976-77	41,280	31-7-76	41,280	6-1-79/143 (3)		12,657	9,494	2,970	Nil
1977-78	24,765	30-7-77	24,765	29-2-80/143 (3)		3,488	4,747	Nil	Nil
1978-79	1,080	29-6-78	1,080	17-3-81/143 (3)		No demand	Nil	Nil	Nil
1979-80	Nil	30-6-79	Nil	16-1-82/143 (3)		Nil	Nil	Nil	Nil
1980-81	206	30-6-80	Assessment pending						
1981-82	9,570	27-6-81	Assessment pending						

1.42 The Committee enquired whether the assessee trust gave notice of accumulation in the prescribed manner for all the years. The Ministry of Finance replied:

“The trust gave notice of accumulation of income in the prescribed manner under Section 11(2) for assessment years 1977-78, 1978-79, 1979-80, 1980-81 and 1981-82.”

1.43 Asked to indicate the purpose of accumulation and the period for which the accumulation was sought to be made, the Ministry of Finance stated:

“The purpose of accumulation for all the above years was medical relief—construction of hospital. The period for which accumulation has been sought for all the years is 10 years.”

1.44 From the statement of corpus build up, it is seen that during the assessment years 1977-78 to 1981-82 (except 1978-79) the accumulation was in excess of 25 per cent of the income for the relevant year. In this context, when asked if the accumulation was subject to tax, the Ministry of Finance stated:

“The assessments for assessment years 1977-78 and 1979-80 have been completed in the context of the assessee filing application for accumulation of income under Section 11(2) of the Income-tax Act, 1961. Assessments for the assessment years 1980-81 and 1981-82 are pending.”

C. Public Charitable Trusts set up by Garware Group

1.45 In reply to a further question, the Ministry furnished details (September 1982) of 47 public charitable trusts established by the Garware Group.

1.46 The Committee subsequently desired to be furnished with the names of beneficiaries and sources of funds of these 47 public charitable trusts. The Committee also enquired if the Ministry had checked up whether other trusts of the family group have made similar donations to sports bodies and obtained full exemption. In reply, the Ministry of Finance stated:

“Further enquiries made since information regarding 47 public charitable trusts of the Garware Group had been furnished indicate that there are 72 public charitable trusts of the Group assessed to income-tax. Information regarding dates of creation of these trusts and names of the beneficiaries is given in Appendix I. Information regarding sources of funds together with details of funds (and their source) is not available at

present and will have to be collected by a scrutiny of the files of trusts for each of the five years. Further information regarding sources of contributions received by these trusts would necessitate enquiries in the case of each of the contributors. This would take considerable time. Other trusts of the family have made donations to the Bombay Cricket Association. Clarification regarding exact tax treatment in the case of these trusts is being obtained."

1.47 Asked to explain how the earlier figure of 47 public charitable trusts set up by Garware Group had gone up to 72, the Chairman, Central Board of Direct Taxes replied:

"We have collected upto date information of these 72 trusts. I would like to mention here some of the practical difficulties faced by us. Regarding Garware Trusts, a member of the family may have set up the trusts and one of them may be the beneficiary. All the rest may be outsiders. After all, what is a Garware Trusts ? This is something very vague if I may submit that we have tried to lay down a principle or criterion. We go by the term 'settler'. When we wrote to the Commissioners after explaining the position as to who should be treated as Garware Trust, they have given the information to us according to which the number of such trusts is 72. We have given that information to you."

1.48 In reply to another question if it could be vouchsafed that the figure of 72 public charitable trusts was final, the Member CBDT stated:

"It would be difficult to give the correct answer to this question. We have to be very clear in our minds as to what exactly a trust is that comes within the fold of the Garware Group."

He added:

"We have not actually examined each individual trust as such. We actually called for information from the field formations. I would point out in this connection that we have got Trust Circles. Their jurisdiction is over the charitable trusts, public trusts and religious trusts. When an application from a charitable trust is received by the ITO he is concerned only with the question as to whether the trust qualifies the conditions laid down under Section 11. He does not examine who is the beneficiary for correlating that the individual trust under his jurisdiction with any other trust under the jurisdiction of his colleague. We do not maintain the registers from which the information can be culled out."

1.49 Asked about the names of the members of the Group, the Chairman, CBDT, replied:

"We do not have the name of each family members."

D. Private Trusts set up by Garware Group

1.50 Asked to furnish particulars of each of the private trusts established by the Garware Group along with the dates of creation thereof, the names of beneficiaries of such trusts and the sources of funds together with details of funds made available to such trusts during each of the last five years, the Ministry of Finance replied:

"As per information obtained there are two private trusts of the Garware Group, that is to say, the trusts in which settlers are the members of the Family. Sources of funds together with details of funds made available with trusts during each of the last five years are being collected. The other details are as under:

Name	Date of creation	Name of the beneficiaries
1. Garware Sons Family Trust	30-3-70	S.B. Garware D.B. Garware A.B. Garware R.B. Garware represented by their HUF
2. Abba Imnā Garware Trust	Do.	Do.

1.51 Asked whether the Board were satisfied that the trusts in this case were not set up for avoidance of tax, the Chairman, CBDT stated:

"In respect of Garware Trusts we had appointed a Committee of Departmental officers. They went into this question in depth and made certain recommendations on the basis of which we had to amend the law. Whatever is possible has been done by us."

1.52 The Garware Foundation Trust was created by a Trust deed on 16 March 1972 with a corpus of Rs. 5.11 settled upon it. The Trust has been receiving substantial donations most of which have been made by the companies and trusts set up by the Garware Group itself. By March 31, 1981 this scanty corpus of Rs. 500 has swelled to Rs. 21.88 lakhs.

1.53 The Ministry initially furnished a list of 47 public charitable trusts set up by the Garware Group. On further questioning, the Ministry furnished details of 72 such trusts assessed to income-tax. The Committee find that 65 of these 72 trusts were set up in 1972—1 in March, 1972, 41 in June, 1972, 21 in August 1972 and 2 in December 1972. Of the remaining 7, 1 was set up in 1962, 2 in 1969, 1 each in 1974, 1975, 1977 and 1978. Details of funds and the sources of contribution received by these trusts and their tax liability are not available with the Department. Information with regard to private trusts set up by the Garware Group which the Ministry promised to furnish to the Committee, has also not been furnished as yet.

1.54 The Committee were informed in evidence that a committee of departmental officers was appointed to go inter alia into the details of the Garware Trusts in depth. However, no details have been furnished regarding its findings with regard to affairs of the Garware Group, particularly the trusts set up by it. The Committee consider it very unfortunate that the data/information called for by them has not been furnished in spite of sufficient time having been given. This is indicative of lack of monitoring and coordination in the matter of overseeing the affairs of big industrial houses about which the Committee have lot more to say in the succeeding paragraphs. The Committee would nevertheless like to be apprised of the findings of the departmental committee and the action taken by Government to recover the tax dues, if any, outstanding against this Group/Trusts set up by it within six months.

CHAPTER II

A. Wealth Escaping Assessment

Audit Paragraph:

2.1 A building Trust was created by a Chamber of Commerce and Industries, in the year 1946, for the purposes of construction of a building on lands acquired by the Chamber. The building was to be utilised for purposes of meetings, lectures, running a library and letting out. Trust was to pay to the Chamber 75 per cent of net collections so that the Chamber could utilise the amount for advancement of its objects. As per the balance-sheet of the Trust as on 31 December 1977, the accumulation in the trust funds amounted to Rs. 11,27,338. The income of the trust was held to be taxable by the Income-tax Appellate Tribunal, the trust being not a charitable trust under the Income-tax|Wealth-tax Act. Therefore, the trust was assessable to wealth-tax and tax of Rs. 2,98,783 on the aggregate (including additional wealth-tax of Rs. 1,74,307 on urban immovable property) was leviable in respect of the assessment years 1965-66 to 1974-75. This tax was not levied.

2.2 In not accepting the objection, the Ministry of Finance have stated that the trust is holding the building for the benefit and use of the Chamber which is a company and a company is exempt from wealth-tax. The argument is not acceptable for the reason that in law, the company and the trust are separate entities and the legal ownership of the property vests in the trustees and not the company. The finding that the trust is not a charitable trust is a finding of fact by the Income-tax Appellate Tribunal.

[Paragraph 4.04(i) of the Report of the C&AG of India for the year 1980-81, Union Government (Direct Taxes) Volume-II (pp. 170-171)]

2.3 The assesseees in this case are the Trustees of Bengal National Chamber of Commerce and Industries Building, P-II, Mission Row Extension, Calcutta. This trust was created in 1946 by the National Chamber of Commerce and Industries, Calcutta as a "building trust fund" for "houses and buildings" to be constructed out of contributions received by or promised on the conditions of creation of such separate fund.

2.4 Under the agreement of 1943 between the aforesaid Chamber and a Cooperative Insurance Society, land for the building was agreed to be sold for a specified sum to the Chamber or its nominee. Under the trust deed, the benefit of this agreement for purchase of land was assigned to the present trust.

2.5 The Audit objection was that the Trust had not been assessed to wealth-tax for the assessment years 1965-66 to 1974-75 and the non-levy had resulted in loss of revenue to the extent of Rs. 2,98,783. The Ministry of Finance, while offering their comments on the draft Audit paragraph, had stated :

“The audit objection regarding the under-charge has not been accepted by the Ministry. The Trust was created by Bengal National Chamber of Commerce and Industries. The building which is held under trust is for the use and benefit of the Chamber according to Trust Deed. In other words, the chamber is the sole beneficiary of the Trust. Now the Chamber is a company u/s 25 of the Companies Act. Since a company is exempt from wealth-tax, the trustees are, therefore, not liable to pay any wealth-tax. Moreover, the recent judgement of Supreme Court in the case of F.I.C.C.I. & Andhra Chamber of Commerce has changed the entire situation after 1977 when the objection was raised in this case.

In view of the position stated above, it is requested that the objection in this case may please be dropped.”

Thereafter, a slightly modified draft para was received under the C&AG's D.O. No. 2340-Rec.A.III/223-80 dated 4-12-1981. The Ministry's reply given in response thereto is as under:

“The audit objection regarding under-charge has not been accepted by the Ministry. The ITAT has reversed its earlier decision and held the assessee trust to be charitable and entitled for exemption of the rental income under Section 11 of the I. T. Act for the assessment year 1978-79. I.T.A.T. in their order in ITA No. 2639 (Calcutta)/979 dated 5-9-1980 have observed that the position of law on the subject has been com-

pletely changed after the decision of the Hon'ble Supreme Court in Addl. CIT Vs. Surat Art Silk Cloth Manufacturers' Association 121 ITR (SC). This decision has been accepted by the Department. The objection has now become infructuous and may kindly be dropped."

2.6 The income assessed and the income-tax levied for the four assessment year 1975-76 to 1978-79 are as follows:

Assessment Year	Income assessed	Tax levied
	Rs.	Rs.
1975-76	Nil	Nil
1976-77	Nil	Nil
1977-78	61,660	22,008
1978-79	Nil	Nil

2.7 Clauses 6, 7 and 14 of the Trust Deed stipulated that :

- (i) The trustees shall rent out to the parent Chamber such portion of the "building" as may be required by the Chamber for its purposes. (cl. 6);
- (ii) The trustees may let out any part of the building or premises that may not be immediately required for the purpose of the Chamber (cl. 7)
- (iii) After meeting expenses on the maintenance repairs etc. of the building and upkeep of a library and a meeting/lecture room for the purpose of the parent Chamber, the trustees have to deal with the net income as follows:—
 - (a) After the debts, if any, incurred by the trustees for acquisition of the land and construction and equipment of the building thereon shall have been paid, the trustees shall pay annually to the Chamber seventy five per cent of the net collections to be applied by the parent Chamber for the advancement of its objects (cl. 14).
 - (b) The balance 25 per cent of the net collections as aforesaid shall be kept by the building trust, the assessee, as reserve fund (till a ceiling limit of Rs. 3 lakhs) for meeting any extraordinary expenses. Any income arising out of the investment of the reserve fund shall be paid by the trustees to the parent Chamber. If and when the accumulations exceeded Rs. 3 lakhs, the trustees would be at liberty

to spend the amount in excess of the said sum of Rs. 3 lakhs for the purpose of advancing the objects of the Chamber (cl. 14.)

2.8 The conditions in the trust deed include the condition of the trust charging mutually settled rent for the part of its premises used by the Chamber. In this context, the Committee desired to know if any of the conditions in the trust deed made the trust subserve charitable purpose of the aforesaid Chamber which created it. In reply, the Ministry of Finance stated:

“In accordance with clause (14) of Memorandum of Association, the Trust has to pay to the Chamber 75 per cent of the annual net collections from the rented properties, to be applied by the Chamber for the advancement of its objects. As regards the Trust mutually charging settled rent for the part of its property used by the Chamber, it is stated in the trust deed under clause 7 “that the trust may at any time let out in such a manner and on such term as to the rent and otherwise as they may think fit any part of the building or premises that may not be immediately required for the purpose of the Chamber.”

2.9 The Committee enquired if the trust had complied with the conditions as to the payment of a proportion of its net revenue to the Chamber for advancement of its objects and accumulation of the balance as reserve fund. The Ministry of Finance stated in reply:

“As already mentioned . . . above, the Trust has to pay 75 per cent of its net revenue to the Chamber for the advancement of the Chamber’s objects. Further, in accordance with clause 14 mentioned above, the balance 25 per cent shall be kept as reserve fund for meeting any extraordinary expenses. Any income arising out of the investments of the reserve funds shall be paid by the Trustees to the Chamber. If and when the reserve fund exceed Rs. 3 lakhs, the Trustees are at liberty to spend the amount in excess of the said limit for the purpose of advancing the objects of the Chamber. As reported by the Commissioner of Income-tax, it appears from the statement of affairs that the Trust fund amounted to Rs. 11.27 lakhs as on 11-12-1977, relevant to the assessment year 1978-79.”

2.10 In reply to a question as to which of the objects of the trust were charitable, the Ministry of Finance stated:

“The objects of the trust as enumerated (in the memorandum of Association of the Trust) are covered within the defi-

inition of Section 2(15) of the Income-tax Act, 1961, under the words "advancement of any other aspect of general public utility not involving the carrying on of any activity for profit" as in the order of the ITAT for assessment year 1978-79 and that of the High Court for assessment years 1975-76 and 1976-77."

2.11 The Committee enquired if the trust had generally fulfilled the conditions of the trust deed. In reply, the Ministry of Finance stated:

"It is reported by the Commissioner of Income-tax that the trust has fulfilled the conditions of the trust deed as there is no dispute on this issue in any of the years since the Assessment Year 1965-66, which is the first year of the assessment of the assessee Trust."

2.12 The Committee desired to know how any of the objects of the building trust came within the ambit of the definition of 'charitable purpose'. In reply the Ministry of Finance stated (January, 1983):

"From the provisions of the Trust Deed it appears that the objects of this Trust have been to subserve the objects of Bengal National Chamber of Commerce and Industry either by direct contribution to the Chamber or by expenditure incurred on similar objects. The Chambers of Commerce have been treated to be carrying out charitable purpose by Supreme Court by way of its decision in the case of CIT vs. Andhra Chamber of Commerce delivered on 1st October, 1964 whereby they affirmed Madras High Court decision in the same case dated 22nd February, 1951 (55 ITR p. 722). This legal position has held the field ever since, although there have been some controversy as to whether the Chamber of Commerce would be hit by the restrictive clause of Section 2(15) of the Income-tax Act. Even that controversy has been settled in their favour *vide* Supreme Court decision in recent cases reported in 121 ITR and 130 ITR.

It may be mentioned that in the case of this very Trust, High Court of Calcutta has *vide* its order dated 24th December, 1981 answered the matter in favour of the assessee. The same view has also been held by the Income-tax Appellate Tribunal as per its latest judgement for assessment year 1978-79."

2.13 The Committee desired to know if the assessee have been treated as a charitable trust for the purposes of Income-tax and if it was not treated as such, what were the failings of the trust in the matter of abid-

ing by the conditions laid down in Section 11 to 13 of the **Income-tax Act, 1961** due to which exemption has been denied to the trust from levy of income-tax. In reply, the Ministry of Finance stated:

“The (wealth-tax) assessments for the assessment year 1979-80 onwards are pending. The assessee has been treated as a charitable trust for income-tax purposes for the assessment years 1975-76, 1976-77 and 1978-79, as it was held to be so on the appeals filed by it before the High Court of Calcutta for the assessment years 1975-76 and 1976-77 and before the Income Tax Appellate Tribunal, Calcutta for the Assessment Year 1978-79. The Income-tax Officer did not treat the assessee as a charitable trust for the Assessment Years 1965-66 to 1968-69, 1970-71 to 1974-75 and 1977-78. It is further reported by the Commissioner of Income-tax that the assessee has filed an appeal before the Supreme Court against the judgement of the Calcutta High Court for the assessment years 1965-66 to 1968-69, not treating the assessee as a charitable trust. The assessee has also filed appeals before the Calcutta High Court for the Assessment Years 1970-71 to 1974-75 and 1977-78. These appeals are pending.

The assessee was not treated as a charitable trust for the Assessment Years 1965-66 to 1968-69, 1970-71 to 1974-75 and 1977-78 within the meaning of Section 2(15) of the **Income-tax Act, 1961**, as it was held that in letting out its building the assessee was carrying on an activity of profit.

From the above position it would be seen that the Calcutta High Court which had for assessment years 1965-66 to 1968-69 given a verdict in the favour of the Revenue and against the assessee, has in subsequent year i.e. assessment years 1975-76 and 1976-77 given a judgement in favour of the assessee. This has been so because the views of the various Courts on this subject has been changing from time to time. However, now the Supreme Court in their judgement in the case of Messrs. Surat Art Silk Manufacturers' Association (121 ITR pp'1) held that as long as profit is not the dominant object of the activities of the assessee but is only subservient to the dominant charitable purpose, the conditions of the Section 2(15) of the **Income-tax Act** would be satisfied. In this view of the matter it would appear that the assessee is likely to succeed in its appeal before the Supreme Court and also Calcutta High Court for the other assessment years also.”

2.14 The Ministry of Finance furnished the following reasons (September, 1982) for not assessing the Trust for levying wealth-tax:

“The reasons for not levying wealth-tax on the corpus of the trust would appear to be that the assessee (trust has been held to be a charitable trust attracting exemption u/s 5(1) (i) of the Wealth-tax Act, 1957. It would be appreciated that the prohibiting clause of “not involving carrying on of any activity for profit” u/s 2(15) of the I.T. Act have not been expressly stated under W.T. Act. The assessee trust has also been held as charitable trust and its income exempted u/s 11 of the Income-tax Act, 1961 for the Assessment Year 1978-79 by the Income-tax Appellate Tribunal, Calcutta, following the recent judgement of the Supreme Court in the case of M/s. Surat Art Silk Manufacturers’ Association (121 ITR page 1). It is pertinent to note here that the same Appellate Tribunal did not hold the assessee as charitable trust for the I.T. Assessment Years 1965-66 to 1968-69 in view of the position of law as interpreted by the Court then and that in its order for the year 1978-79, it has remarked as follows:

“However, the position of law on the subject has been completely changed after the decision of the Hon’ble Supreme Court in Additional CIT M/s. Surat Silk Manufacturers’ Association (121 ITR 1).”

The Calcutta High Court has also allowed the assessee’s appeals for the I.T. Assessment years 1975-76 and 1976-77, accepting the assessee’s plea that it must be treated as a charitable trust though the High Court had disallowed the assessee’s claim as a charitable trust for the earlier year, i.e. Assessment years 1965-66 to 1968-69. In so far as the consideration of the matter after the audit objection is concerned, it appears to us that in view of the latest Supreme Court judgement, there does not subsist any mistake.”

2.15 The Committee enquired about the latest position of the assessments of the assessee trust for the assessment years beginning from 1965-66. In a note, the Ministry of Finance stated (January, 1983):

“The Income-tax Officer has denied exemption under Section 11 from assessment years 1965-66 to 1978-79 on the ground that the assessee was carrying on an activity for profit. However, the latest judgements of both Calcutta High Court and I.T.A.T. have gone in favour of the assessee and against the revenue. For assessment years 1975-76 and 1976-77 the assessee’s references have been answered in its favour by the High Court order, dated 24th December, 1981. Similarly,

for assessment year 1978-79 the assessee's appeal has been decided in its favour by I.T.A.T. *vide* order dated 5th September, 1980. These judgements have been given on the basis of the change in the legal view brought about by the Supreme Court judgement in the case of Surat Art Silk Cloth Manufacturers' Association (121 ITR p. 1).

In earlier years the High Court and Tribunal had, however, given judgements against the assessee and in favour of the revenue. The assessee lost its appeal for assessment years 1965-66 to 1968-69 before ITAT and High Court. The assessee's further references to the Supreme Court are at present pending for these years. For assessment years 1969-70 to 1974-75 the assessee lost its case before ITAT. The assessee's references before the High Court for these assessment years are at present pending. Similarly, the assessee also lost its appeal before ITAT for assessment year 1977-78 but its reference before the High Court is pending.

For assessment year 1979-80 the assessment was completed under Section 144 at an income of Rs. 52,000 against nil returned. This assessment has been re-opened under section 146 on 1st June, 1982. The assessments for subsequent years are also pending."

2.16 Section 11(2) of the Income-tax Act, 1961 lays down that funds upto 75 per cent of the income can be accumulated every year or set apart, provided a notice in writing is given to the Income tax Officer in the prescribed manner indicating the purpose and also the period of accumulation which should not exceed 10 years. Another requirement under the law is that the accumulated income must have been invested in the manner laid down in the Act.

2.17 It is seen from the Audit paragraph that the assessee trust had accumulated funds to the extent of Rs. 11,27,338. In this context, the Committee enquired if the Ministry had examined whether the assessee had complied with the afore-mentioned provision of law in regard to accumulated funds. The Ministry of Finance stated in reply (January, 1983):

"The sum of Rs. 11,27,338|- appears in the balance sheet of the Trust as on 31 December, 1977. From this balance sheet it will be seen that the cost of building etc. acquired by the Trust amounted to Rs. 10,45,369|- as on 31 December, 1977. It would, therefore, be seen that the sum of Rs. 11,27,338 shown as "accumulated fund" on the liability side does not

represent any available accumulation for which provisions of Section 11 would apply but have been substantially spent towards the construction|acquisition of building etc.

In the income-tax assessment of the Trust, however the very applicability of the provisions of Section 11 has been disputed by the ITO for assessment years 1965-66 to 1978-79 on the ground that by letting out property for rent the Trust was carrying on an activity for profit. As such these assessments have been completed on the preliminary ground of the Trust not having been treated as charitable trust on the ground of restrictive clause of Section 2(15) of the Income-tax Act. Whether or not the various provisions and conditions in Section 11 have been complied with by the assessee in these years would be investigated by the Income-tax officer while applying the provisions of Section 11."

2.18 The Committee enquired if the Chamber had fulfilled the conditions laid down in Sections 11 to 13 of the Income-tax Act, 1961 and how it had been treated for levy of Income-tax and Wealth-tax. In a note, the Ministry of Finance stated:

"M|s. Bengal National Chamber of Commerce and Industry itself has been allowed exemption u|s 11 of the Income-tax Act for the Assessment Year 1965-66 to 1974-75. For the Assessment Years 1975-76 to 1979-80 no such exemption was allowed following the earlier Supreme Court decision in the case of Indian Chamber of Commerce (101 ITR 796 S.C.) [since overruled by 121 ITR p. 1 (SC)].' For the Assessment Year 1980-81, the Chamber has claimed exemption u/s 11 of the Income Tax Act in view of the later Supreme Court decision in the case of M|s. Surat Art Silk Manufacturers' Association. Since promotion of commerce and trade has been held as public charitable purpose, for all the years since its inception, the activity of the Chamber can be held as charitable purpose for allowance of exemption u|s 11 of the Income-tax Act.

