

**PUBLIC ACCOUNTS COMMITTEE  
(1971-72)**

( FIFTH LOK SABHA )

**TWELFTH REPORT**

**[Action taken by Government on the recommendations  
of the Public Accounts Committee contained in  
their 121st Report (Fourth Lok Sabha) relating  
to Charitable and Religious Trusts.]**



सत्यमेव जयते

**LOK SABHA SECRETARIAT  
NEW DELHI**

*August, 1971/Sravana 1893 (Saka)*

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PUBLIC ACCOUNTS COMMITTEE  
(1971-72)

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Shri Era Sezhiyan

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2. Shri Bhagwat Jha Azad
3. Shrimati Mukul Banerji
4. Shri C. C. Desai
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21. Shri Sheel Bhadra Yajee
22. Shri Jagdish Prasad Mathur.

SECRETARIAT

Shri B. B. Tewari—*Deputy Secretary.*

Shri T. R. Krishnamachari—*Under Secretary.*

## INTRODUCTION

I. the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Twelfth Report on the Action Taken by Government on the recommendations of the Public Accounts Committee contained in their 121st Report (Fourth Lok Sabha) relating to Charitable and Religious Trusts.

2. On the 8th July, 1971, an "Action Taken" Sub-Committee was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with the following Members:

- |                                       |   |                |
|---------------------------------------|---|----------------|
| 1. Shri B. S. Murthy— <i>Convener</i> | } | <i>Members</i> |
| 2. Shri Bhagwat Jha Azad              |   |                |
| 3. Shri Ram Sahai Pandey              |   |                |
| 4. Shri C. C. Desai                   |   |                |
| 5. Shri Thillai Villalan              |   |                |
| 6. Shri Shyam Lal Yadav               |   |                |

3. The Action Taken Notes furnished by the Government were considered by the Action Taken Sub-Committee of the Public Accounts Committee (1970-71) at their sitting held on 18th December 1970. Consequent on the dissolution of the Lok Sabha on the 27th December, 1970, the Public Accounts Committee ceased to exist from that date. The Action Taken Sub-Committee of the Public Accounts Committee (1971-72), considered and adopted this Report at their sitting held on the 3rd August, 1971 based on the suggestions of the Sub-Committee of PAC (1970-71) and further information received from Ministry of Finance (Department of Revenue and Insurance). The Report was finally adopted by the Public Accounts Committee on the 31st August 1971.

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

5. The Committee place on record their appreciation of the commendable work done by the Convener and the Members of the Action Taken Sub-Committee (1970-71) in considering the Action Taken notes and offering suggestions for this Report which could not be finalised by them because of the sudden dissolution of the Fourth Lok Sabha.

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

NEW DELHI;  
August 31, 1971/Bhadra, 9, 1893 (S)

ERA SEZHIYAN,  
*Chairman,*  
*Public Accounts Committee.*

## CHAPTER I

### REPORT

1.1. This Report of the Committee deals with action taken by Government on the recommendations contained in their 121st Report (Fourth Lok Sabha) relating to Charitable and Religious Trusts, which was presented to the House on the 30th April, 1970.

1.2. Action Taken Notes have been received in respect of all the 5 recommendations contained in the said Report.

1.3. Action Taken Notes/Statements on the recommendations of the Committee contained in the Report have been categorised under the following heads:—

(i) *Recommendations/Observations that have been accepted by Government.*

Sr. Nos. 1.2 & 3.

(ii) *Recommendations/Observations which the Committee do not desire to pursue in view of the replies of Government.*

—Nil—

(iii) *Recommendations/Observations replies to which have not been accepted by the Committee and which require reiteration.*

—Nil—

(iv) *Recommendations/Observations in respect of which Government have furnished interim replies.*

Sr. Nos. 4 & 5.

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

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

#### *The Avoidance through formation of Trusts*

Paras 1.32 & 1.33 Sr. Nos. 4 & 5.

1.6. In paragraphs 1.24 to 1.28 of their 121st Report (Fourth Lok Sabha), the Public Accounts Committee had dealt with in detail



the problem of tax evasion in abuse of the exemption provisions of the Income Tax Act in regard to Charitable Trusts. Referring to the problem of tax avoidance through formation of Trusts, the Committee made the following observations in paras 1.32 & 1.33 of the Report:

1.32. "The Committee note that number of changes are being proposed in the tax statute through the Finance Bill, 1970. This should rectify the situation to some extent. However, the dimensions of the problem being what they are, a comprehensive study by Government is clearly indicated. Committee note that, after evidence on this point was taken by them, Government have constituted a Commission by recommend concrete and effective measures *inter alia* "to unearth black money" and "to check avoidance of tax through various legal devices, including the formation of trusts." The Committee have no doubt that this Commission will examine the problem of trusts in all its aspects. The following points which have a bearing on this problem call for investigation:

- (i) Whether it would not be necessary to have a system of registration of trusts with the Income-tax Authorities, in order that their activities could be watched.
- (ii) Whether it would not be desirable to have a system of compulsory auditing of the accounts of trusts having income above certain stipulated minimum limits.
- (iii) Whether the term 'charitable purpose' occurring in the Income-tax Act, which is at present rather loosely defined, could be made more precise in scope, so that it applies only to cases of genuine charity.
- (iv) Whether the existing provisions in the Act relating to accumulation of funds with trusts leave scope for tax avoidance and if so, how the position should be rectified.
- (v) What procedures would be necessary to track down trusts constituted with concealed income donated by "ghost of anonymous donors."
- (vi) Whether, in cases where the income and/or property of a trust is found to have been used for purposes not germane to the objects of the trusts, the assessee concerned should be made liable to pay not only income-tax but also wealth-tax.