The status of the Chamber is 'Company' and no wealth-tax had been made on the Chamber since the wealth-tax is not levied on companies. Hence for wealth-tax purpose the question does not arise at all."

B. Definition of 'Charitable Trusts'

2.19. In paragraph 1.32 of their 121st Report (Fourth Lok Sabha) the Public Accounts Committee recommended that the term "charitable

purpose" occurring in the Income-tax Act which is rather loosely defined could be made more precise in scope so that it applies only to cases of genuine charity. In their reply of 7 December, 1970 the Ministry of Finance stated that the problem of trusts in all its aspects was being enquired into by the Direct Taxes Enquiry Committee (Wanchoo Committee) and on receipt of their report the Government would place their findings before the Public Accounts Committee (*vide* paragraphs 1.32 and 1.33 of the Public Accounts Committee's 12th Report (Fifth Lok Sabha)].

2.20 The definition of the expression "charitable purpose" has been the subject of judicial determination in many cases. In relation to Chamber of Commerce in Indian Chamber of Commerce case (101 ITR 796) the Supreme Court held that a Chamber of Commerce could get exemption under the Income-tax Act only if its activities do not result in profit making; if it had a profit making activity such as arbitration fees, certification of weight, measurement and origin, renting out building etc. the exemption would not be available even if the profits were used only for charitable purposes. The Revenue also held similar views and their views were confirmed by the Supreme Court. The Court further observed that legislative simplicity had not been accomplished by the draftsman and that this had led to various interpretations, contradictory to each other and emphasised the need for simplification of the law.

2.21 In Surat Art Silk Manufacturers' Association case (121 ITR 1), the Supreme Court over-ruled their own earlier decision and took the view that it is the pre-dominant object of the institutions that is determinative and not a profit making activity *per se*. Where profit making is predominant object of the activity, the purpose, though an object of general public utility, would cease to be a charitable purpose. But where the predominant object of the activity is to carry out the charitable purpose and not to earn profit, it would not lose its character of a charitable purpose merely because some profit arises from the activity. Deciding against the Revenue, the Supreme Court again dwelt upon the complexity of the law and endorsed their earlier observations that the law needed simplification.

2.22 Only one of the recommendations of the Wanchoo Committee related to the scope of the first three heads of charity *viz.*, relief of the poor (ii) education and (iii) medical relief. The recommendation (No. 173) read as under:

"Law should be suitably amended to provide that where a trust for the relief of the poor, education or medical relief derives income from any activity for profit, its income would be exempt from income-tax only if the said activity for profit is carried on in the course of the actual carrying out of a primary purpose of the institution. So far as trusts for any

other object of general public utility are concerned, pursuit of any activity for profit should continue to render them ineligible for tax exemption."

2.23 The above recommendation was accepted and the Taxation Laws (Amendment) Act, 1975 inserted clause (bb) in Section 13(1) of the Income tax Act to secure that charitable trusts or institutions for the relief of the poor, education or medical relief carrying on any business will not be entitled to tax exemption in respect of the income derived from such business unless the business is carried on in the course of the actual carrying out of primary purpose of the trust or institution.

2.24 Referring to the two different decisions given at different times by the Supreme Court on the scope of the definition of "Charitable purpose" [Surat Art Silk Cloth Manufacturers Association case (1980) 121 ITR] and Indian Chamber of Commerce case (101 ITR 796), the Committee desired to know the Ministry's views in this matter particularly in relation to Chambers of Commerce. In reply, the Ministry of Finance stated :

"By its pronouncement in the case of Additional Commissioner of Income-tax V. Surat Art Silk Cloth Manufacturers Association (1980) 121 ITR 1, the Supreme Court has, *inter alia*, overruled its earlier decision in the case of Indian Chamber of Commerce v. Commissioner of Income-tax (1976) 101 ITR 796. The implications of the aforesaid pronouncement by the Supreme Court have been under the consideration of the Government and a final decision will be taken in the matter in the light of *inter alia*, the recommendations of the Economic Administration Reforms Commission."

2.25 In the aforesaid two judgments, the Supreme Court had also stressed the need for simplification of the provisions of the law in Section 2(15) of the Income-tax. In this context, the Committee enquired if the Ministry had examined the issue and whether any amendment of the law was contemplated with a view to making it applicable only to cases of genuine charity. The Ministry of Finance stated :

"The Government had examined this issue in the context of the recommendations made by the Chokshi Committee on this subject. However, before a final decision was taken in the matter, the Government constituted the Economic Administration Reforms Commission. The Government will take a final decision in this matter in the light of, *inter alia*, the recommendations of the E.A.R.C."

2.26 The assessee referred to in the Audit para is a building trust, namely Trustees of Bengal National Chambers of Commerce and Industry Building, Calcutta. The building trust was not treated as a charitable trust for the assessment years 1965-66 to 1968-69, 1970-71 to 1974-75 and 1977-78 within the meaning of Section 2(15) of the Income-tax Act, 1971, as it was held that in letting out its buildings the assessee was carrying on an activity for profit. The assessee's appeals for these years were turned down by the Income-tax Appellate Tribunal and for the assessment years 1965-66 to 1968-69 also by the High Court of Calcutta. Following the Supreme Court decision in Surat Art Silk case (121 ITR 1), however, the assessee's appeals on the same point for the assessment years 1975-76 and 1976-77 were allowed by the High Court and that for the assessment years 1978-79 by the Income-tax Appellate Tribunal.

2.27 In the Indian Chambers of Commerce case (101 ITR 796) it was held by the Supreme Court that a profit making activity would defeat the case or exemption; "the advancement of charitable objects must not involve profit-making activities". The decision was reversed in the Supreme Court's latter decision in Surat Art Silk case (121 ITR 1) wherein it was held "if the profits must necessarily feed a charitable purpose under the terms of the Trust, the mere fact that the activities of the trust yield profit will not alter the charitable character of the trust". The decision in Surat Art Silk case was delivered in November 1979. When asked if the Ministry of Finance had considered these judgements and taken their own view, the Board were content with saying merely that these were Supreme Court decisions. Apparently, the Ministry of Finance had not, in the three years following the Surat Art Silk decision, applied their mind to the question whether profit-making activities should continue to be permitted to come within the scope of "charitable purpose" or the law should be suitably amended on that point. It is only after the examination of this question by the Committee that the Government have now sought to deny exemption in respect of profits or gains of business to such charitable institutions through the Finance Bill, 1983.

2.28 The Committee consider that in all such cases where important judgements involving matters of policy are handed down by the Courts the question whether the law as pronounced does really bring out the intention of Parliament and the Government should be considered immediately thereafter by the Ministry of Finance in consultation with the other Ministries concerned so that amendments, if any, considered necessary are brought forward promptly. This would also obviate the need for too many retrospective amendments as already commented upon in para 1.99 and 1.100 of the Committee's 77th Report (7th Lok Sabha).

C: Investment of funds by trusts and institutions set up wholly for charitable or religious purposes.

2.29 The Direct Taxes Enquiry Committee, 1970 (Wanchoo Committee), while dealing with the issue of tax avoidance through charitable and religious trusts, had made the following recommendation in paragraph 3.59 of their report:

“Apart from the points raised by the Public Accounts Committee, we considered several other issues pertaining to tax avoidance through charitable and religious trusts. A number of restrictions have been imposed on the investment of trust property. However, there is still some scope for investing trust funds for the benefit of the persons connected with the trusts or for the benefit of the businesses controlled by such persons. In order to avoid this possibility, we recommend that barring the original corpus there should be a total ban on trusts investing any of their funds in any business concern including a limited company.”

2.30 Pursuant to this recommendation, a new clause was sought to be inserted in Section 13(1) of the Income-tax, Act, by the Taxation Laws (Amendment Bill) 1973 for forfeiture of tax exemption, if any funds of charitable/religious trust or institution were or continued to remain, invested for any period during any previous year commencing after the 31st day of March 1978, in any concern (including a company) which was carrying on any business and which was not owned or controlled by the Government.

2.31 One of the conditions for exemption of income from tax as applicable to incomes of trusts and institutions set up wholly for charitable or religious purposes is the condition of investing their funds in specified modes. This condition was imposed through the Taxation Laws (Amendment) Act, 1975 with effect from 1-4-1977. It was required that the accumulated funds of the trust/institution should be invested before 1.4.1978 in securities or deposits [specified in sub-clauses (i) to (iii) of clause (b)]. The approved modes of investments are:

- (i) any Government Security or security approved by the Government for this purpose;
- (ii) any deposit in a Post Office Savings Bank, Scheduled Bank or co-operative society carrying on banking business. This investment was added with effect from 1 April, 1971 by the Finance Act, 1970. ‘Scheduled Bank’ is now defined in the Explanation but this was added with effect from 1 April,

1978. Previously, however, the deposits could be made with any to which the Banking Regulation Act applied including a bank referred to in section 51 of the Act, and by the proviso to sub-clause (ii) that wider range of investment is permitted in respect of moneys deposited or continuing to be deposited during any previous year commencing before 1 April, 1981. In other words, a period of three years was given to trusts to bring their investments in conformity with the new requirements; and

- (iii) any deposit with a corporation financing industrial development and approved by the Central Government for purposes of section 36 (1). (viii).

2.32 The Finance (No. 2) Act, 1977, extended the date for compliance with this requirement from 1-4-1978 to 1-4-1981. The Finance Act, 1982, extended this date further to 1-4-1982. The same Finance Act also added 'investment in immovable property' to the list of permissible modes of investment.

2.33 In his budget speech for 1977-78 (Para 80), the Finance Minister explaining the extension of time granted for compliance with the provisions of Section 13(5) had observed :

"Under a provision made by the Taxation Laws (Amendment) Act, 1975, charitable or religious trusts and institutions are required to invest their funds in certain forms and modes specified in the Income-tax Act. Any trust or institution which does not conform to the prescribed pattern of investment in any accounting year commencing on or after 1st April, 1978, would lose exemption from income-tax. Having regard to practical difficulties involved and to ensure a more orderly change over in their pattern of investment in line with the new provisions, the date for change-over to the new investment pattern is proposed to be extended by three years, i.e. from 1st April, 1978 to 1st April, 1981."

2.34 While postponing the operation of the aforesaid Section 13(5) for the second time, the Finance Minister in his budget speech for the year 1982-83 (Para 90) stated :

"Charitable and religious trusts are required to conform to the investment pattern laid down in the Income-tax Act. Any trust which has not changed over to this pattern of investment will forfeit exemption from tax from the assessment

year 1982-83. These trusts have been given adequate notice to change their investment pattern and, ordinarily, I would not have proposed any modification in these provisions. However, I find that the whole gamut of the provisions relating to charitable and religious trusts is under consideration by the Economic Administration Reforms Commission. As the Government would like to carefully consider the recommendations of the Commission in this matter, I propose to amend the relevant provisions so that such trusts do not forfeit exemption from income-tax for the assessment year 1982-83."

2.35 The Committee enquired about the rationale of granting repeated extensions in the matter thereby stopping the operation of the legal provision for three years on one occasion and for one year on another occasion. The Chairman, C.B.D.T. replied:

"Last year, in his Budget speech, the hon. Finance Minister announced that this is being extended by one more year. The Wanchoo Committee had made certain recommendations about this matter. The Finance Minister said that he would like to give a notice to tax-payers, not to continue to invest their funds in their own concerns. In his last year's budget speech, the hon. Finance Minister extended this for one more year only."

2.36 He added :

"In his Budget speech for 1977-78, the Finance Minister announced that the date for change over to the new investment pattern was being extended by three years i.e. from 1-4-78 to 1-4-81. This was done as lots of representations were received in this behalf. Last year, the Finance Minister announced that this would be extended by one more year. Now the proposal is under EARC's consideration."

2.37 A note furnished by the Ministry of Finance on the further extension of the date for compliance with the restriction on investment of funds is reproduced below:

"The file of the Implementation Cell of the Board in which the relevant amendments were processed is not readily available. However, it seems that the provision regarding prescribed modes of investment of trust funds, introduced in the Taxation Laws (Amendment) Act, 1975 on the recommendation

of the Select Committee was made applicable with effect from 1-4-1978 so as to allow time to the trusts to switch over to the new pattern of investment.

2.38 In regard to further extension of time, attention is invited to paragraph 103 of FM's Budget speech for 1983-84, a relevant extract from which is reproduced below :

"The Taxation Laws (Amendment) Act, 1975 had laid down an investment pattern for trust funds, and trusts which failed to comply with this investment pattern from accounting years commencing after 31st March, 1978 were liable to forfeit tax exemption. However having regard to the practical difficulties involved and to ensure a more orderly change-over, this date was extended in 1977 by three years. As the whole gamut of the provisions relating to charitable and religious trusts was under consideration by the Economic Administration Reforms Commission, the date for the new pattern of investment was again extended last year by a further period of one year.

I have since considered the matter carefully. I see no justification for permitting investment of trust funds in business concerns, including shares of companies in the private sector. I accordingly propose to provide that all trust funds should be invested in specified modes, such as, Government Securities, units of the Unit Trust of India, deposits with scheduled banks, approved financial corporations, etc. Investment in immovable properties will, however, continue to be allowed. I am giving notice to all charitable and religious trusts to divest their share holdings and other investment in business concerns by 30th November, 1983. However trusts will be allowed to keep shares in companies, which formed part of the original corpus as on June 1, 1973 and bonus shares received upto that date. Some trusts carry on business on commercial lines and derive income therefrom. There is no reason why such business income should not be brought to tax. I, therefore, propose that business income of all charitable and religious trusts including those which have hitherto been exempted by notification will be brought to tax with effect from assessment year 1984-85. Trusts having business income will also be required to conform to the new investment pattern if they wish to seek tax exemption in respect of their other income."

2.39 The Ministry of Finance informed the Committee (March, 1983) that :

“The provisions of the Finance Bill, 1983 *inter alia*, seek to:

- (i) deny exemption from Income-tax to any religious or charitable trust and institution in respect of any profits or gains of business. This will apply to trusts notified u/s 10(23C) (iv)/(v).
- (ii) deny exemption from income-tax if any funds of the trust or institution are invested or deposited after 28-2-1983 otherwise than in any one mode of the modes specified under proposed Section 11(5).

2.40 The Committee note that as early as 1970, the Direct Taxes Enquiry Committee had recommended imposition of a total ban on trusts investing any of their funds in any business concern including limited company. In pursuance of this recommendation a provision was made in the Taxation Laws (Amendment) Bill 1973 that provided for certain specified modes of investment of funds of charitable institutions claiming exemptions from income-tax. The provision was modified by the Select Committee on the Bill and later put on Statute Book in 1975 to be operative from 1978.

2.41 The new clause (d) inserted in Section 13(1) of the Act by Taxation Laws (Amendment) Act, 1975 provided that ‘if any funds of a charitable or religious trust or institution are invested or deposited or remain invested or deposited in any mode or form other than those specified in Section 13(5) at any time during any previous year commencing on or after 1st April 1978’, the income of the said trust will lose exemption from income-tax. Apparently this condition was incorporated in the law so as to map up for public good the accumulated funds of trusts that were invested in modes other than the specified ones and also to prevent such funds being invested for the benefit of the persons connected with the trusts or for the benefit of the business controlled by such persons. These trusts had been given adequate notice in 1975 to change their investment pattern by 1st April, 1978. The Finance Act, 1977 extended the date of operation of this provision from 1st April, 1978 to 1st April, 1981 on the ground that ‘lots of representations were received in this behalf.’ The Finance Act, 1982 further extended the date of its operation to 1st April, 1982 on the plea that ‘the whole gamut of the provisions relating to charitable and religious trusts was under consideration by the Economic Administration Reforms Commission’. It will thus be seen that the recommendations of the Wanchoo Committee, though accepted by the Government, continued to remain on paper for more than 12 years.

2.42 The Committee consider that three years' notice was quite adequate to enable the trusts to switch over to the new pattern of investment. Further extension beyond April 1978 has enabled the big industrial houses to siphon off large incomes and wealth using the media of trusts as a safe and honourable device to avoid tax liability. Proliferation of trusts on an unprecedented scale in recent years, particularly by large industrial houses is an eloquent testimony to this. While the Committee note with satisfaction that their examination of the subject has had some positive results and government have now come forward with amendments to the law through the Finance Bill 1983 to compel the Charitable and religious trusts to follow the prescribed investment pattern both for the corpus as well as accumulated incomes. The Committee must however, observe that the new provision carries within its fold a further extension of 20 months (April 1982 to November 1983) for compliance with earlier provision. This in the Committee's view was not at all justified.

2.43 The Committee cannot also understand why the provisions about investment pattern are not being extended to the institutions notified under Section 10(23C)(iv) and (v). It is the Committee's considered view that this is a loophole which needs to be plugged immediately.

2.44 Further the disability sought to be built into the Income-tax Act denying exemption in the case of trusts who fail to follow the prescribed investment pattern, is amazingly not being incorporated in the wealth-tax law. This would mean that a trust whose income is not exempt under the Income-tax Act could still get away with exemption from wealth-tax. This is another loophole which needs to be plugged immediately.

CHAPTER III

A. Exemption Notifications under Section 10(23C)(iv) & (v)

3.1 Clause 23C and sub-clauses (iv) and (v) thereof were inserted in Section 10 of the Income-tax Act, 1961 by Taxation Laws (Amendment) Act, 1975 with effect from 1-4-1976. Section 10(23) *ibid* reads as under:

“In computing the total income of a previous year of any person, any income falling within any of the following clauses shall not be included:

- (i) the Prime Minister's National Relief Fund; or
- (ii) the Prime Minister's Fund (Promotion of Folk Art); or
- (iii) the Prime Minister's Aid to Students Fund; or
- (iv) any other fund or institution established for charitable purposes which may be notified by the Central Government in the Official Gazette, having regard to the objects of the fund or institution and its importance throughout India or throughout any State or States; or
- (v) any trust (including any other legal obligation) or institution, being a trust or institution wholly for public religious purposes or wholly for public religious and charitable purposes, which may be notified by the Central Government in the Official Gazette, having regard to the manner in which the affairs of the trust or institution are administered and supervised for ensuring that the income accruing thereto is properly applied for the purposes thereof:

Provided that any notification issued by the Central Government under sub-clause (iv) or sub-clause (v) shall have effect for such assessment year or years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification.”

3.2 The following is the text of amendments given notice of by the then Finance Minister for being moved in the Select Committee on Taxation Laws Amendment Bill:—

“page 2, line 31, after “Income-tax Act” insert (i)”. Page 2, after line 39, insert:

(ii) after clause (23B), the following clauses shall be inserted, namely, "23(C). Any income received by any person on behalf of:—

- (i) The Prime Minister's National Relie Funds; and
- (ii) The Prime Minister's Fund (Promotion of Folk Art); or
- (iii) The Prime Minister's Aid to students Fund; or
- (iv) The Rafi Ahmed Kidwai Memorial Trust; or
- (v) The Sarva Seva Singh; or
- (vi) The Gandhi Smarak Nidhi;
- (vii) The Kasturba Gandhi National Memorial Trust;
- (viii) any other fund or institution established for charitable purposes which may be notified by the Central Government in the Official Gazette, having regard to the objects of the fund or institution and its importance throughout India or throughout any State or States:

Provided that any notification issued by the Central Government under this sub-clause shall have effect for such assessment year or years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification:”.

3.3 Asked if the intention of the legislature was to restrict the scope of the enactment to really deserving institutions of national importance, the Member, C.B.D.T. replied:

“It will be very difficult for me to hazard a guess. What I can make out from the preliminary reading of the sub-section is that the first three trusts relate only to funds of the Prime Minister. . . .”

3.4 The Committee enquired about the rational of introducing Sections 10(23C) (iv) and 10(23) (v) in addition to the existing Section 11 and 12 of the Act which Provided for exemption from income tax the income of any trust or institution established for charitable purposes. In a note, the Ministry of Finance stated:

“Section 10(23C) (iv) and (v) were inserted in the Income-tax Act 1961 by the Taxation Laws (Amendment) Act 1975 with effect from 1-4-1976.

Section 10(23C) (iv) exempts from income-tax the income of any fund or institution established for charitable purposes which may be notified by the Central Government in the Official

Gazette having regard to the object of the fund or institution and its importance throughout India or throughout any State or States.

Section 10(23C) (v) exempts from income-tax the income of any trust or institution being a trust or institution wholly or public religious purposes, which may be notified by the Central Government in the Official Gazette, having regard to the manner in which the affairs of the trust or institution are administered and supervised for ensuring that the income accruing thereto is properly applied for public religious or charitable purposes.

The Taxation Laws (Amendment) Bill, 1973—which was enacted as the Taxation Laws (Amendment Act, 1975) was introduced in the Lok Sabha on 9th May, 1973. The Bill as introduced did not contain Section 10(23C). However, the Select Committee to which the Bill was referred made the following recommendations:

“14 Clause 3 (original clause 4). The Committee feel that any income received by any person on behalf of the following funds, which are of national importance and have been established for charitable purposes, should be specifically exempted from income-tax:—

- (i) the Prime Minister's National Relief Fund;
- (ii) the Prime Minister's Fund (promotion of Folk Art); and
- (iii) the Prime Minister's Aid to Students Fund.

The Committee further feel that the Central Government may also be empowered to exempt any income received by any person on behalf of any other fund or institution, established for charitable purposes, having regard to its objects and importance throughout India or throughout any State, by notification in the Official Gazette.”

Sub-clause (v) was inserted in clause (23C) of section 10 in the course of the consideration of the Taxation Laws (Amendment) Bill in the Lok Sabha.

Later, at the stage of consideration of the Taxation Laws (Amendment) Bill, 1973 in the Lok Sabha, the Finance Minister moved an amendment for inserting sub-clause (v) in the said clause (23C). A relevant extract from the Finance Minister's speech is reproduced below:

“The provision as amended by the Select Committee however does not cover religious trusts and institutions. The Govern-

ment amendment in this regard seeks therefore to extend in the benefit of this provision to trusts or institutions established for public religious or public religious and public charitable purpose as well. Exemption to such trusts and institutions will be granted having regard to the manner in which their affairs are administered and supervised for ensuring that the income accruing to them is properly applied for the purpose for which they have been established."

3.5 Asked whether inclusion of sub-clause (iv) and (v) *ibid* by the Select Committee in the Bill was in pursuance of the Government amendment given notice of, to the Select Committee, the Ministry of Finance stated:

"As stated above, clause (23C) aforesaid, including sub-clause (iv) thereof, was inserted in the Taxation Laws (Amendment) Bill, 1973 by the Select Committee. As the relevant file is not available at present, it is difficult to categorically state whether the aforesaid clause was inserted in pursuance of a Government amendment."

3.6 The Committee enquired if it was a fact that part of the amendment was not accepted by the Select Committee. The Member, C.B.D.T. replied:

"We could not lay our hands on that file. I would submit that without the relevant file, it will be difficult for me to hazard a guess."

3.7 Asked to indicate the objectives behind introduction of sub-clauses (iv) and (v) to Section 10(23C), the Chairman, C.B.D.T. stated in evidence:

"It arose out of the recommendations of the Select Committee on the Taxation Laws (Amendment) Bill, 1973, Sub-Clause (v) was the result of Government amendment moved and accepted at the time of the discussion of the Bill. Clause (iv) was introduced on the recommendation of the Select Committee itself."

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

"When the Select Committee suggested implementation and incorporation of the provision contained in clause (iv) of Section 10(23C), we can assume that they had approved the conditions of requirements to be fulfilled. But, for sub-clause (v) of Section 10(23C), I will have to go through the report of the Select Committee once again."

3.9 The Member, C.B.D.T. supplemented the statement thus:

“I may further elaborate that the intention appears to be to provide exemption to reputed and well managed trusts and institutions without requiring them to go to Income Tax Officer year after year for scrutiny whether the various conditions laid down by Section 11 to 13 have been complied with.”

3.10 The Committee desired to have a list of institutions notified so far under sub-clauses (iv) and (v) of clause (23C) to Section 10 of the Income-Tax Act. While furnishing the above list, the Ministry of Finance stated:

“Notifications/approvals for the Institutions are given only under Sections 10(23), 10(23A), 10(23C) (iv) and (v). With regard to other mentioned provisions, exemptions will have to be given in regular assessment proceedings. A list of Institutions approved U/s 10(23), 10(23A) and 10(23C) (iv) and (v) has already been furnished.”*

3.11 The Committee desired to know whether the objective of law was kept in view while granting exemption in all such cases. The Member, C.B.D.T. stated in reply:

“I would submit that once these provisions have been placed on the statute book, so far as the Government is concerned, as and when an application comes, the applications have to be examined taking into consideration the qualifying conditions laid down by the provisions of the law.”

3.12 He added:

So far as these applications are concerned, before a decision is taken, we call for a report from the concerned Commissioner, who causes necessary enquiries to be made to satisfy himself that the conditions built into the Section are satisfied.

This is further borne out by the fact that it is not that every application has been accepted by us. We have rejected some.”

3.13 The Committee desired to know if there were any guidelines laid down to decide the merits of the cases before issuing notification granting exemption under Section 23(C) (iv)/(v). The Ministry of Finance replied in the negative and added:

“The guidelines are in the law and the law is applied to the facts and circumstances of each case. No separate guidelines exist.”

*Not reproduced.

3.14 During evidence, the Member, C.B.D.T. stated:

“The sub-clauses themselves have laid down the parameters and, from our experience of the administration of the Income-tax Act, I would say that if we build into them, any condition other than what is laid down by the Section, it is likely to be struck down by the courts.”

3.15 He further added:

“So far, we have been issuing notifications only on the basis of applications that have been submitted, which are subject to a scrutiny in the sense that the conditions laid down by these two clauses are fulfilled.”

3.16 The Chairman, C.B.D.T. supplemented by stating:

“I would like to give some statistics here about these applications that we receive for granting exemption under Section 10(23C) which may be of interest to the Committee.

Now we have disposed so far 956 applications, out of which, we have granted exemption in 576 and rejected 310 applications. That makes a total of 886. Besides this, we have granted renewal of exemption to the Trusts which had earlier been granted in 70 cases so that we have disposed by now, 956 applications. From the rejections, it is evident that we have been applying our mind to the genuineness of these Trusts. I do admit that there is some sort of non-monitoring. Further, after this approval has been granted, we have not been able to monitor it from year to year. We are now restricting the validity of the approval for three years only at a time. In respect of those cases where the approval was granted for an indefinite period, we have served notices on all the Trusts by now so as to make the approval time-bound up to the assessment year 1984-85, the idea is that when they come to us for renewal, at that time, we may get a fresh report from the Commissioner and apply our mind again and see whether the funds have been properly utilised.”

3.17 He added:

“...In respect of 317 Trusts which were granted exemption for an indefinite period, we have now served notices on them, with the prior concurrence of the Ministry of Law and the prior approval of our Minister, to show cause why their approval should not be restricted up to the assessment year 1984-85.”

3.18 The Committee enquired about the mechanism available with the Department in the absence of any obligation on the part of the assessee to file a return of income, to ascertain the actual utilisation of funds of trusts or institutions notified under Section 10(23C) (iv) and (v) of the Act as also to ensure that the conditions laid down in the Act were fully and continuously observed by them. The Ministry of Finance replied:

“Notifications under Section 10(23C) (iv) and (v) of the Income-tax Act are being issued for a limited period. When the trust, institution or fund comes up for renewal of the notification, the Government would have an opportunity of looking into the actual functioning and performance of the trust, institution or fund.”

3.19 The Committee desired to know the reasons for diluting the recommendations of the Wanchoo Committee and placing trusts and institutions notified under Section 10(23C) (iv) and (v) of the Act beyond the purview and control of the Department. The Chairman, Central Board of Direct Taxes stated:

“This was brought in by the statute in 1975. We felt that certain selected trusts of importance throughout India or throughout any State may not be asked to go through the stricter discipline of Sections 11 to 13. We have given exemption to 576 trusts under Section 10(23C) (iv) and (v) and as against the total assessed figure of 15,000 and odd, the percentage comes to about 3 per cent. We have also taken step to see that these provisions of Section 10(23C) are not misused. In the past few years there has been no blanket exemption; we restricted it to 2 or 3 years so that they may come to us again for renewal and we could monitor the whole thing. Notices are being served on 300 and odd trusts after obtaining Law Ministry's advice and after obtaining the approval of the Minister concerned. We are asking them why their exemption should not be curtailed from 31-3-1984 so that they have to come to us again and then we will be able to see whether the provision of law regarding auditing of accounts etc. have been properly complied with or not.”

3.20 Asked if periodical reviews were carried out to ascertain the actual utilisation of funds by the trusts or institutions granted exemption indefinitely, the Chairman C.B.D.T. replied:

“As I said earlier, now we grant exemption for not more than three years at a time so that at the time when they come again to us, we ask for the Balance-sheet etc., and we do not renew

the exemption unless we are satisfied that they have utilised the funds properly.”

3.21 The Committee desired to know the results of review, if any made, in this regard. In reply, the Ministry of Finance stated:

“The Government has examined the continued eligibility of 70 trusts, funds and institutions when they came up for renewal of the notification under Section 10(23C) (iv) and (v). The Government did not consider it necessary to deny renewal in any of these cases.”

3.22 The Committee enquired if any cases of misutilisation of funds had come to the notice of the Board during renewals and if exemption granted to any trust was cancelled. In reply, the Chairman, C.B.D.T. stated:

“So far there has been no such case. We have not cancelled any one.”

3.23 Subsequently, when asked to furnish details of cases where exemptions granted under the Act to various trusts have been revoked during the last five years, the Ministry of Finance replied:

“There has not been any case of revoking notifications issued under Section 10(23C) (iv) (v). Exemptions granted under the Income Tax Act, 1961 in regular assessment proceedings could not be the subject of consideration for withdrawal of exemption in proceedings for re-assessments u/s. 148 in appeal or in revision proceedings u/s 263. These are matters of further appeals etc. and it would be a difficult to give with finality the number of such cases.”

3.24 It is seen that prior to the pronouncement in the case of Additional Commissioner of Income-tax v. Surat Art Silk Manufacturers Association [(80) 121 ITR I] the case law laid down by the Supreme Court in the two leading cases of Loka Sikshana Trust and Indian Chambers of Commerce held the field ever since 1975. Whether a certain institution or its objects are charitable is ultimately a matter for judicial determination. The effect of notifying trusts and institutions under section 10 (23C) (iv)|(v) amounts to excluding them from the purview of all the administrative, statutory and judicial discipline of the income tax law. A few illustrations of the institutions notified prior to 1980 would show that most of these could have claimed exemptions, under the normal provisions of Sections 11 to 13 and remained subject to the discipline of tax law:

1. The Stock Exchange, Bombay.
2. The Stock Exchange Foundation.
3. The Indian Merchants Chambers.

4. Bombay Chartered Accountants Society.
5. The Associated Chambers of Commerce & Industry.
6. Association of State Road Transport Undertakings.
7. Coordination Committee on Pool Accounts.
8. Indian Institute of Psychometry.
9. Federation of Indian Export Organisation.
10. Indian Economic Association.
11. The Associated Chamber of Commerce & Industry.
12. Centre for the study of Developing Societies, Delhi.
13. Asian Institute for Rural Development, Bangalore,
14. Bharatiya Basha Parishad.
15. Indian Standards Institute.
16. Kurukshetra Development Board.
17. India International Centre.
18. Consumer Education and Research Centre.
19. Indian Council for Research on International Economic Relations.
20. Madras Dock Labour Board.
21. Cochin Dock Labour Board.
22. Joint Plant Committee.
23. National Institute of Public Finance & Policy
24. Indian Dairy Corporation.
25. Public Enterprises Centre for Continuing Education.
26. Ahmedabad Textile Mills Association.

3.25 The institutions governed by different provisions of Section 10 are not obliged to file return of income annually. In this context, the Chairman, CBDT replied:

“They are not subject to the discipline of Sections 11 to 13 of the Income Tax Act.”

3.26 Asked whether it was in the interest of revenue or public interest to keep certain trusts beyond the control and discipline of the aforesaid Sections, the Chairman, C. B. D. T. stated:

“Whether it is Section 10 or any other Section it will be serving no purpose if every trust however important it is, however laudable objective it has, like the Tirpati Trust, should be required to go through the same discipline as an ordinary trust.”

3.27 During further evidence on the subject, the Chairman C. B. D. T. stated:

“... According to my personal opinion, this section should not exist on the Statute Book and all the Trusts should come under the discipline and control of Sections 11 to 13 of the Income Tax Act.”

3.28 Asked as to the steps proposed to be taken by the Board in this regard, the Chairman, C.B.D.T. replied:

“The matter is being considered by the Jha Commission and in case they make a recommendation, we will certainly consider it and implement it.”

3.29 The Committee desired to know how many of the 576 trusts notified so far under Section 10 (23C) (iv) & (v) came up for renewal of exemption and the type of scrutiny done in each case together with results thereof. In reply, the Ministry of Finance stated:

“The detailed statement in respect of 70 such cases is given at Annexure A. (not attached). Similar statement in respect of other cases is under preparation and will be forwarded shortly.”

3.30 A random scrutiny of the files called for by the Committee with regard to applications for renewal of exemptions granted to trusts under Sections 10 (23C) (iv) & (v) of the Act, showed that while the renewals were granted on the basis of the Reports of the Commissioners of Income-tax concerned, the Commissioners had not insisted upon production of latest balance sheets of some of the trusts and only the available balance sheets as produced by the assessee trusts were gone into to verify whether the income had been properly applied for the avowed object and whether funds were invested in conformity with the provisions of Sections 13(5) of the Act.

3.31 It is however, seen from the statement furnished by the Ministry in respect of 70 trusts [out of 576 trusts notified so far under Section 10 (23C) (iv),(v)] which came up for renewal that the scrutiny was not confined to the report of the Commissioner of Income-tax concerned. Fur-

thermore, the date of receipt of renewal application, in many cases, was quite close to the date of original exemption notification. The experts from the entries in the statement in some cases are reproduced below:

Sl. No.	Name of the Trust/ Institution	Date of Original Notification	Date of Receipt of renewal	Date of Renewal Notification	Type of scrutiny done
1	2	3	4	5	6
8	Kurukshetra Development Board	28-8-80	1-9-81	15-5-82	Certificate of continued eligibility obtained from Commissioner of Income-Tax.
59	Do.	12-3-80	20-6-80	28-8-80	The CIT's report of March, 1980, was taken into consideration while issuing renewal in August, 1980.
11	India International Centre.	20-9-77	16-8-78 and 20-5-81	27-12-80 and 12-10-81	Certificate of continued eligibility obtained from Commissioner of Income-tax.
12	Sundaram Charities	13-2-81	1-4-81	19-5-82	Certificate of continued eligibility obtained from Commissioner of Income-tax.
13	The Lotus Trust	6-1-81	16-3-81	21-1-82	Do.
29	Indian Merchants Chamber.	29-3-82	21-5-82	23-11-82	Do.
30	Navajbhai Ratan Tata Trust.	27-2-81	20-3-81	23-11-82	Do.
35	Raman Catholic Diocese of Calicut	12-11-79	31-12-79	29-9-80	Certificate of continued eligibility obtained from Commissioner of Income-tax.
45	Indian Council of Child Welfare.	19-10-81	1-9-81	2-9-82	Do.
51	Sanjay Gandhi Memorial Trust	10-4-81	15-7-82	16-8-82	The progress of charitable activities scrutinised.
52	Cheshire Homes India, Bombay.	21-5-82	16-7-82	16-8-82	In place of request for permanent Notification, renewal was limited upto assessment year 1985-86. No report was called for as original notification was made on 21-5-82 and renewal granted on 16-8-82.

1	2	3	4	5	6
53	Lal Bahadur Shatri National Memorial Trust	29-5-81	31-7-81	30-12-81	Balance-sheet was examined and also seen that it continued to fulfil the conditions of section 10(23G)(iv).
54	Muslim Orphange Committee Tirunelveli.	8-7-80	17-9-80	20-1-82	Accounts called for directly and examined.
55	Joint Plant Committee	6-8-82	3-9-82	16-12-82	Ministry of Laws opinion of May, 1982 was taken into consideration while granting renewal in December, 1982.
56	Shradhanand Mahilashram	31-8-82	4-10-82	16-12-82	Progress of the Chzritable activities and the balance sheet scrutinised.
57	Indian Parlimentary Group	3-3-81	12-4-82	13-5-82	Renewal was granted on the facts of Lok Sabha Sectt. as there was no change in the objects.
58	Indian Standard Institution, New Delhi.	4-7-80	20-1-81	28-5-81	As there is no change in the conditions and circumstances renewal was granted after scrutiny of accounts.
60	Dohnavur Fallowship Tirunelveli	4-7-80	30-9-80	16-4-81	Progress of activities and accounts scrutinised.
62	The Ahmedabad Textile Mills Association.			2-6-82	Details not available. File sent to C&AG.
63	Pirojsha Godra Foundation.			6-7-82	Do.
64	Indo German Social Service Society	7-4-79		17-4-82	File readily not available
65	Bombay Slesian Society.	22-2-82		5-10-82	Do.
66	Chitrapur Math			23-11-82	Do.
67	Geeta Bhawan Trust				Do.
68	Guru Govind Singh Foundation				Do.
69	Hari Om Ashram				Do.
70	Coimbatore Shree Ayyapa Seva Singh				Do.

3.32 The Committee desired to have a statement showing the disposal of applications, including those for renewals received under Section 10 (23C) (iv) & (v) of the Income Tax Act, 1961. The Ministry of Finance stated (March, 1983):

“The statement showing the disposal of 552 applications under Section 10(23C) (iv)|(v) of the Income-tax Act, 1961, is enclosed.*

Earlier we had indicated the figure of 576 trusts. But now more than one fund which has been notified from the same file has been taken as one unit. An illustration is that in the original 576 trusts the cases listed as S. Nos. 29, 30, 31, 32, 33, 34, 35, and 36 are now all shown under one number, viz., 46.

In regard to the cases of 317 trusts which were notified for indefinite period, notices have been issued intimating that the validity of the notification expires with assessment year 1984-85. The trusts|institutions have been requested to come up for renewal of their application.”

3.33 Asked to indicate the reasons for not specifying the assessment years in the exemption notification issued in favour of 317 trusts, the Chairman, C. B. D. T. replied:

“As I said earlier, right upto June 1979, it was thought that once an approval is granted, it would hold good for all the time.”

3.34 He added:

“The wording is for such assessment year of years (including an assessment year or year commencing before the date of which the notification is issued), as may be specified in the notification. In case, nothing is specified, it is for all times. This interpretation is obviously atently wrong. We have consulted the Ministry of Law on that point. They said that we can restrict the period for which this noification is valid.”

3.35 Asked about the basis of such interpretation, the Chairman, CBDT replied:

“It was the Board's interpretation.”

3.36 Asked to indicate the reasons for approaching the Law Ministry, the Chairman, C. B. D. T. replied:

“We went to the Law Ministry because we found that there was a mistake in the procedure which had been adopted in the past.

We felt we should evolve some procedure whereby we could rectify it.”

3.37. The Committee enquired which of the two rectificatory courses *viz.*, issuing another notification with retrospective effect or issuing notice to convert indefinite exemption into a time-bound exemption, was considered proper, the Chairman, C.B.D.T. stated:

“We are issuing a notification and trying to rectify it. So far as what has been done in the past is concerned, we think that it will not be correct to reopen, it, because there is some little element of doubt, though not in my mind. We are now trying to issue notice to the various trusts, fixing a time limit for the exemption to be valid only upto the assessment years 1984-85. So, we are not taking back the exemption which has been already granted. We are converting the indefinite exemption into a time-bound exemption. There is nothing in the proviso which can prevent a notification being valid for the assessment years which are mentioned in it.”

3.38. He added.

“My submission is that the course that we have adopted is a better course.”

3.39. He further added:

“We will consult the Law Ministry as to whether this procedure of issuing a notice making it time bound is better or withdrawing the notification is better.”

3.40 In regard to steps taken or proposed to be taken to rectify exemptions granted to 317 trusts for indefinite period, the Ministry of Finance stated :

“In regard to the cases of 317 trusts which were notified for indefinite period, notices have been issued intimating that the validity of the notification expires with assessment year 1984-85. The trusts/institutions have been requested to come up for renewal of their applications.”

3.41 A copy of the reference made by the Ministry of Finance to the Ministry of Law and the views expressed by Law Ministry on 4 May, 1982 in regard to specifying the period of exemption in cases wherein it was not restricted earlier, furnished by the Department of Revenue, at the Committee's instance is reproduced as Appendix III.

assessment year so and so" amounts to saying "for all future assessment years" i.e., virtually granting total permanent exemption, thus violating both the language and spirit of the law. The Committee consider that all notifications issued with this formulation are clearly ultra vires, illegal and hence ineffective.

3.51 The Committee were informed in evidence, that after obtaining the Law Ministry's advice notices are being served on 300 and odd trusts asking them why their exemption should not be curtailed from 31 March, 1984. The Committee desire that a thorough review should be carried out without delay in all cases where indefinite exemption has been given so as to ensure that they are either taxed according to the normal law or where justified, covered by proper notifications.

3.52 From a perusal of the evidence tendered before the Committee verbally and in writing, it would appear that the draft notification granting exemption "for and from the assessment year(s)" was vetted by the Ministry of Law. Very belatedly, the Ministry realised that the legality of their action could be questioned and hence they stopped issuing exemptions for indefinite period in June 1979. The Committee recommend that responsibility for this persistent default in such an important matter should be fixed. The Committee further urge that in future all exemption notifications should be vetted by the Ministry of Law and placed on the Table of the House as required under Section 196 of the Income-tax Act.

3.53 The Committee have been informed that Government have examined the continued eligibility of 70 Trusts (out of 576 notified so far) when they came up for renewal under Section 10(23C) (iv) & (v). The Government did not consider it necessary to deny renewal in any of these cases. From a random scrutiny of the files relating to renewal of exemptions made available to the Committee, it was seen that in quite a few cases the Commissioners of Income-tax concerned had not insisted upon production of latest balance sheets and only the available accounts were gone into to verify if the incomes were properly applied for the avowed objectives and that the investment of funds relevant to the assessment years was in conformity with the provisions of Section 13(5) of the Act. In the absence of any guidelines issued by the Board, the filed officers who conducted the initial enquiries, interpreted the provisions of the law to their best judgement on the merits and circumstances of each case. It was further observed that the practice of obtaining certificate of continued eligibility from the Commissioner of Income-tax concerned had been dispensed with in certain cases. The failure to issue guidelines and to obtain eligibility certificates in certain cases, are clearly indicative of lack of control on the part of the assessing officers/Commissioners and the Board.

3.54 The Committee are of the view that a delegation made in relaxation of the normal provisions of Sections 11 and 13 of the Act and intended to be used in exceptional cases and with caution has been used in a routine fashion so as to lift all restraints of the income-tax law on a large number of institutions for indefinite periods. These institutions were freed not only of the additional controls built into the income-tax law as anti-tax evasion measures on the recommendations of the Wanchoo Committee but also of all existing controls. In fact they were freed of all legislative, judicial and administrative controls of income-tax law. The Chairman C.B.D.T. admitted in evidence that "this Section should not exist on the Statute book and all the trusts should come under the discipline and control of Sections 11 and 13 of the Income-tax Act. The Committee were, however informed that the matter was under consideration of the Economic Administration Reforms Commission (E.A.R.C.) and that a decision would be taken in the light of its recommendations. The Committee recommend that the question of deleting sub-sections (iv) and (v) of Section 10(23 C) of the Act should be considered forthwith without waiting for the final report of the Jha Commission. This is necessary to bring all trusts other than those of national importance, for which the provision was initially designed, within the discipline of the law contained in Sections 11—13 of the Act.

B. Monitoring of Trust Funds

3.55 The Committee desired to know the number of charitable trusts known to the Department as having been created (and in existence) by all business houses covered by MRTTP Act. The Committee also desired to be furnished details of cases where the members of business houses were beneficiaries of the trust whose funds were mainly invested in the companies of the business houses. The Committee further desired to have similar information with regard to non-charitable private trusts.

3.56. In reply, the Ministry of Finance (Department of Revenue) stated (September, 1982):

"The public charitable trusts are entitled to exemption from income tax *inter-alia* U/s 11 of the Income-tax Act, 1961. This exemption is given in regular assessment proceedings annually by the ITO provided the conditions laid down in Sections 11 to 13 are satisfied. In metropolitan centres there are separate trust circles dealing with the cases of such charitable trusts. In other places the trusts form part of the workload of the territorial Income-tax Officers. Private discretionary trusts are assessed to tax by territorial Income-tax Officers.

There are as many as 94 business houses coming under MRTTP Act as per the latest information available. Each of these

houses can have large number of trusts both public and private functioning, with individual assessments being made by different Income-tax Officers. The number of such trusts is expected to run into thousands. The collection of the information asked for in the above question will have to be made by referring these questions to a large number of ITOs spread all over the country. Collection of this information will take considerable amount of time and labour and the department finds it very difficult to undertake this exercise."

3.57 Asked to indicate how the number of institutions governed by the provisions of Section 10 and their total income compared with the number of institutions (and their incomes) still controlled by Sections 11 and 12 of the Act, the Ministry of Finance stated:

"The institutions governed by different provisions of Section 10 will not be obliged to file return of income annually as contracted with the institutions seeking exemption under Section 11. Therefore, the basis for comparison with reference to the total income will be difficult to arrive at."

3.58 The Committee enquired about the steps aimed at proper monitoring the trust funds. In reply, the Chairman, C.B.D.T. stated:

"During 1980-81 about 15,000 trusts asked for exemption under Section 11 and their accounts are examined every year. In case, they are genuine trusts and they are utilising their funds for charity, then they have nothing to worry but where it is not done, there the Income-tax-Officer looks into their accounts. Some years ago, we had set apart some Income-Tax Officers and posted them to Trust Circles in Bombay, Delhi and Madras. By creating these Trust Circles and making assessments every year, we try to see that the income that accrues to these trusts is actually spent for charitable purposes."

3.59 The Chairman, C.B.D.T. further stated:

"In respect of some big trusts we will be taking up their thorough examination with a view to seeing whether there is any manipulation and whether they are used as a vehicle for bringing in unaccounted money. From 1-4-1983 we will be taking up examination of such trusts."

3.60 The Committee desired to know if the Department had carried out any study to find out if the various amendments carried out during the past decade, as a result of the recommendations of the Wanchoo Committee

or otherwise, had had any salutary effect in curbing the misutilisation of trust funds. The Chairman, C.B.D.T. stated:

"I am very sorry to say that we have not yet carried out any study or tried to find out whether the amended provisions have been abused or the exemptions which have been granted to them through the provisions of the Act have been misused. I would like to add here that the entire provisions relating to the trusts are at present under study by the E.A.R.C. (Economic Administrative Reforms Commission) headed by Mr. Jha and we are awaiting their recommendations in this respect. And then we will take action to further plug the loopholes by legislative measures in case it becomes necessary."