1.33. 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. Traditionally, from ancient times these institutions have served as medium for genuine Philanthropy in the country and have, by and large, met to some extent not only the requirements of the poor and needy sections of the population but have also contributed to the advancement of health, education and technology. The Committee therefore feel that the law should continue to provide a congenial climate for the growth of these institutions."

1.7. In their reply dated the 7th December, 1970 the Ministry of Finaance (Department of Revenue & Insurance) have stated:—

"The problem of Trusts in all its aspects is being enquired into by the Direct Tax Enquiry Committee (Under the Chairmanship of Shri K. N. Wanchoo, ex-Chief Justice of India) appointed by the Government, to whom a copy of the observations and recommendations made in these paragraphs has been forwarded for careful consideration. On receipt of their report, the Government would place their findings before the Public Accounts Committee."

1.8. The Committee trust that the examination of the question would be completed by the Direct Tax Enquiry Committee expeditiously. The Committee would like to be apprised of the recommendations of the Enquiry Committee and the action proposed to be taken thereon in due course.

## CHAPTER II

### RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

#### Recommendation

1.29. The Committee recognise that trusts serve a very laudable social objective. At the same time unscrupulous elements have been and continue to employ them as tax dodging devices. This is a phenomenon that is universally prevalent. In U.K. a Royal Commission which investigated the problem found that a number of trusts managed to avoid tax, though they were conducting activities which "have no real connection with the idea of charity at all". In U.S.A. the Ways and Means Committee of the House of Representatives pointed out as recently as 1969 that "unlimited" deduction on account of charitable contributions "has allowed a small number of high income persons to pay little or no tax on their income".

1.30. In India, the problem of tax avoidance through trusts has been the subject matter of investigations on a number of occasions. As a result, changes have also been made in the tax statute. However, the problem continues to elude a satisfactory solution. Following certain recommendations made by the Direct Taxes Administration Enquiry Committee in 1958-59, the provisions in the Act relating to trusts were overhauled. While this might have improved the position, it still left loopholes. The Tax Evasion Enquiry Committee pointed out in 1968 that "trust" continue to be used as one of "tax-dodging" devices. They went on to say: "Charitable trusts are created with a corpus of concealed income masquerading as donations from a large number of ghost or anonymous donors. Exemption is obtained in regard to the income of these trusts, although a suitable portion of the trust funds and income, in fact, remains at the disposal of the donor himself through handpicked assesseees. Even business are carried on by such trusts created ostensibly for charitable purposes."

1.31. In what manner trust funds are deployed would be evident from the data furnished to the Committee (which unfortunately is not complete). There are 45 trusts connected with industrial houses, each with a corpus of funds of over Rs. 5 lakhs. Their total funds amounted to Rs. 24.11 crores. 32 of these trusts have invested 50 per cent of their funds or more in concerns managed by the connected

industrial houses. In some cases the investment amounted to as much as 90 per cent of the funds of the Trust.

[Sr. No. 1 to 3, paras 1.29 to 1.31 of Appendix to 121st Report of  
PAC (1969-70).]

**Action taken**

The observations of the Committee have been noted.

[Ministry of Finance (Rev. and Ins.) O.M. No. F. 241/22/70-II  
(Audit) dated 7th December, 1970].

**CHAPTER III**

**RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF GOVERNMENT**

—NIL—

#### **CHAPTER IV**

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

**—NIL—**

## CHAPTER V

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

#### Recommendations

1.32. The Committee note that a number of changes are being proposed in the tax statute through the Finance Bill, 1970. This should rectify the situation to some extent. However, the dimensions of the problem being what they are, a comprehensive study by Government is clearly indicated. The Committee note that, after evidence on this point was taken by them, Government have constituted a Commission to recommend concrete and effective measures *Inter alia* "to unearth black money" and "to check avoidance of tax through various legal devices, including the formation of trusts." The Committee have no doubt that this Commission will examine the problem of trusts in all its aspects. The following points which have a bearing on this problem call for investigation:

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[Serial Nos. 4 & 5 and Paras 1.32 & 1.33 of Appendix to PAC's 121st Report, 1969-70.]

#### **Action Taken**

1.32. & 1.33. The problem of Trusts in all its aspects is being enquired into by the Direct Tax Enquiry Committee (under the Chairmanship of Shri K. N. Wanchoo, ex-Chief Justice of India) appointed by the Government, to whom a copy of the observations and recommendations made in these paragraphs has been forwarded for careful consideration. On receipt of their report, the Government would place their findings before the Public Accounts Committee.

[Ministry of Finance (Rev. & Ins.) O.M. No. F.241/22/70-II (Audit) dated the 7th December, 1970.]

**ERA SEZHIYAN,**

NEW DELHI:  
August 31, 1971|  
Bhadra, 9, 1893 (S)

*Chairman*  
*Public Accounts Committee.*

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PUBLISHED UNDER RULE 382 OF THE RULES OF PROCEDURE AND CONDUCT OF  
BUSINESS IN LOK SABHA (FIFTH EDITION) AND PRINTED BY THE GENERAL  
MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI.

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