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

"We have not carried out any study. We will certainly have it made But, whatever information they (E.A.R.C.) want from us we do furnish it to them. They are looking into the investment policy of the trusts."

3.62 Subsequently, the Committee enquired if the Ministry had conducted any review or evaluation of the provisions of the Income-tax laws relating to trusts, particularly with regard to the provisions added in the Act pursuant to the recommendations of the Wanchoo Committee. In a note, the Ministry of Finance stated (January, 1983):

"The Government set up a Committee known as the Chokshi Committee in 1977 for, *inter alia* recommending measures to simplify and rationalise the laws relating to income-tax, surtax, wealth-tax, gift-tax and estate duty, and to alter those laws with a view to making them readily comprehensible to tax-payers, reducing litigation and thus subserving the interest of the national economy. The Chokshi Committee, in their Interim Report submitted in December, 1977, also reviewed the amendments relating to charitable and religious trusts made in the Income-tax Act and the Wealth-tax Act in pursuance of the recommendations made by the Wanchoo Committee and made a number of recommendations for the modification of these provisions in certain respects. These recommendations were considered by the Government but before a final decision was taken in the matter, the Government constituted the Economic Administration Reforms Commission. The Government will consider the matter further in the light of, *inter-alia*, the recommendations of that Commission."

3.63 when asked to indicate the terms of reference of the Economic Administrative Reforms Commission so far as these relate to Trusts, the

Ministry of Finance stated (January, 1983) in a note:

“The terms of reference of the Economic Administrative Reforms Commission do not specifically relate to trusts.”

3.64 The Chairman, C.B.D.T. clarified in evidence:

“The terms of reference are quite general. In case they find that the law relating to trusts is complicated, they might suggest some amendments.”

3.65 He further stated:

“We have not made any reference. The Chokshi Committee which preceded the E.A.R.C. had made certain recommendations about the trusts. When we were considering those recommendations, just as that time, the E.A.R.C. was formed. So we do expect that they will make some recommendations.”

3.66 The Committee enquired if the Board had submitted some material or a note to the E.A.R.C. The Chairman C.B.D.T. replied:

“Not from the Board. All those files wherein we have dealt with the recommendations of the Chokshi Committee were sent to them and they are all with them. They know our view points and the Government’s view points also, although they had not become final by the time the Jha Commission (E.A.R.C.) was constituted.”

3.67 He added:

“The very first term of reference in para 3—I should think—is very wide and they are at liberty to make any recommendation for the proper administration of tax laws and their rationalisation and improvement.”

3.68 He further stated:

“We have been having informal exchange of ideas and on the basis of that, I can say that they are dealing with this matter. What ultimately their recommendations will turn out to be—we do not know, but I would like to say that in the terms of reference, specific subjects like treatment or trusts treatment of firms, treatment of companies, rate of structure—all that is not spelt out. The terms of reference have to be very wide so that they can take up any subject they like. It is covered by that.”

3.69 The Committee enquired if the attention of the E.A.R.C. would be drawn to the large scale avoidance of tax by trusts, had come to light during deliberations of the Committee. The Chairman C.B.D.T. replied:

“We can send them after this evidence is over—a sort of another letter because they have not yet submitted any report on this matter. As the matter is still under their consideration, they can consider it.”

3.70 He added:

“We can certainly send them a note but it is for them to consider. What recommendations ultimately they will make, it is for them.”

3.71 The misuse of tax exemptions or of trust funds by charitable and religious trusts has been confirmed by studies made from time to time. The Wanchoo Committee highlighted the dimensions of the problem in the following words:

“A recent study (1970) made by the Department of Company Affairs of 75 trusts, of which 62 were charitable, showed that the business houses creating the trusts had mostly appropriated the trust funds for their own businesses. Considering the problem of tax avoidance through formation of charitable and religious trusts, the Public Accounts Committee (1969-70—4th Lok Sabha) in its 121st Report observed that ‘while trusts fulfil a laudable social objective, they have also been used as a device to avoid tax’. The Committee also took note of the fact that out of 45 trusts connected with industrial houses and having a corpus of Rs. 24.11 crores, the investment by 32 trusts in concerns connected with the industrial houses were 50 per cent or more of their funds. In some cases, it was noticed that the investment in such concerns amounted to as much as 90 per cent of the funds of the trusts.”

3.72 The Committee have been informed that ‘the Chokshi Committee, in their interim Report submitted in December, 1977, also reviewed the amendments relating to charitable and religious trusts mad in the Income-tax Act and the Wealth-tax Act in pursuance of the recommendations made by the Wanchoo Committee and made a number of recommendations for the modification of these provisions in certain respects’. The Committee have also been informed that “these recommendations were considered by the Government but before of final decision was taken in the matter, the Government

constituted the Economic Administrative Reforms Commission", and that the Government contemplates to consider the matter further in the light of the recommendations of that Commission.

3.73 The Committee's enquiry about the number of private trusts set up by big industrial houses, their beneficiaries and the pattern of investment of trust funds have elicited the reply that "the number of such trusts is expected to run into thousands... Collection of this information will take considerable amount of time and labour and the Department finds it very difficult to undertake this exercise." The Chairman CBDT further admitted in evidence that no study has been carried out to find out to what extent the various amendments made in the Income-tax Act during the past decade as a result of the recommendations of the Wanchoo Committee or otherwise have had a salutary effect in curbing the misutilization of trust funds.

3.74 What causes concern to the Committee is the fact that while the law relating to charitable and religious trusts has remained unamended ever since the Report of the Chokshi Committee was submitted to Government in December, 1977, tax avoidance through the medium of such trusts has assumed alarming proportions, as could be judged from the prolific growth in their numbers during the past decade and that "these altruistic media have been abused with impunity for selfish personal ends." *Although at last some restrictions have been sought to be made through the Finance Bill, 1983, on the investment of trust funds and denying the trusts of any profits and gains of business, the Committee are positive that much more needs to be done to check misuse of trust funds and properties held by trusts. The Committee have made specific suggestions in this behalf elsewhere in this Report.

3.75 At this stage, the Committee suggest that till such time as a comprehensive legislation is enacted, the Department should have a thorough study carried out by the Directorate of Inspection (Investigation), to find out how far the amendments carried out since the amending Act of 1975, particularly as a sequel to the recommendations of the Wanchoo Committee have helped in curbing abuse of trust funds.

3.76 The Committee have in Para 1.69 on their 143rd Report** emphasised the need for strengthening the Directorate of Inspection (Investigation) with a view to enabling it to oversee the assessments of large industrial houses in a more effective manner. The Com-

* Wanchoo Committee Report p, 79.

** 143rd Report (1982-83) on Variations between Budget Estimates and Actuals.

mittee expect that this aspect of the matter would receive particular attention of the Directorate of Inspection.

3.77 The Committee were informed in evidence that as many as 15,000 trusts had asked for exemption under Section 11 during the year 1980-81. Their accounts are required to be examined every year. Considering the large number of trusts that have come up in recent years, Trust Circles have been set up in metropolitan towns like Bombay, Delhi and Madras in order to ensure that the income that accrues to these trusts is really spent for charitable purposes. Since admittedly these trusts have been used as a medium for avoiding tax liability, the Committee cannot too strongly stress the need of thorough scrutiny of the accounts of trusts set up by the big industrial houses so as to ensure that the trust funds are actually applied towards the stated objects of these funds. The Committee, therefore, recommend that Trust Circles may be set up in all towns where sizable number of such trusts have been registered so as to provide effective supervision over their activities. In respect of large houses whose assessments have been centralised, the trusts connected with them may also be assessed in the same Circle.

C. Need for uniform Central legislation

3.78 The Indian Trusts Act, 1882, is applicable to private trusts only and not to religious or charitable endowments. The Direct Taxes Enquiry Committee referring to abuse of tax privileges observed as follows:

“By tradition, private philanthropy in our country has been playing a very special and prominent role in enriching our cultural heritage and in catering to the educational, medical, socio-economic and religious needs of our people. In so doing it has supplemented the work of a welfare state, and the State, in turn, has recognized its contribution by giving generous tax treatment to the donations given to philanthropic institutions and also to the income thereof applied for public, religious or charitable purposes. Unfortunately, however, there is no good cause which human ingenuity cannot defile, and experience has shown that even in our country, these altruistic media have been abused with impunity for selfish personal ends.

Now, since the tax concessions afforded to these institutions involve a sacrifice of public revenues, it becomes imperative to ensure that tax privileges are not abused and that they are enjoyed only by those charitable and religious institutions which deserve them."

3.79 The Wanchoo Committee *inter alia* made the following recommendations (December, 1971) aimed at controlling and regulating the working of various public charitable and religious trusts:

"There is a strong case for having an all India legislation for the purpose of controlling and regulating the working of various public charitable and religious trusts in India. Apart from the provisions contained in the draft bill, which was introduced in the Parliament in 1968 for this purpose (but which lapsed with the dissolution of the Lok Sabha in 1970), such legislation should contain some further provisions. The Government should have the power to nominate one or more trustees in the case of a trust with income exceeding rupees fifty thousand per annum, notwithstanding the terms of the trust deed. There should also be a provision against the continuance of the same person as trustees on the governing body of a trust. The number of life trustees in any public trust should not exceed 25 per cent of the total strength of its trustees. As regards other trustees, the principle of rotation should be introduced so that one-third retire every five years. No trustees should be eligible for re-appointment more than once. Further, there should be yet another provision to ensure that the number of trustees who are close relatives of the founder(s) of a trust, does not at any time exceed 25 per cent of the total strength of the trustees. These provisions should be made applicable even to the existing trusts."

3.80 The Direct Tax Laws Committee (Chokshi Committee) had, in its Interim Report submitted to the Government in December, 1977, also recommended that 'a uniform Central law governing registration of trusts, regulating their fund raising activity, maintenance of accounts, application of income, investment of trust funds, involvement of trusts in corporate affairs consequent on holding of shares in companies and providing for machinery to deal with the abuse of trust property etc., should be enacted as soon as possible.

3.81 In regard to implementation of the above recommendations, the Ministry of Finance (Department of Revenue) stated:

“The recommendation was forwarded to the Ministry of Law for their consideration as it related to matters under the administrative control of that Ministry. The Law Ministry in turn brought the recommendation to the notice of the Law Commission (November, 1972) for consideration alongwith a proposal for all-India Legislation regarding public trusts referred to the Law Commission in April, 1970.”

3.82 If the creator of a charitable trust himself becomes the sole beneficiary, the trust would be void under the Trust Act. In this context, the Committee enquired if the Board had considered this aspect. In reply, the Ministry of Finance stated:

“The Board is responsible for the administration of the direct taxes laws. If a trust is void under the Trust Act, the consequences will have to be administered by the agency overseeing the Indian Trusts Act. However, Section 13 which provides for situations where charitable trusts are not entitled to exemption U/s 11 contains Section 13(1)(c) where if any income of the trust is applied directly or indirectly for the benefit of, *inter alia*, the author of the trust. This would be the measure to prevent exemption being provided to such trusts.”

3.83 The Committee desired to know if any guidelines had been issued to the assessing officers to keep a watch over such questionable trusts claiming exemption. The Ministry of Finance stated:

“No separate guidelines, as such except Section 13, which is in the law itself, have been issued.”

3.84 In their final report (December, 1971), the Direct Taxes Enquiry Committee (popularly known as Wanchoo Committee) had observed that ‘there is a strong case for having an all-India legislation for the purpose of controlling and regulating the working of various public charitable and religious trusts in India’. It further recommended that ‘apart from the provisions contained in the draft Bill, which was introduced in the Parliament in 1968 for the purpose (but which lapsed with the dissolution of the Lok Sabha in 1970), such legislation should contain some further provisions’, *inter alia* empowering the Government to nominate one or more trustees on the governing body of a trust. The need for early enactment of such

a uniform central law was also recommended by the Chokshi Committee in its interim report in December, 1977. The Committee observe that the only action taken by the Ministry of Finance in implementation of the above recommendation of the Wanchoo Committee was to forward the same to the Ministry of Law, Justice and Company Affairs (Legislative Department) for sponsoring an all India legislation for regulating the functioning of charitable and religious trusts. The Law Ministry, in turn, brought the recommendation to the notice of the Law Commission in November, 1972 for consideration alongwith a proposal for all India Legislation regarding public trusts. The matter appears to rest at that.

3.85 The Committee view with concern that such an important matter as the enactment of a uniform Central Law, for controlling and regulating the working of various charitable and religious trusts has not been pursued with the promptitude it deserves, particularly in the context of wide spread realisation that the trusts are being used as a medium of tax evasion and concentration of wealth in a few industrial houses. The Committee desire that a comprehensive uniform Central legislation should be brought before Parliament without any further loss of time.

3.86 In this connection, the Committee would like to recall the recommendation made by them in Paras 1.32 and 1.33 of their 121st Report (4th Lok Sabha) reproduced below:

“The Committee would like to make it clear that it is not their intention that the law should be made so draconian as to discourage the growth of genuine trusts or charities... The Committee therefore feel that the law should continue to provide a congenial climate for the growth of these institutions.”

The Committee would again urge that this aspect should be fully kept in view while formulating the proposed legislation. The Committee further recommend that a list of all trusts whose activities have come to adverse notice should be circulated to all the assessing officers for their guidance.

D. Discretionary Trusts

3.87 In regard to the views of the Ministry on the question of entrusting the function of gathering and monitoring information in respect of all trusts set up by MRTP houses to the Special Cell, the Department stated:

“Due to constraints of manpower and the heavy workload, it may not be possible for the Directorate of Special Investi-

gation to gather and monitor information in respect of all cases of private trusts belonging to MRTP houses. Even as it is, the Directorate of Special Investigation is not able to oversee all the large houses or even all the cases of the large houses assigned to it. However, in selecting cases for scrutiny of the groups assigned to the Directorate of Special Investigation, Directorate will be instructed to include some cases of private trusts also."

3.88 Subsequently, during evidence, the Chairman, Central Board of Direct Taxes stated:

"...it is a time consuming job and that is what we intimated at that time. But we have started collecting some information in respect of the private trusts of some of the important groups which have been assigned to the Special Cell. In respect of some of these groups, we have started collecting information but to collect it in respect of 94 MRTP Groups, may take some time. But I would like to submit that, all the same, all these private Trusts are being assessed, not that all are escaping taxes."

3.89 The Chairman, Central Board of Direct Taxes added:

"At the time when this question was raised earlier,, we started collecting information in respect of the 9 monopoly houses and we have almost completed the job and we will be able to give the list very shortly. But I would like again to emphasise on one point, that, in so far as the private trusts are concerned, they are regularly assessed and their income is not exempt although we see that these private Trusts do serve as a vehicle for tax evasion. So far as the assessments are concerned, they would have been made all the same."

3.90 The Committee desired to have a statement showing the names of the trusts holding shares worth more than Rs. 10,000 in companies belonging to M.R.T.P. houses. The Ministry of Finance stated (March 1983):

"Compilation of this information is almost impossible as even indentifying the names of the trusts holding shares in companies belonging to MRTP Houses will be a stupendous task. The exercise will involve examining the balance sheets of all the trusts, identifying the list of companies in which the trusts hold shares, and then finding out wether these companies are MRTP companies. The task

involved is time consuming and the man-power to be put on this will be enormous.

If information in respect of few specified trusts belonging to a few monopoly houses and their share-holding in such monopoly houses is desired by the PAC, then the same would be collected and furnished."

3.91 The Committee enquired whether some members of large industrial houses had devised and made use of the tax avoidance technique through creation of private trusts and transfer of assets to these trusts. The Chairman, Central Board of Direct Taxes replied:

"I admit that the trusts are, in some cases, being used for tax avoidance. I have not disputed that statement. Here I would like to apprise the Committee of something which came to my notice only recently. The trusts do not pay tax which is levied on registered firms. Therefore, in order to avoid payment of this tax, trusts are floated and the shares of the companies are purchased by these trusts."

3.92 He added:—

"The trusts are holding shares and controlling those companies through those share holdings. That is the correct reading of the situation."

3.93 Asked to spell out remedial measures to counter-act such a situation, the Chairman, Central Board of Direct Taxes stated:

"There can be several solutions to it.....there is a proposal that all these trusts should off-load all their shares immediately. If that is so, then there are certain economic considerations which should be taken into consideration. There may be other proposals also which can be thought of and all those proposals can be put before the appropriate authority."

3.94 Asked whether the Directorate of Inspection (Investigation), had made any suggestions to amend the Income-tax Act so as to regulate the activities of discretionary trusts set up by the large industrial houses, the Department of Revenue have informed the Committee as follows:

"The Directorate of Inspection (Investigation) (Special Cell) as such have not made suggestions for amendments to the Income-tax Act in this regard. However, a Committee of

Departmental Officers constituted to suggest steps for countering avoidance of tax through the medium of private trusts and investment companies had made certain recommendation(s) as regards amendments in the Income-tax Act to counteract avoidance of tax through the medium of private trusts."

3.95 Asked to narrate in brief the findings of the above study, the Member, Central Board of Direct Taxes stated in evidence:

"Before 1961, Trusts having specific shares and the beneficiaries were taxed. A large number of them, about 400, were Sarabhais. Again before 1972, there were specific Trusts and specific beneficiaries. There were undonated trusts whose assets were taxed because they were in the hand of individuals. There were also beneficiary trusts who were taxed although they were having donated assets. They were taxed at the maximum rate. Now as incomes rose, wealth rose and they tried to plan how to get rid of it. They formed trusts and they multiplied by various means and some of them I can mention off-hand. When 1961 Act came unfortunately by chance, the maximum rate was not applicable to the trusts. They took advantage of that also. In the year 1979, the rate was fixed for discretionary trusts at 65 per cent. Even when the rate was 72 per cent they continued. Their anxiety was four or five fold. The anxiety was to keep the wealth as far as possible below the taxable limit; keep the income below the taxable limit; to escape the capital gains tax on transfer of assets, to escape the gift tax. In 1953 the Estate Duty Act came; in 1957 the Wealth Tax Act came; in 1978 the Gift Tax Act came. Now they had to start planning in a way that they can kill so many birds with one stone. So, they came with certain types of trusts out of their ingenuity. Even after the 1980 amendment, they have again started having different types of trusts."

3.96 He added:

"In 1980 we found the case of Sarabhai. In 1979 there was a committee appointed by the Board to look into this. And on the basis of the Committee Report, the amendment was made in 1980. At that time it was thoroughly looked into."

3.97 The Committee called for a statement showing the action taken on the recommendations made by the Committee of Departmental Officers constituted in October 1979 to suggest steps for counter-avoidance of tax through the medium of private trusts and investment companies. It is seen from the statement furnished by the Ministry of Finance that the following recommendations made by the departmental committee are still under consideration of the Government:

S. No.	Para No.	Summary of recommendations	Whether accepted or not
6	2.2	Explanations 1A & 2A to Sec. 64(1) should be suitably amended so as to check tax avoidance by securing that the trust of which the spouse or minor child is a beneficiary does not itself enter into a partnership but receives share income from a firm indirectly as a beneficiary of another trust.	Under consideration.
7	2.3	Provisions similar to Clauses (i) & (iii) of Sec. 64(1) read with Explanations 1A and 2A thereto should be made applicable in respect of the settler's son's wife and son's minor child.	Under consideration.
8	2.4	Income from assets transferred by a settler to a trust for the benefit of his son's wife or son's minor child without any consideration, should also be included in the computation of the settler's total income.	Under consideration.
9	2.5	Sec. 64(1) (vii) should be amended to provide that the expression 'deferred benefit' is not limited in its meaning only to a benefit deferred during minority and that the clause will have equal play whether the interest is vested or contingent.	Under consideration.
10	2.6	The scope of Sec. 64 may be extended to cover cases of trusts created in favour of other specified relatives besides the relatives already mentioned in that section. 'Relative' may be defined on the lines of Sec. 80B(8). Trusts created in favour of Hindu undivided families of which any such relative is a member should also be covered by the provision of Sec. 64.	The recommendation has been considered in the context of the recommendations made by the Choksi Committee in para 1.30 of their final report. Final decision on the recommendation has not yet been taken.
11	2.7	The words 'for the immediate or deferred benefit' occurring in the Explanation IA to Sec. 64(1) may also be incorporated in the Explanation 2A to that Section.	Under consideration.

Sl No.	Para No.	Summary of recommendation	Whether accepted or not
12	2.8	Section 64 should be suitably amended to cover cases where the trust, instead of becoming a partner in a firm, itself carries on a business.	Under consideration.
13	3	A Specific trust which carries on business should be assessed in the same manner as an unregistered firm.	Under consideration.
14	4	Sec. 161 of the Income-tax Act should be amended to specifically provide that the share of a beneficiary shall be liable to tax as his income in the year in which the income accrues or accrues to the trust irrespective of whether the share is actually, payable to the beneficiary in the same year or only at a future date.	Under consideration
16	6.3	The Ghoks Committee's recommendations as regards deeming of introduction of capital assets into a partnership firm by a partner as a transfer, should also be extended to cases where the property is first transferred to a trust and thereafter the trust enters into a partnership and contributes the capital asset as its share of capital.	Under consideration
24	11	Amendments may be made in Sec. 4 of the Wealth-tax Act on the lines suggested in Para 2.1 to 2.8 of the report in respect of Sec. 64 of the Income-tax Act.	Under consideration
28	15.2	A deeming provision may be incorporated in Estate Duty Act that if the deceased was one of the beneficiaries of a discretionary trust and his interest therein cannot be determined as it was indefinite or uncertain owing to the discretion vested in the trustee(s) the entire trust property should be considered as passing on this wealth.	To be considered for the comprehensive Estate Duty (Amendment) Bill.

3.98 In paras 1.35 and 1.36 of their 101st Report (7th Lok Sabha), the Committee had drawn attention to the findings of the study made in the recent past by the Directorate of Inspection (Investigation) to the effect that one of the main tax avoidance methods resorted to by large industrial houses was creation of private trusts and transfer of assets to those trusts. The ultimate beneficiaries in a large number of trusts were members of the same family. The trusts had been created in such a way that the applicability of sec. 64 of the Income-tax Act on the transfer of assets was rendered impossible. It was admitted in evidence that generally such trusts are floated to avoid payment of tax and that the trusts are holding shares and Controlling companies through their share holding.

3.99 The Committee observe in this connection that a number of important recommendations made by the Departmental Committee appointed in October, 1979 to suggest steps for countering avoidance of tax through the medium of private trusts and investment companies are still under consideration of Government although this Report formed the basis of certain amendments to the Income-tax Act in 1980.

The Committee would urge that speedy decision on the outstanding recommendations of the Departmental Committee should be taken and the Committee apprised of the outcome.

NEW DELHI;

April 21, 1983

Vaisakha 1, 1905 (S)

SATISH AGARWAL

Chairman

Public Accounts Committee.

APPENDIX I
(Vide paragraph 1.46)

Details of 72 Public Charitable Trust set up by Garware Group

Sl. No.	Name of the Trust	Beneficiary	Date of creation
1	Ashok Charity Trust	General Public	23-6-72
2	Arogya Wardhan Trust	Do.	24-6-72
3	Anita Charity Trust	Do.	24-6-72
4	Bombay Welfare Trust	Do.	19-6-72
5	Diya Charity Trust	Do.	25-6-72
6	Deccan Charity Trust	Do.	25-6-72
7	Garware Charitable Trust	Do.	10-9-62
8	Garware Commerce College Trust	Do.	21-8-72
9	Jaideep Charity Trust	Do.	23-6-72
10	Kalavaibhav Charity Trust	Do.	21-8-72
11	Koyna Charity Trust	Do.	22-8-72
12	Mangalmurti Charity Trust	Do.	25-6-72
13	Monica Charity Trust	Do.	23-6-72
14	Mamta Charity Trust	Do.	24-8-72
15	Nihal Charity Trust	Do.	23-6-72
16	Poona Charitable Trust	Do.	20-6-72
17	Punyavaibhav Vishuasta Nidhi	Do.	25-8-72
18	Protesahan Charity Trust	Do.	25-8-72
19	Ramesh Charity Trust	Do.	23-6-72
20	Sanmitra Charity Trust	Do.	21-8-72
21	Samata Charity Trust	Do.	21-8-72
22	Saraswati Education Trust	Do.	25-6-72
23	Sushma Charity Trust	Do.	24-6-72
24	Sadupayog Vishvasta Nidhi	Do.	25-8-72
25	Shradha Vishvasta Nidhi	Do.	25-8-72

1	2	3	5
26	Shikshan Prasarak Trust	General Public	24-6-72
27	Shetali Charity Trust	Do.	23-6-72
28	Sheela Charity Trust	Do.	24-6-72
29	Vayoo Charity Trust	Do.	25-6-72
30	Venkatesh Charite Trust	Do.	25-6-72
31	Aba Saheb Garwar Gh. Trust	Do.	19-3-69
32	Nana Saheb Garware Gh. Trust	Do.	27-3-74
33	Vimlabai Garware Charity Trust	Do.	19-3-69
34	Nathubhai Garware Charity Trust	Do.	27-3-70
35	Aditya Charity Trust	Do.	24-6-72
36	Vikas Charitable Trust	Do.	24-8-72
37	Vijay Vishwasta Nidhi	Do.	23-8-72
38	Vivek Charitable Trust	Do.	23-8-72
39	Soniya Gh. Trust	Do.	23-6-72
40	Sarita Gh. Trust	Do.	23-6-72
41	Ashshikant Gh. Trust	Do.	25-6-72
42	Sahyadri Education Trust	Do.	25-6-72
43	Sanita Charity Trust	Do.	24-6-72
44	Ganga Charity Trust	Do.	22-8-72
45	Garware Research Centre	Do.	20-3-72
46	Abba Garwary Amarat Nidhi	Do.	21-12-78
47	Bishan Charity Trust	Do.	24-8-72
48	Gaintaman Charity Trust	Do.	25-6-72
49	Gaintaman Charity Trust	Do.	1-3-75
50	Mahalaxmi Charity Trust	Do.	22-8-72
51	Mavan Seva Dharma Trust	Do.	23-8-72
52	Maneesha Charity Trust	Do.	23-6-72
53	Krisena Charity Trust	Do.	22-8-72
54	Abhiruchi Charity Trust	Do.	24-8-72
55	People Welfare Trust	Do.	23-8-72

1	2	3	4
56	Prabha Charity Trust	General Public	23-8-72
57	Ramesh Garware Charity Trust	Do.	24-12-72
58	Veenit Chaity Trust	Do.	25-6-72
59	Achinav Charity Trust	Do.	25-6-72
60	Adarsha Charity Trust	Do.	24-6-72
61	Karmayog Charity Trust	Do.	24-6-72
62	Om Charity Trust	Do.	24-6-72
63	Garware College Trust	Do.	24-6-72
64	Vividh Karya Charity Trust	Do.	25-6-72
65	Suvichar Vishvastha Nidhi	Do.	24-6-72
66	Garware High School	Do.	24-6-72
67	Sanhakar Charity Trust	Do.	25-6-72
68	Sanjeeva Charity Trust	Do.	27-12-72
69	Sahayog Charity Trust	Do.	24-6-72
70	Gram Vaibhav Trust	Do.	June, 1972
71	Sadlocha Charity Trust	Do.	23-6-72
72	Safalah's Charity Trust	Do.	23-6-72

APPENDIX II

(Vide paragraph 3.33)

Statement showing disposal of 552 applications under Section 10 (23C) (iv)/(v) of Income-Tax 1961

S. No.	Name of the Institution	Date of application	Date of Notification	Number of Notification
1	2	3	4	5
1	Tirumala Tirupati Devasthanam	26-11-75	1-4-76	1270
2	Guruvayua Dewaswom, Guruvayur	15-12-75	1-4-76	1271
3	Missionaries of Charity, Calcutta	13-2-75	1-4-76	1272
4	Sri Jagadguru Mahasamasthanam-Sri Sharda Pectam, Sri, Sri Sringeri Mutt	10-2-76	1-4-76	1276
5	Srimath Hrishiksha Teertha Swamier Trust, Palimar Mut, Udipi	17-12-75	17-4-76	1292
6	Special Fund for Re-construction and Rehabilitation of Ex-servicemen	9-2-76	18-5-76	1321
7	Punjab Defence and Security Relief Fund	9-2-76	18-5-76	1322
8	Chief Minister Punjab's Relief Fund and Distt. Relief Fund	9-2-76	18-5-76	1323
9	Punjab Post War Services Reconstruction Fund	9-2-76	18-5-76	1324
10	Punjab National Worker's Relief Fund	9-2-76	18-5-76	1325
11	Punjab Relief Minister's Flood Relief Fund	9-2-76	18-5-76	1326
12	Servants of India Society, Poona	22-1-76	20-5-76	1328
13	The Bharat Scouts & Guides	14-1-76	1-6-76	1344
14	Sree V.V. S. Devasthanam, Annavaram	28-1-76	21-6-76	1363
15	Defence and Security Relief Fund, Haryana	9-2-76	28-6-76	1370
16	Chief Minister's Relief Fund, Haryana	9-2-76	28-6-76	1371
17	Haryana Chief Minister's Flood Relief Fund	9-2-76	28-6-76	1372
18	Chief Minister's Defence Fund, Haryana	9-2-76	28-6-76	1373
19	Post War Reconstruction Fund, Haryana	9-2-76	28-6-76	1374
20	District Relief Fund, Haryana	9-2-76	28-6-76	1375
21	National Worker's Relief Fund, Haryana	9-2-76	28-6-76	1376

1.	2	3	4	5
22	Special Fund for Re-construction and Rehabilitation of Ex-servicemen, Haryana	9-2-76	28-6-76	1377
23	India Literacy House, Lucknow	21-5-76	6-7-76	1385
24	Institution Dharmasthala, South Kanara District, Karnataka, State	15-4-76	6-7-76	1386
25	Sri Pejavara Math Jagadguru Madhwacharya Samsthana, Udipi	22-5-76	13-7-76	1389
26	Prime Minister's Drought Relief Fund	17-7-76	17-7-76	1395
27	The Karnataka Inter Diocesan Administrative Finance and Property Board, the Church of South India	28-6-76	22-7-76	1400
28	Bharat Sevasram Sangha	7-5-76	26-7-76	1406
29	Sri Sarada Math, Calcutta	1-5-76	28-7-76	1408
30	Ramakrishna Sarada Mission, Calcutta	1-5-76	28-7-76	1409
31	Shri Raghavandr Swamy Mutt, Manjangud	28-5-76	28-7-76	1410
32	National Institute of Public Finance and Policy	15-7-76	31-7-76	1419
33	Tamil Evangelical Lutheran Church, Tiruchairappalli	3-4-76	16-8-76	1442
34	Sri Ramanasramam, Tiruvansmalai	7-7-76	218-76	1446
35	Shri Kalahasteewaraswami Devasthanam, Sri Kalahasti	4-6-76	21-8-76	1449
36	Sri Ramanasramam Ghrities, Tiruvannamalai	5-7-76	4-9-76	1471
37	Ramakrishna Math (Howrah)	20-10-75	1-4-76	1274
38	People's Action for Development (India)	7-5-76	4-9-76	1472
39	Sri Durgamulleswara Swamy Varla Devasthanam, Vijayawada	28-5-76	7-9-76	1475
40	Badri Anjuman Ahmadiyya, Quadian	18-5-76	139-76	1477
41	Ramana Kendra New Delhi	10-8-76	15-9-76	1479
42	Sri Venkateswara Swamy Devasthanam, Vijayawada	20-5-76	25-9-76	1490
43	Ratan Deep Trust, New Delhi	6-10-76	18-10-76	1524
44	Army Officers Contributory Education Fund	26-4-76	18-10-76	1525
45	Amalgamated Tamilnadu Shares of Post War Services Reconstruction and Rehabilitation of Ex-Servicemen Fund	7-6-76	25-10-76	1535

1	2	3	4	5
3	Armed Forces Benevolent Fund	12-7-76	25-10-76	1536
	Special Fund for Reconstruction and Rehabilitation of Ex-servicemen	}		
	Armed Forces Reconstruction Fund			
	India Gorkha Ex-servicemen's Welfare Fund			
	Central Post War Resettlement Fund			
	Armed Forces Flag Day Fund			
	War Bereaved & Disabled Servicemen Special Relief Fund			
	Indian Soldiers Sailors & Airmen's Board Fund			
47	Jawan's Welfare Trust, Maharashtra	29-5-76	25-10-76	1538
48	The Congregation of the Franciscan Sisters of the Presentation of the Blessed Virgin Mary, Coim- batore	14-4-76	30-10-76	1542
49	The West Bengal Committee to Eradicate Illiteracy (Paschim Banga Nirakashrata Durikaran) Samiti	23-8-76	8-12-76	1574
50	St. Dustan's (India) Fund, New Delhi	14-7-76	10-12-76	1577
51	Basava Samiti, Bangalore	25-10-76	17-12-76	1584
52	Sri Ramkrishna Ashram, Nimpith	25-9-76	17-12-76	1585
53	Federation Hall Society, Calcutta	16-9-76	17-12-76	1586
54	Punjab Chief Minister's Housing Fund	28-7-76	17-12-76	1587
55	Sri Varahalaxmi Narasimha Swamy Devasthanam, Simhachalam	29-5-76	23-12-76	1590
56	I.A.F. Benevolent Association	13-4-76	23-12-76	1591
	Airforce Officers Contributory Education Fund	}		
	Airforce Wives Welfare Association			
	I.A.F. Central Welfare Fund			
	Airforce Group Insurance Society			
57	Sri Bhramaramba Malleswara Swami Vari Devasth- anam, Pedakakani	17-6-76	23-12-76	1592
58	Sri Admar Mutt, Udipi	26-10-76	23-12-76	1593
59	The India Bible Society Trust Association, Bangalore	16-9-76	23-12-76	1594
60	William Carey Study and Rescrach Centre, Calcutta	12-10-76	23-12-76	1595
61	Action for Water Development Mysore Society, Bangalore	22-9-76	23-12-76	1596
62	The Bible Society of India, Bangalore	16-9-76	21-12-76	1607

1	2	3	4	5
63	Sree Rani Satiji Mandir, Jhunjhnu	13-9-76	31-12-76	1608
64	Haryana Statecouncil of Child Welfare, Chandigarh	30-8-76	31-12-76	1609
65	Shree Kavle Math Samsthan (Shree Gowadapada- chary Samsthan), Bombay	27-9-76	31-12-76	1610
66	Shri Kashi Mutt Samsthan, Bombay	18-9-76	31-12-76	1611
67	Sri Raja Rajeswara Swamy Devasthanam, Vemala- wada	8-6-76	31-12-76	1612
68	Shiromani Gurudwara Prabandhak Committee, Amritsar	28-9-76	4-1-77	1614
69.	Army Wives Welfare Association	1-9-76	6-1-77	1615
70	The Salvation Army, Poona	15-1-76	7-1-77	1616
71	Shri Arasuri Anbaji Mataji Devasthan Trust, Amba- Ambaji	11-1-77	24-1-77	1633
72	Railway Surakshak Kalyan Nidhi, New Delhi	31-7-76	25-1-77	1637
73	Shri Raghvendra Swamy, Mutt	16-6-76	24-1-77	1635
74	The Archdiocese of Hyderabad Society, Secundera- bad	8-9-76	28-1-77	1639
75	Koodalmanikam Devaswom, Irinjulukuda	2-4-76	18-2-77	1655
76.	Sree Vasavi Kanyaka Parameswari Devasthanam Sangham, Kanchikacharla	12-8-76	10-2-77	1656
77.	Victoria Memorial Hall, Calcutta	28-12-76	10-2-77	1657
78.	The Society of Immaculate Heart of Mary, Dindigul	3-7-76	21-2-77	1662
79.	Kasturba Gandhi National Memorial Trust, Indore	15-12-76	21-2-77	1663
80.	Rajput Charitable Trust, Jammu	26-5-76	23-2-77	1666
81.	Indian Ex-servicemen's League, Newdelhi	14-7-76	23-2-77	1667
82.	Govind Bhawan Karyalaya, Calcutta	12-10-76	26-2-77	1672
83.	Greater Calcutta Leprosy Treatment & Health Education Scheme, Calcutta	9-12-76	28-3-77	1695
84.	Sarada Ranganathan Endowment for Library Scie- nce, Mangalore	1-7-76	28-3-77	1696
85.	Govind Ballabh Pant Memorial Society, New Delhi	22-11-76	28-3-77	1698
86.	Hindu Satkar Samiti, Calcutta	15-12-76	28-3-77	1697
87.	Indian Council of Child Welfare, New Delhi	12-11-76	28-3-77	1699
88.	Army Group Insurance Scheme Fund	8-3-76	14-4-77	1721
89.	Shri Shamlaji Kshetra Trust, Shamlaji	7-3-77	14-4-77	1722

1	2	3	4	5
90.	Birla Education Trust, Pilani.	21-1-76	25-5-77	1781
91.	World Wildlife Fund India, Bombay	31-1-77	5-6-77	1810
92.	Sri Samsthanam Ghoultry, Pithapuram,	20-10-76	9-6-77	1813
93.	Consumer Guidance Society of India, Bombay.	20-1-77	13-6-77	1816
94.	Church of North India, New Delhi.	18-12-76	13-6-77	1817
95.	Kerala Today Workers' Welfare Fund Board, Trivandrum.	8-11-76	18-6-77	1828
96.	M. P. State Prevention & Control of Water Pol- lution Board, Bhopal.	2-9-76	25-6-77	1833
97.	Centre for the Study of Developing Societies, Delhi.	20-11-76	25-6-77	1834
98.	Sri Krishna Janamsthan Seva Sangh.	25-10-76	29-6-77	1845
99.	The Indian Section, The Theosophical Society, Varanasi.	15-2-77	30-6-77	1844
100.	The Theosophical Society, Adyar.	5-4-77	30-6-77	1845
101.	The Annie Besant Trust, Madras.	8-3-77	30-6-77	1846
102.	National Sponsorship Council, Bombay.	3-1-77	30-6-77	1848
103.	Shree Jairambhai Dayabhai Chauhan (Bytoo) Charitable Trust.	21-6-77	30-6-77	1849
104.	Shree Vaikunth Nath Devasthan Trust, Calcutta.	20-10-76	6-7-77	1859
105.	India Sponsorship Committee, Bombay.	6-12-76	16-7-77	1876
106.	J.D.T. Islam Orphanage Committee, Kozhikode.	20-4-77	16-7-77	1877
107.	The National Association for The Blind.	8-2-77	21-7-77	1884
108.	Student Christian Movement of India, Bangalore.	11-2-77	21-7-77	1885
109.	Shri Sharda Pithmath, Dwarka.	21-3-77	21-7-77	1886
110.	Pondichery Police Superannuation Scheme. Pondicherry.	7-10-76	21-7-77	1887
111.	Baba Kali Kamliwala Panchayat Khetra, Rishikesh.	31-12-76	25-7-77	1888
112.	The Church of South India Trust Association, Madras.	1-9-76	25-7-77	1889
113.	Sree Siddaganga Mutt, Tumkur Distt.	24-11-76	25-7-77	1890
114.	Indian Dairy Corporation	21-6-77	26-7-77	1892
115.	Sri Uttaradi Mutt Samsthanam.	27-1-77	29-7-77	1907
116.	Sri Devarajaswani Devasthanam, Little Kanchi- pruam, (Chingleput Distt.)	13-10-76	29-7-77	1909

1	2	3	4	5
117.	Army Officers' Benevolent Fund. Army Central Welfare Fund.	7-4-77	3-8-77	1925
118.	Samaritan Society, Palai	18-2-77	4-8-77	1920
119.	Sri Sode Vadiraja Mutt, Udipi (S.K.).	3-1-77	11-8-77	1922
120.	Shri Shiroor Mutt, Udipi, South Kanara.	20-1-77	11-8-77	1924
121.	National Foundation for Teacher' Welfare, New Delhi.	13-12-76	11-8-77	1923
122.	Arulmighu Dhandayuthapaniswami Thirukkoil, Palani.	13-10-76	11-8-77	1925
123.	Sri Subramaniaswamy Devasthanam, Tiruttani.	12-10-76	12-8-77	1928
124.	Nathdwara Temple Board, Nathdwara.	24-1-77	20-8-77	1939
125.	Sri Kailash Ashram Mahasamsthan Trust, Kencha- mahalli, Bangalore.	28-2-77	24-8-77	1940
126.	Asian Institute for Rural Development, Banga- lore.	1-12-76	29-8-77	1944
127.	Seafarers Welfare Fund Society, Bombay.	7-2-77	5-9-77	1958
128.	Thiruvavaduthu ai Adheenam.	25-11-76	5-9-77	1958
129.	S.O.S. Children Village of India, New Delhi.	16-4-77	5-9-77	1960
130.	Cancer Foundation, Delhi.	6-12-76	12-9-77	1963
131.	The Asiatic Society of Bonmbay.	1-11-76	12-9-77	1964
132.	Sri Bhavanarayana Swamy Devasthanam, Ponnur.	31-1-77	20-9-77	1977
133.	St. Joseph's Hospital, Baramulla.	22-12-76	20-9-77	1978
134.	Sri Malladi Satyalingam Naicker Charities, Kaki- nada.	10-12-76	20-9-77	1979
135.	Naval Officers Wives Association, New Delhi.	26-2-77	20-9-77	1980
136.	Srimanamaharaja Niranjana Jagadguru Sri Mallikarguna Murugharajendra Mehaswaminam.	1-12-76	20-9-77	1981
137.	Maharashtra State Womens Council, Bombay.	20-4-77	20-9-77	1983
138.	Sri Brahmatantra Swatantra Parakala Mutt, Mysore	12-1-77	20-9-77	1984
139.	Sri Seetharamachandra Swamy Deva Devasthanam, Bhadrachalam.	23-12-76	20-9-77	1985
140.	Seamen's Welfare Association, Calcutta.	19-3-77	20-9-77	1986
141.	Indian International Centre, New Delhi.	5-4-77	20-9-77	1987
142.	Sri Bhimeswaraswamy Temple Draksharama	18-12-76	20-9-77	1988

1	2	3	4	5
143.	Sri Jagadguru Sankaracharya Sringeri Sivaganga Mutt.	12-10-76	20-9-77	1989
144.	The All India Missions Tablet Industry, Bangarapet.	1-12-67	20-9-77	1990
145.	Sri Ekambaranathar Temple, Kancheepuram	9-4-77	20-9-77	1991
146.	Sree Padmanabhaswamy Temple, Trivandrum	9-9-77	29-9-77	1998
147.	Raja Charity Trust	20-9-76	26-10-77	2027
148.	Amanat Construction Fund	11-3-77	15-11-77	2046
149.	Bharatiya Vidya Bhavan	2-8-77	18-11-77	2049
150.	Navjivan Trust	4-9-77	1-12-77	2062
151.	Sri Ramkrishna Ashram, Nimpithur	25-5-77	6-12-77	2063
152.	Sri Bharamarambha Malikarjuna Swamy Devasthanam, Srisailam, Kurnool Dist.	1-12-77	26-12-77	2087
153.	Sri Lakshmi Narasimha Swamy Devasthanam, Ahobilam	14-11-77	26-12-77	2088
154.	Evangelical Lutheran Church in Madhya Pradesh	17-4-77	31-12-77	2094
155.	Loreto House Educational Society of Calcutta	19-11-77	31-12-77	2095
156.	Council for Promotion of Communal Harmony	16-4-77	31-12-77	2097
157.	Sri Ramanathaswami Temple, Rameswaram	28-2-77	12-1-78	2121
158.	Sri Aurobindo Samiti, Calcutta	9-8-77	12-1-78	2122
159.	Paromekhavu Divaswaom, Trichur	5-7-77	12-1-78	2117
160.	West Bengal Council for Child Welfare	26-8-77	12-1-78	2118
161.	Marwari Relief Society, Calcutta	20-7-77	12-1-78	2119
162.	People's Action for Development (India) Maharashtra	15-10-77	12-1-78	2120
163.	Congregation of Christian Brothers in India	17-8-77	18-1-78	2127
164.	Sri Mahalakshmi Trust, Madras	28-5-77	20-1-78	2131
165.	Bharat Seva Sansthan, Lucknow	10-8-77	6-2-78	2145
166.	Motilal Memorial Society, Lucknow	10-8-77	6-2-78	2146
167.	Gujarat Tribal Development Corporation	15-9-77	6-2-78	2147
168.	Shree Jain Swetember Bhandar Tirth, Pawapuri	17-5-77	6-2-78	2148
169.	Defence Service Officers' Welfare Fund	31-4-77	6-2-78	2149
170.	Sri Subramaniaswami Devasthanam, Triuchendur	15-3-77	6-2-78	2150

1	2	3	4	5
171.	Arulmigu Sankaranarayanawami Temple, Sankarankoil.	22-12-76	6-2-78	2151
172.	Pir Haji Ali Dargah.	27-9-77	6-2-78	2152
173.	United Methodist Committee on Relief.	22-7-77	6-2-78	2153
174.	Poondi Parish, Poondy.	9-2-77	6-2-78	2154
175.	Sri Vadiraja Mutt, Sonda.	4-3-77	6-2-78	2161
176.	Thiruvambady Devaswam, Trichur.	1-4-77	6-2-78	2160
177.	Arulmigu Thirumalai Kumaraswami Thirukkoil.	18-3-77	6-2-78	2162
178.	Shri Kashi Mutt Samsthan, Bombay.	29-6-77	6-2-78	2163
179.	Indian Council for Child Welfare, Tamil Nadu.	29-6-77	6-2-78	2164
180.	Darjeeling Jesuits of North Bengal.	8-7-77	6-2-78	2165
181.	Sri Ratan Tata Trust.	12-10-77	6-2-78	2166
182.	Sir Dorabji Tata Trust.	5-10-77	14-2-78	2173
183.	Bengur Charitable Trust, Didwana.	4-7-77	23-2-78	2181
184.	Gujarat Ayurved Vikas Mandal.	5-10-77	23-2-78	2183
185.	Special Fund for Reconstruction & Rehabilitation of Ex-servicemen, Assam.	23-3-77	23-2-78	2185
186.	Mar Ignatious Dayara.	18-2-78	28-2-78	2203
187.	Sri Lakshmi Narasimha Swamy Devasthanam, Yadagirigutta.	24-1-77	3-3-78	2207
188.	Shri Gajanan Maharaj Sansthan, Shegaon.	20-1-77	28-2-78	2204
189.	Indian Naval Benevolent Association.	—	—	—
	Indian Naval Association Fund.	—	—	—
	Naval Officers' Contributory Education Fund.	8-12-77	4-3-78	2209
190.	Army Officers' Benevolent Fund.	8-12-77	4-3-78	2210
	Army Central Welfare Fund.	—	—	—
191.	Nabik Griha Samity.	19-5-77	9-3-78	2214
192.	Cancer Relief Society, Nagpur.	28-6-77	9-3-78	2215
193.	Armed Forces Benevolent Fund.	10-8-77	15-3-78	2217
	Special Fund for Reconstruction and Rehabilitation of Ex-servicemen.	—	—	—
	Armed Forces Reconstruction Fund.	—	—	—
	India Gorkha Ex-servicemen's Welfare Fund.	—	—	—
	Central Post War Resettlement Fund.	—	—	—

1	2	3	4	5
	Armed Forces Flag Day Fund.	—		
	War Bereaved & Disabled Servicemen Special Relief Fund.	—		
	Indian Soldiers Sailors & Airmen's Board Fund.—			
194.	The Coimbatore Diocese Society.	5-12-77	15-3-78	2218
195.	St. Joseph's Church Trust, Dahod.	10-3-77	21-3-78	2223
196.	Army Officers' Wives Association, Bombay.	14-9-77	21-3-78	2224
197.	Federation for the Welfare of the Mentally Retarded (India).	28-12-77	21-3-78	2225
198.	Shri Sant Jiwan Singh Kar Sewa Trust.	7-2-78	29-3-78	2232
199.	Society of the Franciscan Juniorate Home.	9-3-77	29-3-78	2233
200.	The Muslim Education Society, Calicut.	2-9-77	29-3-78	2234
201.	Mysore Diocesan Society, Mysore.	20-9-77	29-3-78	2235
202.	Mobile Creches for Working Mothers Children.	29-10-77	29-3-78	2236
203.	Andhra Pradesh Sangeeta Nataka Akademy.	20-7-77	31-3-78	2239
204.	Arulmigu Nellaiappan and Kanthimathi Ambal Temple.	18-4-77	31-3-78	2240
205.	Sri santhnaramaswami Temple, Sri Kasi Viswanathaswami Temple and Sri Veera Anjaneyaswami Temple.	4-7-77	31-3-78	2241
206.	Bombay Society for the prevention of cruelty to Animals.	30-11-77	31-3-78	2242
207.	Sri Kasi Kamakoteswarar Mandir.	20-4-77	31-3-78	2243
208.	Sri Vanamamalai Mutt, Nanguneri.	20-9-77	31-3-78	2247
209.	Nazareth Hospital Society, Shillong.	19-12-77	31-3-78	2248
210.	Arulmigu R.K. Naichiar Endowments, Sivagiri.	18-5-77	31-3-78	2249
211.	Shri Jain Swetambar Nakoda Paraswanath Tirath, Mawanagar.	28-12-77	11-4-78	2256
212.	Dakshinee.	28-2-77	11-4-78	2257
213.	Shree Samsthan Gokarn Partagali Jeevottam mutt.	20-11-76	11-4-78	2258
214.	Akhil Bharat Krishi Goseva Sangh, Wardha.	28-10-77	20-4-78	2276
215.	Veerayatan, Nalanda.	18-10-77	20-4-78	2277
216.	Arulmigu Chinthamoninathaswami Temple, Vasudavanallur.	15-9-77	27-4-78	2286

1	2	3	4	5
217.	The Society of the Franciscan Brothers, Kotagiri.	9-3-77	16-8-78	2301
218.	Shree Bala Murugan Devasthanam.	7-2-78	20-5-78	2302
219.	Arogyavaram Development Society.	8-5-78	23-5-78	2304
220.	Countess of Differin Fund Bengal Branch.	8-9-77	27-5-78	2323
221.	Rashtrotthana Parishat Bangalore.	10-1-78	3-6-78	2336
222.	The Cathedral Church of Redemption, New Delhi.	7-2-78	5-6-78	2337
223.	Arulmigu Sakthi Vinayagar Temple, Chingleput.	4-4-77	13-6-78	2347
224.	Sri Ram Vittal Trust, Udipi.	15-2-78	22-6-78	2355
225.	Bengal Masonic association Inter Services Charitable Trust, New Delhi.	5-10-77	22-6-78	2356
226.	Bhagini Samaj, Bombay.	22-1-78	22-6-78	2357
227.	The Salesian Province of Calcutta (Northern India).	17-9-77	22-6-78	2358
228.	Incorporated and Unincorporated Devaswoms, Sunchindrum.	16-1-77	24-6-78	2360
229.	Calcutta Zoroastrian Street Mandal.	5-10-77	24-6-78	2361
230.	Shree Somnath Trust.	9-5-78	13-7-78	2397
231.	Shree Durgiana Committee, Amritsar.	13-4-78	13-7-78	2398
232.	National Spiritual Assembly of the Baha's of India.	18-11-77	18-7-78	2420
233.	Arulmigu Vedanarayanaperumal Temple,, Trichy.	2-3-78	19-7-78	2422
234.	Technological Consultants Centre.	18-3-77	19-7-78	2423
235.	Karnataka Scheduled Castes & Scheduled Tribes Development Corporation.	5-9-77	19-7-78	2424
236.	Sri Marwari Sewa Sangh, Varanasi.	14-12-77	24-7-78	2432
237.	Xavier Kelavani Mandal Pvt. Ltd.	25-1-77	24-7-78	2433
238.	Calcutta Pinjrapole Society.	15-2-78	24-7-78	2434
239.	Toor Baitul Maal.	17-2-78	16-8-78	2469
240.	Krishnamurti Foundation India.	2-3-78	24-8-78	2484
241.	Indian Ex-service League.	3-11-77	16-9-78	2505
242.	Friends of Moral Rearmament (India).	7-6-78	16-9-78	2506
243.	Chetna Society, Raj Bhawan, Hyderabad.	24-5-78	20-9-78	2513
244.	Mahatma Gandhi Samarak Nidhi, Pune.	4-1-78	4-10-78	2533

1	2	3	4	5
245.	Sri Parthasarthy Perumal Temple, Parthanpalli.	24-12-77	4-10-78	2534
246.	Foudation Aga Khan.	14-8-78	7-10-78	2538
247.	Sri Jyesirmath (Badrikashram), Himalaya.	18-11-77	9-10-78	2543
248.	Arulmigu Arunachaleswarar Temple, Thiruvannamalai.	23-8-77	9-10-78	2544
249.	Visvesvaraya Industrial Muscum Society Trust.	5-7-78	18-10-78	2547
250.	Sri Ahobila Mutt, Tamil Nadu.	14-3-78	18-10-78	2548
251.	Sri Jain Swetamber Bhandar Tirth Rajgir.	13-2-78	30-10-78	2565
252.	Shri 108 Premnath Mandir Trust Dham, Panna.	12-5-77	30-10-78	2566
253.	Cochin Devaswom Board. Trichur.	9-10-78	30-10-78	2567
254.	Delhi Council for Child Welfare.	31-7-77	30-10-78	2568
255.	Lady Tata Memorial Trust.	27-7-78	3-11-78	2569
256.	Sri Subramanya Swami Adi Kritihikai Laksharchana Committee, Secundsrad.	6-10-78	7-11-78	2572
257.	Sree Ramo Nama Sankeertana Sangham, Vijaywada.	16-3-78	20-11-78	2582
258.	The Bombay Humanitarian League.	15-6-78	20-11-78	2583
259.	National Centre for the Performing Arts.	17-4-78	27-11-78	2594
260.	Indian Economic Association.	28-10-78	22-12-78	2621
261.	The Governor of West Bengal's All Purposes Benevolent Fund.	23-11-78	22-12-78	2622
262.	Arulmigu Swaminathaswami Temple Swamimalai	14-12-78	30-12-78	2625
263.	Gujarat Rajya Rahat Samiti, Ahmedabad.	3-10-78	30-12-78	2626
264.	United Service Institution of India, New Delhi	15-10-77	4-1-79	2636
265.	Yusuf Meherally Centre, Bombay.	23-5-78	4-1-79	2638
266.	Sheth Goculdas Tejpal Charities.	23-6-78	6-1-79	2641
267.	Sacred Heart College Society, Shembaganur.	20-4-78	8-1-79	2642
268.	Catholic Bishop's Conference of India, New Delhi.	15-4-76	8-1-79	2646
269.	Little Sisters of the Poor, Calcutta.	30-5-78	10-1-79	2649
270.	Jawaharlal Nehru Memorial Fund.	27-4-78	10-1-79	2650
271.	Volkart Foundation Bombay.	2-8-78	10-1-79	2651
272.	Gita Bhawan Trust, Indore.	24-12-77	10-1-79	2652
273.	Sri Madujjaini Saodharma Simhasana Sri Teralabalu Jagadguru Bruhamnath, Sri Palkurike Sirigere Vastavya.	2-8-78	15-1-79	2664

1	2	3	4	5
274.	Cathedral Relief Service, Calcutta	24-12-77	15-1-79	2662
275.	Thantra Vidhya Peedham	21-1-78	27-1-78	2687
276.	J.R.D. Tata Trust, Bombay	7-8-78	31-1-79	2701
277.	Missionary Evangelism society, Kohlapur	21-9-78	31-1-79	2703
278.	Catholic Church, Koth	16-8-78	31-1-79s	2702
279.	Dainik Prarthana Sabha (Regd.), Batala	10-8-78	5-2-79	2722
280.	Arulmigu Naganathaswami Temple, Nainarkoil and Mangalanrthaswami Temple, Thiru Uthirak- osamangai	17-5-77	7-2-79	2726
281.	Sri Mankula Vinayagar Devasthanam, Pondicherry	30-5-78	20-2-79	2731
282.	Arpana Trust, Karnal.	7-12-78	22-2-79	2732
283.	M/s. BrijLal Kapoor & Sons Charitable Trust, Amritsar	2-2-77	28-2-79s	2733
284.	All India Federation of the Deaf	17-5-78	6-3-79	2742
285.	Commission on Ecumenical Mission and Relations of the United Presbyterian Church in the U.S.A. Kohalpur.	20-4-78	6-3-79	2743
286.	Indian Council of Social Welfare, Hyderabad.	2-1-78	22-3-79	2750
287.	Lourdes Society	21-9-78	22-3-79	2750
288.	National Children's Fund	20-12-78	23-3-79	2752
289.	Takhat Sachkhand Sri Hazur Abchalnagar Sahib Nanded.	14-4-78	28-3-79	2756
290.	Royal Commonwealth Society for the Blind	15-9-78	7-4-79	2763
291.	Catholic Church, Dhanduka.	1-9-78	7-4-79	2764
292.	Delhi Society for the Welfare of Mentally Retard- ed Children.	20-1-79	9-4-79 s	2765
293.	Seva Mandir, Udaipur	7-2-79	25-4-79	2774
294.	Arulmigu Meenakshi Sunderewarar Thirukoli, Madurai	24-8-78	26-4-79	2786
295.	Church of North India Trust Association	1-9-78	28-4-79	2788
296.	Christian Service Agency, New Delhi.	4-9-78	30-4-79	2792

1	2	3	4	5
297.	Ramana Maharshi Centre for Learning, Bangalore	7-5-79	2-6-79	2843
298.	Karnataka Branch of the National Association for the Blind.	18-10-78	12-6-78	2854
299.	The Muncherjee Nowrojee Banajee Industrial Home for the Blind, Bombay	18-10-78	14-8-79	2856
300.	Tata Agricultural & Rural Training Centre for the Blind Society	18-10-78	14-6-79	2857
301.	The NBA Workshop for the Blind, Bombay	18-10-78	14-6-79	2859
302.	The Malankara Orthodox Syrian Church	1-8-78	14-6-79	2855
303.	Sri Sankaracharya Swamigal Mutt Samsthanam, Kumbakonam	1-2-75	1-4-76	1273
304.	Ramakrishna Math (Howrah)	20-10-75	1-4-76	1274
305.	Ramakrishna Mission (Howrah)	20-10-75	1-4-76	1275
306.	Sardar Vallabhai Patel Memorial Society, Ahmedabad	3-5-79	16-6-79	2886
307.	Manav Sava Sangh, Vrindaban.	24-3-79	19-6-79	2888
308.	Khemisatiji Mandir Trust, Jhunjhunu.	13-12-78	30-6-79	2898
309.	Anjuman-e-Islamiah, Kurnool	8-1-79	30-6-79	2899
310.	Shri Tulja Bhavani Mandir Trust, Tuljapur	26-6-78	19-7-79	2948
311.	The Arcot Lutheran Church, Siloam	23-5-78	1-9-79	2987
312.	Catholic Mission of Western Bengal	15-1-79	3-9-79	2988
313.	R.C. Diocese of Palayamkottai	13-3-79	3-9-79	2989
314.	Srirangam Srimad Andavah Pariasraman	24-7-78	3-9-79	2990
315.	Nilgiris Diocesan Society, Octacamund	30-1-78	3-10-79	3025
316.	The Roman Catholic Diocese of Calicut	19-1-79	12-11-79	3069
317.	The Cancer Foundation, Delhi	26-6-78	22-12-79	3108
318.	Sri Palimar Mutt, Udipi.	8-3-77	22-12-79	3107
319.	Sri Puttige Mutt, Udipi.	12-9-79	29-1-80	3165
320.	Rajasthan Chief Minister's General Relief Fund.			
	Rajasthan Chief Minister's Hospital Fund.			
	Rajasthan Chief Minister's Drought and Flood Relief Fund.	28-4-79	29-1-80	3166
	Rajasthan Chief Minister's Defence Service Welfare Fund			

1	2	3	4	5
321.	Services Welfare Fund.	4-9-79	29-1-80	3167
322.	Malankara Marthoma Syrian Church and the parishes & institution under ti.	16-7-79	29-1-80	3168
323.	Jhargram Leprosy Project	15-1-78	12-3-80	3209
324.	Kurukshetra Development Board, Kurukshetra	19-2-79	12-3-80	3210
325.	Army Welfare Housing Organisation	9-8-79	12-3-80	3211
326.	Gita Bhawan Trust, Moga,	17-7-79	12-3-80	3212
327.	Indian Parliamentary Group.	29-10-79	12-3-80	3213
328.	Sri Mahanandeswara Devethanam, Mahanandi	8-2-79	19-3-80	3216
329.	Sri Narasimha Swamy Temple, Urukunda	8-1-80	19-3-80	3217
330.	Ghatkopar Hindu Smashan Bhoomi Trust.	13-11-78	7-4-80	3234
331.	Catholic Church, Balasinor	16-6-78	10-4-80	3246
332.	The Goimbatore Sree Ayyappa Seva Sangham	24-10-78	26-5-80	3404
333.	J.N. Tata Endowment Bombay	29-12-78	19-6-80	3478
334.	Cancer Patients Aid Association, Bombay	22-9-79	19-6-80	3484
335.	Catholic Church, Dharampur	3-5-79	19-6-80	3485
336.	Catholic Church, Vyara.	3-4-79	19-6-80	3486
337.	Sri Darbar Sabhib ,Sri Amritisar,	9-8-79	19-6-80	3487
	Sri Darbar Sahib, Sri Taran Taran (Amritsar).			
	Gurudwara Sri Nankana Sahib, Sangrur.			
	Gurudwara Sri Ber Sahib, Sultanpur Lodhi (Kapurthala).			
	Gurudwara Sri Guru Teg Bahadur Sahib Jind (Sangroor).			
	Takhat Sri Kesgarh Sahib, Sri Anandpur Saihb.			
	Sri Dabar Sahib, Siri Mukatsar (Ferozpur).			
	Gurudwara Sri Dukhniwaran Sahib (Patiala).			
	Gurudwara Sri Fatehgarh Sahib, Sirhind (Patiala).			
	Gurudwara Sri Guru Teg Bahadur Sahib, Dhamtan Sahib (Jind).			
	Gurudwara Takhat Sri Damdma Sahib, Talwandi Sabo (Bhatinda).			

1	2	3	
338.	Broach Social Service Society.	27-7-79	19-6-80 3488
339.	Catholic Church, Unai	24-2-79	19-6-80 3489
340.	Shri Kaniyur Mutt, Udipi	7-4-78	19-6-80 3490
341.	The Salem Diocese Society.	31-8-78	20-6-80 3491
342.	The Church of North India Council for Child Care	22-6-78	1-7-80 ^a 3507
343.	Guru Gobind Singh Foundation, Chandigarh ⁿ	21-12-79	1-7-80 3508
344.	St. Mary's Nursing Home Gomtipur, Ahmedabad.	3-1-79	1-7-80 3509
345.	The Nasik Panchavati Panjapole.	20-12-78	1-7-80 3510
346.	Bharatiya Bhasha Praishad.	15-1-80	2-7-80 3513
347.	Indian Standards Institution.	2-2-80	4-7-80 3515
348.	Chief Khalsa Diwan, Amritsar.	7-4-80	4-7-80 3517
349.	Public Enterprises Centre for Continuing Education, New Delhi	21-11-89	5-7-80 3516
350.	Andhra Pradesh Lalit Kala Akadami.	2-3-78	4-7-80 3518
351.	Institution of Public Assistance.	16-6-78	4-7-80 3519
352.	The Apostolla Exarachte of Ujjain Cathol Church.	7-8-78	4-7-80 3520
353.	The Catholic Diocese of Meerut	19-3-79	4-7-80 3521
354.	Dohnavur Fellowship, Dohnavur, Tirunelveli,	29-9-76	4-7-80 3522
355.	Shri Yoga Narasimhaswamy Temple, Chinchalvadi, Trichy.	20-3-78	4-7-80 3523
356.	Muslim Orphange Committee, Tirunelveli.	15-1-79	8-7-80 3534
357.	Greater Visakha Leprosy Treatment & Health Education Scheme.	4-6-80	16-7-80 3592
358.	Shri Sathay Sai Central Trust Bombay.	9-3-79	15-7-80 3592
359.	St. Francis Xavier Mission, Dundhni,	18-10-78	16-7-80 3593
360.	Hajrat Pirmohmed Shah Darga Sharif Trust, Ahmedabad	23-8-79	16-7-80 3594
361.	Rajathan Go-Seva Sangh, Jaipur	15-2-79	8-8-80 3620
362.	NAB Lions Home for Aging Blind.	18-10-78	16-8-80 3622
363.	Tripura Relief Committee	26-7-80	30-8-80 364 2
364.	St. Joseph's Education & Medical Relief Society, Bombay.	2-11-79	30-8-80 3643
365.	Vignana Mandi, Kurnool	9-1-80	20-8-80 364 4

1	2	3	4	5
366.	The Associated Chambers of Commerce & Industry of India	1-11-77	10-9-80	3652
367.	Aruthiru Devi Karumariamman Thirukkoil, Thiruverkadu.	31-5-79	10-9-80	3654
368.	Shri Venkatachalapathy Anna Chattiram Trust, Kapisthalam, Thanjavur Distirct	21-8-80	10-9-80	3655
369.	Little Sisters of the Poor, Madras.	1-4-80	18-9-80	3665
370.	The Lakshamanjula Leprosy Dispensary & Rehabilitation Centre, Tapovan.	10-9-79	29-9-80	3678
371.	Shree Rama Vaikunth Temple, Pushkar.	1-4-79	29-9-80	3679
372.	Diocese of Kurnool	15-10-79	1-10-80	3681
373.	Punjab Amalgamated Fund for the Welfare of Ex-servicemen	25-5-79	1-10-180	3682
374.	Srhi Anand Dwarkandhist Bethak-Mandir	14-11-79	1-10-80	3685
375.	Arulmigu Kapalweswarar Temple	20-12-79	16-10-80	3701
376.	Catholic Mission, Trichy	26-6-80	16-10-80	3702
377.	Diocese of Calcutta (Church of North India).	15-1-80	16-10-80	3703
378.	Cancer Patients Aid Association, Bombay	9-9-80	16-10-80	3704
379.	Sir Sasoon David Trust Fund.	29-7-80	26-10-80	3705
380.	Sanjay Gandhi Memorial Trust	25-10-80	27-11-80	3753
381.	Shri Ghitrapur Math	8-11-78	27-12-80	3763
382.	Emmanuel Full Gospel Mission Trust, Rasipuram Selam Distt.	7-8-80	27-12-80	3773
383.	Indian International Centre	23-8-78	27-12-80	2773
384.	Maharana Pratap Samarak Samity, Udaipur	24-9-78	31-12-80	3783
385.	Sri Sri Bijoykrishna Ashram Relief Society	12-1-87	3-1-81	3785
386.	The Lotus Trust.	18-7-80	6-1-81	3787
387.	Children's Book Trust, New Delhi	11-4-80	16-1-81	3808
388.	Indian Dairy Aossiation.	19-11-79	30-1-81	3824
389.	Indo Arab Society, Bombay	12-7-80	30-1-81	3826
390.	Ahmedabad Textile Mills Association	2-6-79	12-2-81	3841
391.	Sundaram Charities.	16-5-80	13-2-81	3846
392.	Asthika Samaj (Kochu Guruvayoor) Bombay	5-5-80	13-2-81	3847
393.	The Bombay Xaverian Corporation Pvt. Ltd. Bombay.	10-12-79	13-2-81	3848

1	2	3	4	5
394.	Indian People Famine Trust.	9-1-81	13-2-81	3849
395.	Mahipatram Rupram Ashram Ahmedabad	5-2-80	16-2-81	2853
396.	Army Wives Welfare Association, Pune	19-4-80	16-2-81	3854
397.	Hanumanprasad Poddar Samarak Samiti, Gorakhpur	28-3-80	20-2-81	3871
398.	Zenana Bible & Medical Mission Trust Associa- tion	24-3-79	20-2-81	3872
399.	Shri Ram Chandra Mission, Shahjahanpur	25-9-78	25-2-81	3891
400.	Sir Garrow Wadia Trust, Bombay	20-4-78	25-2-81	3892
401.	Divine Light School for the Blind, Bangalore.	25-9-80	25-2-81	3893
402.	The Forum of Financial Writers	29-9-80	25-2-81	3894
403.	Navajbahai Ratan Tata Trust	30-1-79	27-2-81	3895
404.	East Bombay Bharat Scouts & Guides District Association	25-1-80	6-3-81	3902
405.	Akhil Bharat Anusuchit Jati Parishad, New Delhi.	23-12-80	19-3-81	3911
406.	Milowners' Association Relief Fund Society.	2-4-80	24-4-81	3928
407.	Sri Kantantawara Kshethra Yogan, Calicut	9-3-81	30-4-81	3943
408.	Sri Ramakrishna Tapavanam, Thiruparaiturai,	23-9-80	14-5-81	3953
409.	Ram Saran Das, Kishori Lal Charitable Trust	22-1-80	20-5-81	3962
410.	Bhal Vir Singh Sahitya Sadan	13-12-79	20-5-81	3963
411.	The Institute of Franciscan 'Missionaries of Mary Society, Tiruchirapalli.	26-4-80	28-5-81	3975
412.	Sri Maridamnavari Temple	23-5-80	28-5-81	3976
413.	Thiru Jeer Mutt Thirukkuruogudi	30-6-79	28-5-81	3977
414.	Narotam Lalbhai Trust, Ahmedabad.	6-9-80	29-5-81	3980
415.	Lalbhai Dalpatbhai Charity Trust, Ahmedabad.	10-9-80	29-5-81	3981
416.	Sri Subramania Samaj, Bombay	18-7-80	29-5-81	3982
417.	Kasturbhai Lalbhai Charity Trust, Ahmedabad.	6-9-80	29-5-81	3983
418.	Lal Bahadur Shastri National Memorial Trust	22-10-80	29-5-81	3984
419.	Shree Padmanabhaswamy Temple, Triyandrum.	23-2-78	6-6-81	4011
420.	Indian Dental Association	9-6-80	6-7-80	4072
421.	Bet Devasthan Samiti of Bet-Dwarka	22-7-81	24-7-81	4130
422.	King George V Memorial Trust	27-2-80	29-9-81	4140

1	2	3	4	5
423.	Maharashtra Branch of Commonwealth Parliamentary Association.	20-6-80	29-7-81	4141
424.	Sree Parvathy Sankara Mahaganpathi Parishad.	28-11-80	29-7-81	4142
425.	The Maharashtra State Council for Child Welfare	28-4-80	29-7-81	4144
426.	Tirunelveli Social Service Society, Palayamkuttai	14-3-80	30-7-71	4154
427.	Social Welfare Centre, Indore.	23-6-80	4-8-81	4149
428.	Shree Param Anand Swetamber Murtipujak Jain Sangh	23-5-79	4-8-81	4150
429.	Swarga Ashram Trust	23-5-79	4-8-81	415
430.	German Leprosy Relief Association.	10-4-70	11-8-81	415
431.	Assam Rifles Group Insurance Scheme	16-9-80	11-8-81	4154
432.	Shri Mahasati Savitri Mandir Managing Committee.	18-7-78	11-8-81	4155
433.	Guru Nanak Foundation	17-12-79	11-8-81	4156
434.	Haryana Amalgamated Fund for the Welfare of Ex-servicemen.	15-10-81	13-8-81	4165
435.	Indian Council of Child Welfare	8-3-88	19-8-81	4171
346.	Rama Sakti Mission.	30-6-79	27-8-81	4193
437.	Gita Pratisthan, Bombay.	5-8-80	5-9-81	4211
438.	Shri Krishna Bhaktha Jana Sabha, Nanganallur.	7-10-80	8-9-81	4213
439.	Shri Santam Maharaj Mandir, Nadiad.	11-3-80	29-9-81	4250
440.	Harijan Sevak Sangh, Delhi	30-4-81	12-10-81	4258
441.	Sri Vedyantha Desikar Davasthanam Malapore, Madras	19-8-80	12-10-81	4259
442.	Harijan Ashram Trust.	3-9-79	19-10-81	4268
443.	Habitat India.	6-4-81	13-11-81	4310
444.	Rajasthan Police Benevolent Fund	28-8-80	17-11-81	4315
445.	Sri Nallivananda Swamy Devasthanam	1-6-81	17-11-81	4316
446.	Centre for Research in Rural & Industrial Development, Chandigarh	1-8-83	17-11-81	4317
447.	Sri Agasthaeswara Swamy Temple, Proddatuc.	7-4-80	17-11-81	4318
448.	Tamil Nadu Polce Families Welfare Organisation	15-9-77	17-11-81	4319
449.	Janshedpur Diocesan Corporation, Janshedpur	3-5-79	17-11-81	4320
450.	Society St. Joseph's College, Tirunchirapalli	16-3-80	17-11-81	4321
451.	Consumer Education & Research Centre.	15-11-80	25-11-81	4336

1	2	3	4	5
452.	Sri Rathnapureswaraswami Davasthanam, Thirunattiyathangudi	1-6-81	27-11-81	4340
453.	Shri Talpagiri Ranganandha Swami Davasthanam Nellore.	31-10-80	27-11-81	4341
454.	Shri Pitamber Gal Trust, Ajmer.	9-1-80	30-11-81	4346
455.	Shri Venkatesa Davasthan, Bombay.	10-3-80	2-12-81	4352
456.	Sri Skandashiramam Salem.	5-8-77	2-12-81	4354
557.	The Jallianwala Bagh Memorial Trust	28-3-81	18-12-81	4375
458.	All India Federation of Sports & Rehabilitation of Paraplegics.	1-7-81	18-12-81	4376
459.	Sabarmati Ashram Preservation & Memorial Trust	3-5-79	19-12-81	4378
460.	Federation of Indian Export Organisation	17-10-81	19-12-81	4379
461.	Sri Velur Davasthanam Thanjavur.	20-4-81	14-1-82	4410
462.	Maratha Mandir.	9-10-79	14-1-82	4412
463.	Sri Lakshmi Narasimhaswamy Davasthanam Kadiri	25-9-80	20-1-82	4420
464.	The C.P. Ramaswami Aiyer Foundation.	19-5-81	21-1-82	4421
465.	Jamnalal Bajaj Foundation	5-8-80	21-1-82	4422
466.	Association of Hindu Dharma (Regd.)	19-10-81	12-2-82	4464
467.	Khelaghar Shishu Niwas Shiksha Kendra	23-12-78	15-2-82	4460
468.	Sri Thirupuraikkal Bhagvathi Temple, Vedakkanthara	28-8-80	16-2-82	4469
469.	The Stock Exchange, Bombay	29-7-80	16-2-82	4470
470.	The Stock Exchange Foundation	29-7-80	16-2-82	4471
471.	Sri Guru Singh Sabha (Regd.), Bombay	12-5-81	16-2-82	4472
472.	Student Christian Movement of India Trust Association	29-3-78	19-2-82	4476
473.	Bengal Service Society	3-6-80	19-2-82	4477
474.	Rajasthan State Citizens Council Fund	12-9-80	19-2-82	4478
475.	Society of the Sisters of the Divine Sanjour	3-6-80	19-2-82	4479
476.	Bombay Salesian Society	8-1-80	22-2-82	4486
477.	Nilagares Church, Mangalore	15-5-81	2-3-82	4493

1	2	3	4	5
478.	Shree Sammed Shikherjee Tirth Paranath	4-11-78	2-3-82	4494
479.	Disces of Thanjavur Society	9-12-80	2-3-82	4495
488.	The Bombay St. Xavier Society	4-11-78	11-3-82	4508
481.	Sitaram Bhandar	24-9-80	11-3-82	4509
482.	Phirojshah Godrej Foundation	28-3-81	11-3-82	4510
483.	Arulmigu Subramaniaswamy Thirukkoil Muruthamalai Temple	30-12-80	11-3-82	4512
484.	Jnana Probodhini	4-7-81	28-3-82	4538
485.	Society for Franciscan (Hospittallers) Sisters, Bombay	27-11-79	28-3-82	4539
486.	Sarla Charities Trust	19-5-77	29-3-82	4543
487.	Devavance Mandiram	26-2-80	29-3-82	4544
488.	Madhya Pradesh Mahila Kalyan Samiti	6-7-81	29-3-82	4546
489.	Sankat Nivaran Society, Gujarat	8-12-81	29-3-82	4548
490.	The Indian Merchants Chambers	5-12-77	29-3-82	4549
491.	Shree Ayyappa Bhaktha Sabha	13-3-81	29-3-82	4550
492.	Ramakrishna Vivekananda Mission	19-5-80	13-4-82	4564
493.	The Little Sisters of the Poor, Home for the Aged	11-9-80	13-4-82	4565
494.	Shri Kanya Kumari Gurukula Ashram	18-2-82	3-4-82	4565
495.	The Juma Masjid Trust of Bombay	25-8-81	13-4-82	4567
496.	Indian Council for Research on International Economic Relations	21-9-81	13-4-82	4568
497.	Arya Vaidayasala, Kattaikkal	12-2-82	13-4-82	4570
498.	Commonwealth Parliamentary Association, Punjab Branch	8-6-79	20-4-82	4582
499.	Sanjivani	13-3-81	20-4-82	4583
500.	Tuticorn Diocesan Association	16-4-80	20-4-82	4584
501.	The West Bengal Spastics Society	5-5-79	4-5-82	4595
502.	Society of the Gaugh-ters of Mary, Trivandrum	28-8-80	4-5-82	4596
503.	Raman Research Institutes Trust	7-2-79	10-5-82	4603
504.	Shri Hariharaputra Bhajan Samaj (Regd.)	16-9-81	13-5-82	4604
505.	Madras Dock Labour Board	4-3-81	15-5-82	4600
506.	Bombay Chartered Accountants Society	6-4-81	15-5-82	4609

1	2	3	4	5
507.	The Associated Chambers of Commerce & Industry	12-5-81	15-5-82	4610
508.	Delhi Parsi Anjuman	9-12-81	15-5-82	4613
509.	Cheshire Homes, India	15-2-80	21-5-82	4624
510.	Drought Prone Area Programme Agency, Ahmedabad.	26-10-79	22-5-82	4625
511.	Children's Little Theatre	11-8-81	25-5-82	4637
512.	Shri Vyasaraja Mutt	15-4-81	25-5-82	4636
513.	Gangajali Fund Trust	27-3-80	2-6-82	4652
514.	Sri Amareswaraswami Temple, Amravati	20-4-81	2-6-82	4654
515.	India Islamic Cultural Centre (Regd.)	27-2-82	5-6-82	4667
516.	The Board of Trustees of the Temples, Charitable Institutions and Funds of the Goud Saraswati Brahmans Community of Bombay	29-1-81	9-6-82	4672
517.	Sir Homi Mehta Charity Trust	25-4-81	9-6-82	4673
518.	Marathi Mission	8-9-78	9-6-82	4675
519.	Mahanirvan Math, Birbhum	23-7-79	23-6-82	4755
520.	Kottar Social Service Society	23-7-80	23-6-82	4756
521.	The Divine Life Society	11-3-82	23-6-82	4758
522.	The Central Relief Fund	19-3-79	23-6-82	4759
523.	Association of the Physically Handicapped	24-6-80	23-6-82	4760
524.	Sri Lakshmi Narasimha Swamy Temple	20-4-79	20-6-82	4771
525.	Sri Thirukameswarar Devasthanam, Villianur	27-5-81	28-6-82	4772
526.	Slum Rural Development Society	28-3-81	28-6-82	4773
527.	Children's Film Society, India	22-6-78	17-7-82	4815
528.	Shri Shaptashrung Nivasini Devi Trust Nasik	1-4-81	17-7-82	4816
529.	Atma Vallabh Samaj Utkarsh Trust	4-5-81	24-7-82	4826
530.	Ghem-tech Foundation	28-7-79	28-7-82	4829
531.	Oil Co-ordination Committee on Pool Accounts	3-10-77	6-8-82	4853
532.	Association of State Road Transport Undertakings	20-12-78	6-8-82	4854

1	2	3	4	5
533.	Joint Plant Committee	8-1-81	6-8-82	4855
534.	Indian Institute of Psychometry	29-3-82	6-8-82	4856
535.	Indian Medical Education and Welfare Service of Seventh-Day Adventists	21-2-79	6-8-82	4857
536.	Layola College Society	8-4-81	6-8-82	4858
537.	Sri Krishnapur Mutt	29-10-80	16-8-82	4869
538.	The Rajasthan Police Personal Welfare Trust	26-7-82	27-8-82	4890
539.	Gochin Dock Labour Board	16-8-79	31-8-82	4891
540.	Shraddhanand Mahilashram	22-7-78	31-8-82	4893
541.	Shri Bahubali Brahmacharyashram Bahubali .	7-2-81	31-8-82	4894
542.	The Congregation of the Brothers of the Sacred Heart, Palayamkottai	2-6-79	31-8-82	4895
543.	Archdiocese of Trivandrum	19-4-80	31-8-82	4896
544.	The Society of Our Lady of Dolours, The Servants of Mary	4-11-81	31-8-82	4897
545.	Hindustan Charity Trust	10-9-80	2-9-82	4899
546.	Kumba Konam Diocese Society, Kumbakonam	3-5-80	2-9-82	4900
547.	Kerala Gandhi Smarak Nidhi	16-6-78	6-9-82	4903
548.	Shri Anandpur Trust	13-10-80	21-9-82	4919
549.	S.O.S. Children's Village, West Bengal . . .	22-8-80	30-9-82	4929
550.	Shri Thakurji Laxmi Nath Ji Trust	3-10-79	30-9-82	4938
551.	Shri Ghattarpati Sivaji Maharaj Memorial National Committee	30-12-81	10-11-82	4964
552.	Shri Daya Bhai Devsi Chauhan Charitable Trust, Nasik Road	25-11-81	23-11-82	4978

APPENDIX III

(Vide paragraph 3.41)

Copy of reference made by the Ministry of Finance to the Ministry of Law and views expressed by the Law Ministry on 4 May 1982

Section 10(23C) (iv) provides for grant of exemption from income-tax to any income derived by any person on behalf of any fund or institution established for charitable purposes which may be notified in the official gazette having regard to its objects and its importance throughout India or throughout any State or States.

Section 10 (23C) (v) grants exemption from income tax to any income derived by any trust (including any other legal obligation) or institution being a trust or institution wholly for public religious purposes or wholly for public religious and charitable purposes, which may be notified by the Central Government in the Official Gazette, having regard to the manner in which the affairs of the trust or institution are administered and supervised for ensuring that the income accruing there to is properly applied for the purposes thereof.

2. A common proviso to both these provisions states that any notification issued by the Central Government shall have effect for such assessment year or years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification.

3. A plain reading of the proviso would indicate three distinct features:

- (i) the notification should specify the assessment years for which it is valid and for which assessment year the income will be exempt, by virtue of the notification;
- (ii) Notification can be issued with retrospective effect; and
- (iii) Notification should specify both the terminal points for which it is valid, that is to say it should specify assessment years for which it is valid.

4. The Central Government has in the past issued notifications both under section 10(23C) (iv)/(v) that they shall have effect

for and from specified assessment years. The point for consideration is that although the first terminal of the notification is specified in the absence of the last year for which the notification is valid and after which a renewal application is automatically necessary, in the absence of a second terminal in the notification the notified institution can claim that they have been notified for all times to come. This would not be correct as would be seen that the proviso is so worded so as to necessitate review. It is proposed that in cases which have been notified not upto any particular year, the notified institutions are asked to come up with fresh applications for assessment year 1982-83 so as to regularise notifications in these cases.

5. Ministry of Law is requested to examine the issue and offer their valuable advise immediately on:

- (i) validity of the interpretation to the proviso to section 10(23C) (iv) | (v) particularly in regard to their features discussed hereinabove;
- (ii) The validity of the institutions being asked for renewal of their applications.

Sd/-

(V. B. SRINIVASAN)
Deputy-Secretary (II-I)
9-2-1982

Ministry of Law, Justice & Company Affairs, Department of Legal Affairs, (Shri P. K. Kartha, Jt. Secy. & Legal Adviser).

Ministry of Finance (Deptt. of Revenue) U.O.F. No. 197|8|82-II(A1) dated 9-2-82.

MINISTRY OF LAW, JUSTICE & COMPANY AFFAIRS
(DEPARTMENT OF LEGAL AFFAIRS)

Section 10 of the Income-tax Act provides for incomes which do not form part of total income. Clauses 23C(iv) and (v) speak of any income received by any person on behalf of any other fund or institution established for charitable purposes which may be notified by the Central Government in the official Gazette of any trust (including any other obligation) or institution being a trust or institution wholly for religious purposes or wholly of public, religious or charitable purposes which may be notified by the Central Government in the Official Gazette.

2. The proviso to this sub-section provides that any notification issued by the Central Government under sub-clause (iv) or sub-clause (v) shall have effect for such assessment year or years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification.

3. The notifications issued by the Department are not on the file. It is, however, clear from the proviso that the notifications should specify the assessment year or years. The notifications will, therefore, be valid for that period which is specified in the notification and for no other period.

4. Apparently this sub-section contemplates issue of notification with retrospective effect.

5. The point for consideration, however, seems to be if the periods for which the notifications are valid have not been specified, whether the persons can be asked to have their requests reviewed so that the fresh notification renewing the exemption is issued.

6. We feel that since the period for which the notification is valid has not been indicated, it will be better if the notifications are modified so as to provide for the assessment years that have elapsed before the issue of the notification modifying the earlier notification. This will prompt those persons in whose favour the notification operates to approach the Central Government again to issue notification in their favour in terms of proviso to sub-clause (iv) and sub-clause (v) of the sub-section 23(C) of Section 10 of the Income-tax Act.

7. In case of difficulty the matter may be discussed with us on any mutually convenient date.

Sd/-

(K. C. D. GANGWANI)

Additional Legal Adviser
4-5-1982

(T. No. 382913)

Department of Revenue.

(APPENDIX IV)

(vide paragraph 3.43)

Copy of note dated 22-3-1976 and the format of Notification put up for approval in the first file in which notifications under Section 10(23C) (iv)|(v) were considered.

Under consideration are requests from the following institutions for notification under section 10(23C) of the Income-Tax Act, 1961.

1. Tirumala Tirupati Devasthanams.
2. The Guruvayur Davaswom.
3. Sri Sankaracharya Swamigal utt Samsthanam, Kumbakonam
4. Ramakrishna Mission.
5. Ramakrishna Math
6. Sringeri Sarada Peetham
7. Missionaries of Carity.

2. Under section 10(23C) (v) of the Income Tax Act, 1961, the income of any trust or institution being a trust or institution wholly for public religious purposes or wholly for public religious and charitable purposes which having regard to the manner in which the affairs of the trust or institution are administered and supervised, may be notified by the Central Government, to be exempt from income tax.

The proviso to section 10(23C) further provides that any notification issued by the Central Government under sub-clause (v) shall have effect for such assessment year or years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification.

4. In the case of the Ramakrishna Mission and the Ramakrishna Math, the Commissioner of Income-tax has suggested that the notification in respect of Ramakrishna Math be made effective from the assessment year 1975-76 and in the case of the Ramakrishna Mission from the assessment year 1973-74.

5. The Tirumala Tirupati Devasthanama is an institution managed under statutory provisions containing in Chapter XIV of the

Andhra Pradesh Charitable and Hindu Religious Institutions endowments Act, 1967. It is a religious and charitable Institution manamost famous temple of Lord Venkateswara. The Institution which is essentially religious in nature is also utilising a part of its income for charitable objects by way of maintaining educational institutions, hospitals, poor homes, orphanages, etc. In this case also it has been suggested that the notification should be made effective from 1-4-1973 relevant for the assessment year 1973-74 and onwards.

6. Sri Sankaracharya Swamigal Mutt Samsthanam, Kumbakonam is also an institution which was founded by Sri Adi Sankaracharya, propounder of the Adaida philosophy. The object of the institution is not only religious but also charitable. In this case also it has been requested that the notification be made effective from the assessment years 1972-73 onwards.

7. The question whether the notification to be issued under section 10 (23C) could take effect for an assessment year prior to 1-4-1976 was referred to the Ministry of Law*. Ministry of Law have opined in the linked file below that the Central Government can issue the notification for an assessment year even prior to the one commencing on 1-4-1976.

8. Sri Sringeri Sarada Peetham is one of the very old and established institutions. It was first centre of learning established by Sri Aadi Sankara. Besides maintaining a very famous temple, the institution is also providing higher education by promoting a number of institutions of learning in Sanskrit, Veda and Vedanta.

9. In view of the opinion of Law Ministry, the notification in respect of the institutions mentioned above may take effect as under

Name of the institution	Date of effect of notification: Assessment Year
1. Tirumala Tirupati Devasthanam	1973-74
2. Ramakrishna Mission	1973-74
3. Ramakrishna Math	1975-76
4. Sri Sankaracharya Swamigal Mutt Samsthanam. Kumbakonam	1972-73
5. Sri Sringeri Sarada Peetham	1972-73

10. The remaining institutions who have applied for notification are:

1. Guruvayur Devaswam,
2. Missionaries of Charity.

These two institutions are well-known in their respective fields.

11. The Guruvayur Devaswam is managing one of the most ancient and famous temples of Lord Krishna at Guruvayur. It is also doing enormous charitable work through other charitable institutions around the temple.

12. The Missionaries of Charity is an institution run by Mother Theresa and has about 65 centres in India and 27 abroad catering freely for the needy and those unwanted by the general community. This is an institution which would be for wholly charitable purposes and would also qualify for notification under section 10 (23C).

13. It has been stated by these institutions that they are maintaining regular accounts which are subject to audit. The notification in respect of these institutions may take effect from the assessment year, 1976-77.

14. A consolidated report seeking M. R. B.'s approval is being put up since these institutions are well-known institutions and it may not be necessary to bother M. R. B. with a summary in each individual case referred to in para one of this note.

M.R.B. may kindly accord approval.

		Sd|- (M. Shastri)
		22-3-76.
Director (J)		Sd|- K. R. Raghavan
		22-3-76.
M (IT)		Sd|-
		22-3-76.
M (R&B)	Approved	Sd|- Pranab Mukherjee
		22-3-76.
		Sd|-
		30-3-76.

M(IT) may kindly approve draft format of notification u/s 10(23C) (iv) & (v) placed below, where notification is proposed to be issued under section 10(23C) (iv), this draft will be initially modified to indicate the change.

Sd/- (K. R. Raghavan)
31-3-76.

M(IT)

Sd/-
31-3-76.

DRAFT

To be Published in Part II Section 3(ii) of The Gazette of India

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue and Banking)

New Delhi, dated the April, 1976

NOTIFICATION

(Income-Tax).

NO. (F.NO. (VI)-197|31|75-IT(AI): In exercise of the powers conferred by clause (i) of sub-section (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) the Central Government hereby notifies — — — — ..

as Trust for the purpose of the said section for and from assessment year (s)———.

(K. R. RAGHAVAN)
Director,
Government of India.

To

Manager,
Government of India Press,
Ring Road Mayapuri Industrial Area,
(Near Rajouri Garden), New Delhi.

No.——— (F.No. 197| | -IT(AI)

Copy forwarded to:—
As usual

(K. R. RAGHAVAN)
Director,
Government of India.

APPENDIX V

(Vide Introduction)

STATEMENT OF CONCLUSIONS AND RECOMMENDATIONS

Sl. No.	Para No.	Ministry Concerned	Conclusions and Recommendations
1	2	3	4
1	1.26	Finance (Revenue)	Section 11 of the Income-tax Act exempts from tax, income of a Charitable institution as defined in Section 2(15), in so far as it is applied to charitable purposes and fulfils the conditions laid down in Section 13. A donation made by a charitable institution to another charitable institution has been held to be application of income by the former for charitable purpose (133 ITR 494—Bombay and CBDT Instructions No. 1132 dated 5 January, 1978). It has, however, been held that mere promotion of practice of the game of cricket, in general, either for entertainment of the public or for advancement of the game itself is not a charitable purpose (37 ITR 277 Cal.). Therefore, income applied for such a purpose by a charitable Trust is not exempt from tax under Section 11. CBDT Circular instructions dated 23 August, 1973 and 28 November, 1973, affirmed that the promotion of any game or sports was not a charitable purpose.

1	2	3	4
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2 1.27 Finance (Revenue)

Income-tax Act, 1961 was amended by Finance Act, 1973 with effect from 1 April 1974 allowing deduction of 50 per cent of donations made to sports associations approved by the Government under Section 80-G. An explanation was added in that Section to clarify that such associations would be deemed to be charitable institutions only for this purpose. In other words, even after amendment, the earlier position that for purposes of Section 2(15) and Section 11 such sports associations were not "charitable institutions" continued to prevail.

3 1.28 Do.

As pointed out in the Audit paragraph, in the previous year relevant to the assessment year 1975-76, the Garware Foundation Trust made a donation of Rs. 4,25,000 of its income to Bombay Cricket Association (donee Association). In spite of the clear position of law aforementioned, the entire amount was exempted in the hand of the donor. The incorrect exemption involved a short levy of tax of Rs. 1,37,545.

Initially, in May, 1982, the Ministry of Finance did not accept the audit objection treating the income as having been applied by a charitable trust as donation to another charitable trust. After the Audit paragraph was selected by the Public Accounts Committee for examination, the Ministry changed their view and indicated (September 1982) that since such institutions notified under Section 10(23) have been held to be not charitable institutions, the Bombay Cricket Association has not been

treated as a charitable institution. Again in December, 1982 the Ministry stated that although it may *prima facie* appear that the Income-tax Officer had committed a mistake in this case, a fuller examination of the relevant facts and the law would show that the relief allowed by the Income-tax Officer is sustainable in law considering the facts that (a) under the Board's instructions dated 23 August, 1973 and 28 November, 1978 mere promotion of sports was not considered to be a charitable purpose; however, the objects of the donee association in this case are much wider; (b) the concept of charitable purpose has become considerably wider as a result of ruling by Courts since the issue of instructions by the Board in 1973. A reference has accordingly been made to the Ministry of Law on 13 December, 1982. It is obvious that but for the Committee's enquiries in the matter, the Board would have allowed the interests of revenue to go by default. The Committee would like to be apprised of the law Ministry's opinion in the matter and the action taken in pursuance thereof.

109

4

1.29

Do.

The Committee further observe that the Bombay Cricket Association (Assessee), being only a deemed charitable institution for purposes of Section 80 G of the Income-tax Act and not a charitable institution as such, was assessable to Wealth Tax. However, proceedings under the Wealth-Tax Act were not initiated under the wrong premise that the assets of the donee association were exempt from wealth-tax under Section 5(1)(i) of the Wealth-Tax Act, 1957. Thus, no wealth-tax was levied on its wealth aggregating to Rs. 3.02

crores in respect of assessment years 1974-75 and 1975-76 resulting in non-realisation of revenue to the extent of Rs. 33.10 lakhs. On realising that institutions notified under Section 10(23) of the Income-tax Act have been held to be not charitable institutions, notices under Section 17 of the Wealth-Tax Act, 1957 were issued in respect of assessment years 1973-74 to 1980-81. The Committee have been informed that the assessee has filed a writ in Bombay High Court. The same has been admitted and assessment proceedings have been stayed (December 1982). The Committee desire that action to get the stay vacated should be initiated forthwith, if not already done. The Committee would like to be apprised of the final position of the wealth-tax demand raised and collected in this case.

The Committee find that in all, 103 institutions have been approved under Section 10(23) of the Income-Tax Act, 1961 for purposes of Section 80 G. Apart from the Bombay Cricket Association, the Ministry of Finance have furnished details of assessment to wealth-tax in respect of only 10 such institutions. Two of them, viz., Delhi District Cricket Association and Bombay Presidency Golf Club Ltd., hold the status of a company, 7 institutions do not seem to have been assessed to wealth-tax. The Committee would like to know for how long and for what reasons wealth-tax proceedings have not been initiated against these institutions.

- 6 1.31 -do.- Only in one case of Madras Motors Sports, Madras, notices were issued for assessment year 1971-78 to 1973-74 and 1976-77 on 31-3-1981 and for assessment year 1977-78 on 24-2-1982. Assessments have been completed for assessment years 1970-71, 1974-75 and 1975-76. It is not known whether the demand created has since been realised. The Committee desire that these assessments should be completed expeditiously and the Committee apprised of the position.
- 1.32 -do.- The Committee recommend that the CBDT should immediately carry out a review in respect of the remaining 92 associations|institutions with a view to initiating action for levy of wealth tax, if not already levied, on assets held by them, wherever due. The Committee would like to be apprised of the results of the review together with reasons for default and the action taken to fix responsibility in the matter in six months' time.
- 7 1.52 -do.- The Garware Foundation Trust was created by a Trust deed on 16 March, 1972 with a corpus of Rs. 500 settled upon it. The Trust has been receiving substantial donations most of which have been made by the companies and trusts set up by the Garware Group itself. By March 31, 1981 this scanty corpus of Rs. 500 had swelled to Rs. 21.88 lakhs.
- 8 1.53 -do.- The Ministry initially furnished a list of 47 public charitable trusts set up by the Garware Group. On further questioning, the Ministry furnished details of 72 such trusts assessed to income-tax

income-tax. The Committee find that 65 of these 72 trusts were set up in 1972—1 in March, 1972, 41 in June, 1972, 21 in August 1972 and 2 in December 1972. Of the remaining 7, 1 was set up in 1962, 2 in 1969, 1 each in 1974, 1975, 1977 and 1978. Details of funds and the sources of contribution received by these trusts and their tax liability are not available with the Department. Information with regard to private trusts set up by the Garware Group which the Ministry promised to furnish to the Committee, has also not been furnished as yet.

1.54 Finance (Revenue)

The Committee were informed in evidence that a committee of departmental officers was appointed to go inter alia into the details of the Garware Trusts in depth. However, no details have been furnished regarding its findings with regard to affairs of the Garware Group, particularly the trusts set up by it. The Committee consider it very unfortunate that the data/information called for by them has not been furnished in spite of sufficient time having been given. This is indicative of lack of monitoring and coordination in the matter of overseeing the affairs of big industrial houses about which the Committee have lot more to say in the succeeding paragraphs. The Committee would nevertheless like to be apprised of the findings of the departmental committee and the action taken by Government to recover the tax dues, if any, outstanding against this Group!Trusts set up by it within six months.

10 2.2.

—do—

The assessee referred to in the Audit para is a building trust, namely, Trustees of Bengal National Chambers of Commerce and Industry Building, Calcutta. The building trust was not treated as a charitable trust for the assessment years 1965-66 to 1968-69, 1970-71 to 1974-75 and 1977-78 within the meaning of Section 2(15) of the Income-tax Act, 1961, as it was held that in letting out its buildings the assessee was carrying on an activity for profit. The assessee's appeals for these years were turned down by the Income-tax Appellate Tribunal and for the assessment years 1965-66 to 1968-69 also by the High Court of Calcutta. Following the Supreme Court decision in Surat Art Silk case (121 ITR 1), however, the assessee's appeals on the same point for the assessment year 1975-76 and 1976-77 were allowed by the High Court and that for the assessment year 1978-79 by the Income-tax Appellate Tribunal.

11 2.27

—do.—

In the Indian Chamber of Commerce case (101 ITR 796) it was held by the Supreme Court that a profit making activity would defeat the case for exemption; "the advancement of charitable objects must not involve profit-making activities". This decision was reversed in the Supreme Court's latter decision in Surat Art Silk case (121 ITR 1) wherein it was held, "if the profits must necessarily feed a charitable purpose under the terms of the Trust, the mere fact that the activities of the trust yield profit will not alter the charitable character of the trust". The decision in Surat Art Silk case was delivered in November 1979. When asked if the Ministry of Finance had considered these judgements and taken their

own view, the Board were content with saying merely that these were Supreme Court decision. Apparently, the Ministry of Finance had not, in the three years following the Surat Art Silk decision, applied their mind to the question whether profit-making activities should continue to be permitted to come within the scope of 'charitable purpose' or the law should be suitably amended on that point. It is only after the examination of this question by the Committee that the Government have now sought to deny exemption in respect of profits or gains of business to such charitable institutions through the Finance Bill, 1983.

12

2.28

Finance (Revenue)

The Committee consider that in all such cases where important judgements involving matters of policy are handed down by the Courts the question whether the law as pronounced does really bring out the intention of Parliament and the Government should be considered immediately thereafter by the Ministry of Finance in consultation with other Ministries concerned so that amendments, if any, considered necessary are brought forward promptly. This would also obviate the need for too many retrospective amendments as already commented upon in para 1.99 and 1.100 of the Committee's 77th Report (7th Lok Sabha).

13

2.49

do.—

The Committee note that as early as 1970, the Direct Taxes Enquiry Committee had recommended imposition of a total ban on

trusts investing any of their funds in any business concern including limited company. In pursuance of this recommendation a provision was made in the Taxation Laws (Amendment) Bill 1973 that provided for certain specified modes of investment of funds of charitable institutions claiming exemptions from income-tax. The provision, was modified by the Select Committee on the Bill and later put on Statute Book in 1975 to be operative from 1978.

14

2.41

—do—

The new clause (d) inserted in Section 13(1) of the Act by Taxation Laws (Amendment) Act, 1975 provided that 'if any funds of a charitable or religious trust or institution are invested or deposited or remain invested or deposited in any mode or form other than those specified in Section 13(5) at any time during any previous year commencing on or after 1-4-1978', the income of the said trust will lose exemption from income-tax. Apparently this condition was incorporated in the law so as to mop up for public good the accumulated funds of trusts that were invested in modes other than the specified ones and also to prevent such funds being invested for the benefit of the persons connected with the trusts or for the benefit of the business controlled by such persons. These trusts had been given adequate notice in 1975 to change their investment pattern by 1-4-1978. The Finance Act 1977 extended the date of operation of this provision from 1-4-1978 to 1-4-1981 on the ground that "lots of representation were received in this behalf." The Finance Act, 1982 further extended the date of its operation to 1-4-1982 on the plea that 'the whole gamut of the provisions relating

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to charitable and religious trusts was under consideration by the Economic Administration Reforms Commission'. It will thus be seen that the recommendations of the Wanchoo Committee, though accepted by the Government, continued to remain on paper for more than 12 years.

15

2:42

(Finance Revenue)

The Committee consider that three years' notice was quite adequate to enable the trusts to switch over to the new pattern of investment. Further extension beyond April 1978 has enabled the big industrial houses to siphon off large incomes and wealth using the media of trusts as a safe and honourable device to avoid tax liability. Proliferation of trusts on an unprecedented scale in recent years, particularly by large industrial houses is an eloquent testimony to this. While the Committee note with satisfaction that their examination of the subject has had some positive results and government have now come forward with amendments to the law through the Finance Bill 1983 to compel the Charitable and religious trusts to follow the prescribed investment pattern both for the corpus as well as accumulated incomes. The Committee must however, observe that the new provision carries within its fold a further extension of 20 months (April 1982 to November 1983) for compliance with earlier provision. This in the Committee's view was not at all justified.

16 2.43 -do-

The Committee cannot also understand why the provisions about investment pattern are not being extended to the institutions notified under Section 10(23C)(iv) and (v). It is the Committee's considered view that this is a loophole which needs to be plugged immediately.

17 2.44 -do-

Further the disability sought to be built into the Income-tax Act denying exemption in the case of trusts who fail to follow the prescribed investment pattern, is amazingly not being incorporated in the wealth-tax law. This would mean that a trust whose income is not exempt under the Income-tax Act could still get away with exemption from wealth-tax. This is another loophole which needs to be plugged immediately.

18 3.46 -do-

The Committee find that the Taxation Laws (Amendment) Bill, 1973 which was enacted as the Taxation Laws (Amendment) Act, 1975, as introduced in the Lok Sabha on 9 May 1973 did not contain Section 10 (23C). The Bill as it emerged from the Select Committee specifically exempted income received by any person on behalf of three Funds of national importance viz. the Prime Minister's National Relief Fund, the Prime Minister's Fund (Promotion of Folk Art) and the Prime Minister's Aid to Students Fund. However, a proviso was added to the Bill empowering Government to exempt any income received by a person on behalf of any other Fund or institution, established for charitable purpose having regard to its objects and importance throughout India or throughout any State, by notification in the official gazette. At the consideration

stage of the Bill in Lok Sabha, a further Government amendment exempting from income-tax the income of any trust or institution being a trust or institution wholly for public religious purposes or wholly for public religious and charitable purposes was added in the shape of sub-clause (v).

19 3'47 Finance (Revenue)

The Committee thus find that the object of introducing Section 10(23C) basically was to exempt certain institutions of national or State importance, whose funds in any case remain under public control.

20 3'48 —do—

The scope of the Section was enlarged subsequently to take care of genuine cases of philanthropy|public charity and trusts|institutions set up for wholly religious purposes. A proviso was added under sub-clause (iv) and (v) stipulating that any notification issued by the Central Government under these sub-clauses shall have effect for such assessment year or years (including an assessment year or years commencing before the date on which such notification is issued) as may be specified in the notification.

21 3'49 —do—

The Committee note that in exercise of this power, the Central Government have, during the last few years, notified 576 trusts and institutions whose incomes stand totally exempt and who are subject to none of the restrictions and restraints prescribed under Sections 11 to 13 and 139(4A) of the Income Tax Act. Till June,

1979, the Ministry of Finance had issued notifications in respect of 317 trusts and institutions exempting them for indefinite period although the language of the proviso was quite unambiguous when it laid down that such notifications shall have effect for such assessment year or years "as may be specified." However, the Ministry of Finance issued the notifications "for and from the assessment year (such and such)". The Committee regret to observe that this formulation amounted to giving up even the opportunity of very limited scrutiny that could otherwise be exercised at the time when such trusts/institutions came up for renewal of exemption had the period of exemption been specified in the notification as required by the law. In all these cases, apart from the initial scrutiny that might have been exercised at the time of issuing exemption orders by a Gazette notification, there is no method to ascertain the actual utilisation of income of such trusts or institutions because they are not obliged even to file a return of income.

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22

3.50

Finance (Revenue)

The Committee consider that by granting exemptions liberally and for indefinite period, Government have not only gone beyond the intention of Parliament but also clearly outstepped the limits of delegated legislation. Unconditional grant of exemption from tax is a legislative function, Government's action in issuing notifications "for and from the assessment year so and so" amounts to saying "for all future assessment years" i.e., virtually granting total permanent exemption, thus violating both the language and

spirit of the law. The Committee consider that all notifications issued with this formulation are clearly *ultra vires*, illegal and hence ineffective.

23 3.51 Finance (Revenue)

The Committee were informed in evidence, that after obtaining the Law Ministry's advice notices are being served on 300 and odd trusts asking them why their exemption should not be curtailed from 31 March, 1984. The Committee desire that a thorough review should be carried out without delay in all cases where indefinite exemption has been given so as to ensure that they are either taxed according to the normal law or where justified, covered by proper notifications.

24 3.52 Finance (Revenue)

From a perusal of the evidence tendered before the Committee verbally and in writing, it would appear that the draft notification granting exemption "for and from the assessment year(s)" was not got vetted by the Ministry of Law. Very belatedly, the Ministry realised that the legality of their action could be questioned and hence they stopped issuing exemptions for indefinite period in June 1979. The Committee recommended that responsibility for this persistent default in such an important matter should be fixed. The Committee further urge that in future all exemption notifications should be vetted by the Ministry of Law and placed on the Table of the House as required under Section 196 of the Income-tax Act.

The Committee have been informed that Government have examined the continued eligibility of 70 Trusts (out of 576 notified so far) when they came up renewal under Section 10(23C) (iv) & (v). The Government did not consider it necessary to deny renewal in any of these cases. From a random scrutiny of the files relating to renewal of exemptions made available to the Committee, it was seen that in quite a few cases the Commissioners of Income-tax concerned had not insisted upon production of latest balance sheets and only the available accounts were gone into to verify if the incomes were properly applied for the avowed objectives and that the investment of funds relevant to the assessment years was in conformity with the provisions of Section 13(5) of the Act. In the absence of any guidelines issued by the Board, the field officers who conducted the initial enquiries, interpreted the provisions of the law to their best judgement on the merits and circumstances of each case. It was further observed that the practice of obtaining certificate of continued eligibility from the Commissioner of Income-tax concerned had been dispensed with in certain cases. The failure to issued guidelines and to obtain eligibility certificates in certain cases, are clearly indicative of lack of control on the part of the assessing officers' Commissioners and the Board.

The Committee are of the view that a delegation made in relaxation of the normal provisions of Sections 11 and 13 of the Act and intended to be used in exceptional cases and with caution

has been used in a routine fashion so as to lift all restraints of the income-tax law on a large number of institutions for indefinite periods. These institutions were freed not only of the additional controls built into the income-tax law as anti-tax evasion measures on the recommendations of the Wanchoo Committee but also of all existing controls. In fact they were freed of all legislative, judicial and administrative controls of Income-tax law. The Chairman C. B. D. T. admitted in evidence that "this Section should not exist on the Statute book and all the trusts should come under the discipline and control of Section 11 and 13 of the Income-tax Act" The Committee were, however informed that the matter was under consideration of the Economic Administration Reforms Commission (E. A. R. C.) and that a decision would be taken in the light of its recommendations. The Committee recommend that the question of deleting sub-sections (iv) and (v) of Section 10(23C) of the Act should be considered forthwith without waiting for the final report of the Jha Commission. This is necessary to bring all trusts other than those of national importance, for which the provision was initially designed, within the discipline of the law contained in Sections 11—13 of the Act.

The misuse of tax exemptions or of trust funds by charitable and religious trusts has been confirmed by studies made from time to

time. The Wanchoo Committee highlighted the dimensions of the problem in the following words:

“A recent study (1970) made by the Department of Company Affairs of 75 trusts, of which 62 were charitable, showed that the business houses creating the trusts had mostly appropriated the trusts funds for their own businesses. Considering the problem of tax avoidance through formation of charitable and religious trusts, the Public Accounts Committee (1969-70—4th Lok Sabha) in its 121st Report observed that ‘while trusts fulfil a laudable social objective, they have also been used as a device to avoid tax’. The Committee also took note of the fact that out of 45 trusts connected with industrial houses and having a corpus of Rs. 24.11 crores, the investment by 32 trusts in concerns connected with the industrial houses were 30 per cent or more of their funds. In some cases, it was noticed that the investment in such concerns amounted to as much as 90 per cent of the funds of the trusts.”

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The Committee have been informed that ‘the Chokshi Committee, in their interim Report submitted in December, 1977, also reviewed the amendments relating to charitable and religious trusts made in the Income-tax Act and the Wealth-tax Act in pursuance of the recommendations made by the Wanchoo Committee and made a

number of recommendations for the modification of these provisions in certain respects'. The Committee have also been informed that "these recommendations were considered by the Government but before a final decision was taken in the matter, the Government constituted the Economic Administrative Reforms Commission" and that the Government contemplates to consider the matter further in the light of the recommendations of that Commission.

29 3:73 Finance (Revenue)

The Committee's enquiry about the number of private trusts set up by big industrial houses, their beneficiaries and the pattern of investment of trust funds have elicited the reply that "the number of such trusts is expected to run into thousands... Collection of this information will take considerable amount of time and labour and the Department finds it very difficult to undertake this exercise." The Chairman CBDT further admitted in evidence that no study has been carried out to find out to what extent the various amendments made in the Income-tax Act during the past decade as a result of the recommendations of the Wanchoo Committee or otherwise have had a salutary effect in curbing the misutilization of trust funds.

121

30 3:74 -do-

What causes concern to the Committee is the fact that while the law relating to charitable and religious trusts has remained un-amended ever since the Report of the Chokshi Committee was submitted to Government in December, 1977, tax avoidance though the

medium of such trusts has assumed alarming proportions, as could be judged from the prolific growth in their numbers during the past decade and that "these altruistic media have been abused with impurity for selfish personal ends."* Although at last some restrictions have been sought to be made through the Finance Bill, 1983, on the investment of trust funds and denying the trusts of any profits and gains of business, the Committee are positive that much more needs to be done to check misuse of trusts funds and properties held by trusts. The Committee have made specific suggestions in this behalf elsewhere in this Report.

31 3·75 -do-

At this stage, the Committee suggest that till such time as a comprehensive legislation is enacted, the Department should have an thorough study carried out by the Directorate of Inspection (Investigation), to find out how far the amendments carried out since the amending Act of 1975, particularly as a sequel to the recommendations of the Wanchoo Committee have helped in curbing abuse of trust funds.

32 3·76 -do-

The Committee have in Para 1.69 of their 143rd Report** emphasised the need for strengthening the Directorate of Inspection (Investigation) with a view to enabling it to oversee the assessments of large industrial houses in a more effective manner. The

Note—*Wanchoo Committee Report, p. 79.

**143rd Report (1982-83) on variations between Budget Estimates and Actuals.

33 3'77 Finance (Revenue)

Committee except that this aspect of the matter would receive particular attention of the Directorate of Inspection.

The Committee were informed in evidence that as many as 15,000 trusts had asked for exemption under Section II during the year 1980-81. Their accounts are required to be examined every year. Considering the large number of trusts that have come up in recent years. Trust Circles have been set up in metropolitan towns like Bombay, Delhi and Madras in order to ensure that the income that accrues to these trusts is really spent for charitable purposes. Since admittedly these trusts have been used as a medium for avoiding tax liability, the Committee cannot too strongly stress the need of thorough scrutiny of the accounts of trusts set up by the big industrial houses so as to ensure that the trust funds are actually applied towards the stated objects of these funds. The Committee, therefore, recommend that Trust Circles may be set up in all towns where sizeable number of such trusts have been registered so as to provide effective supervision over their activities. In respect of large houses whose assessments have been centralised, the trusts connected with them may also be assessed in the same Circle.

126

34 3'84 -do-

In their final report (December, 1971), the Direct Taxes Enquiry Committee (popularly known as Wanchoo Committee) had observed that 'there is a strong case for having an all-India legisla-

tion for the purpose of controlling and regulating the working of various public charitable and religious trusts in India'. It further recommended that 'apart from the provisions contained in the draft Bill, which was introduced in the Parliament in 1968 for the purpose (but which lapsed with the dissolution of the Lok Sabha in 1970), such legislation should contain some further provisions', *inter alia* empowering the Government to nominate one or more trustees on the governing body of a trust. The need for early enactment of such a uniform central law was also recommended by the Chokshi Committee in its interim report in December, 1977. The Committee observe that the only action taken by the Ministry of Finance in implementation of the above recommendation of the Wanchoo Committee was to forward the same to the Ministry of Law, Justice and Company Affairs (Legislative Department) for sponsoring an all India legislation for regulating the functioning of charitable and religious trusts. The Law Ministry, in turn, brought the recommendation to the notice of the Law Commission in November, 1972 for consideration alongwith a proposal for all India Legislation regarding public trusts. The matter appears to rest at that.

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3·85

Finance (Revenue)

The Committee view with concern that such an important matter as the enactment of a uniform Central Law, for controlling and regulating the working of various charitable and religious trusts has not been pursued with the promptitude it deserves, particularly in the context of wide spread realisation that the trusts are

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being used as a medium of tax evasion and concentration of wealth in a few industrial houses. The Committee desire that a comprehensive uniform Central legislation should be brought before Parliament without any further loss of time.

36 3-86 (Finance Revenue)

In this connection, the Committee would like to recall the recommendation made by them in Paras 1.32 and 1.33 of their 121st Report (4th Lok Sabha) reproduced below:

“The Committee would like to make it clear that it is not their intention that the law should be made so draconian as to discourage the growth of genuine trusts or charities...The Committee therefore feel that the law should continue to provide a congenial climate for the growth of these institutions.”

The Committee would again urge that this aspect should be fully kept in view while formulating the proposed legislation. The Committee further recommend that a list of all trusts whose activities have come to adverse notice should be circulated to all the assessing officers for their guidance.

37 3-98 Finance (Revenue)

In paras 1.30 and 1.36 of their 101st Report (7th Lok Sabha), the Committee had drawn attention to the findings of the study made in the recent past by the Directorate of Inspection (Inves-

tigation) to the effect that one of the main tax avoidance methods resorting to by large industrial houses was creation of private trusts and transfer of assets to those trusts. The ultimate beneficiaries in a large number of trusts were members of the same family. The trusts had been created in such a way that the applicability of Section 64 of the Income-tax Act on the transfer of assets was rendered impossible. It was admitted in evidence that generally such trusts are floated to avoid payment of tax and that the trusts are holding shares and controlling companies through their share holding.

38 3.99 Finance (Revenue)

The Committee observe in this connection that a number of important recommendations made by the Departmental Committee appointed in October, 1979 to suggest step for countering avoidance of tax through the medium of private trusts and investment companies are still under consideration of Government although this Report formed the basis of certain amendments to the Income-tax Act in 1980.

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The Committee would urge that speedy decision on the outstanding recommendations of the Departmental Committee should be taken and the Committee apprised of the outcome.

