P. A. C. No. 229

PUBLIC ACCOUNTS COMMITTEE (1968-69)

(FOURTH LOK SABHA)

SEVENTY-THIRD REPORT

[Chapters IV and V of Audit Report (Civil) on Revenue Receipts, 1968 relating to Direct Taxes]

LOK SABHA SECRETARIAT
NEW DELHI

April, 1969/Chaitra, 1891 (Saka)
Price : Rs. 2.10 P.

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7	1.14	6	the reform	therefrom
10	1.19	3	31.3.967	31.3.1967
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22	1.45	2	Profits*	Profits
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70	3.63	12	for 1966-67	Speech of the
		13	removing	moving
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72		last line	Tax	Taxes
74	3.75	8	with	within
76	3.78	7	not	no
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94	3.138	11	as	at
99	4.14	9	filling	filing
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Page	Para	Line	For	Read
104	5.1	22	case	cases
		27	assessment	assessments
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110	5.19	2	assesses	assessees
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118	5.44	last	Apparrently	Apparently
119	5.45	15	deduct	deducted
		16	remintted	remitted
120		8	on (civil)	(Civil)
	5.46	9	rigourous	rigorous
	5.48	2-3	distribute	distributed
136		1	2,129	2.129
144	1(a)	6	attention to	attention
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	S.No.68	1	The	In
179	S.No.71	11	their	in their
	S.No.73	last	assesment	assessment
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	S.No.68	1	The	In
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21.1.1969 (A.N.) . . . .

18.4.1969 (A.N.) . . . .

*Not printed. (One cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library).

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(1968-69)

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SECRETARIAT

Shri Avtar Singh Rikhy—*Joint Secretary.*

Shri K. Seshadri—*Under Secretary.*

*Declared elected on the 19th August, 1968 *vice* Shri M. M. Dharia resigned from the Committee.

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INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Seventy-Third Report (Fourth Lok Sabha) on Chapters IV & V of Audit Report (Civil) on Revenue Receipts, 1968 relating to Direct Taxes.

2. The Audit Report (Civil) on Revenue Receipts, 1968 was laid on the Table of the House on the 10th May, 1968. The Committee examined the paragraphs relating to Direct Taxes at their sittings held on the 20th and 21st January, 1969 (FN &AN). The Committee considered and finalised this Report at their sitting held on the 18th April, 1969 (AN). Minutes of these sittings of the Committee form Part II* of the Report.

3. A statement showing the summary of the main conclusions/recommendations of the Committee is appended to the Report. For facility of reference these have been printed in thick type in the body of the Report.

4. The Committee place on record their appreciation of the assistance rendered to them in the examination of these accounts by the Comptroller and Auditor General of India.

5. The Committee would also like to express their thanks to the officers of the Ministry of Finance for the co-operation extended by them in giving information to the Committee.

NEW DELHI;
April 18, 1969.
Chaitra 28, 1891 (Saka)

M. R. MASANI,
Chairman,
Public Accounts Committee

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*Not printed. (One cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library).

I

ARREARS OF ASSESSMENTS AND TAX DEMANDS

Corporation Tax and Taxes on Income other than Corporation Tax

Audit paragraph

(a) The total proceeds from both Corporation Tax and Taxes on income other than Corporation Tax (excluding the portion of Income Tax which was assigned to the State Governments) for the year 1966-67 amounted to Rs. 500.33 crores. The figures for the three years 1964-65, 1965-66 and 1966-67 are as follows:

	In crores of rupees		
	1964-65	1965-66	1966-67
Taxes on income other than Corporation Tax (Gross proceeds)	266·93	271·80	306·63
Deduct share of net proceeds assigned to States	123·77	123·34	137·10
Net	143·16	148·46	169·53
Add Corporation Tax	313·64	304·84	330·80
Total	456·80	453·30	500·33

(b) The total number of assessees in the books of the Department as on 31st March, 1967 is 27,01,733. The corresponding figure as on 31st March, 1966 was 24,31,536. The number of assessees under certain categories, for the two periods is as follows:

	As on 31st March, 1966	As on 31st March, 1967
Business cases having income over Rs. 25,000	91,664	1,20,013
Business cases having income over Rs. 15,000 but not exceeding Rs. 25,000	1,22,840	1,15,521
Business cases having income over Rs. 7,500 but not exceeding Rs. 15,000	2,74,256	2,08,812
All other cases except those mentioned in category below and refund cases	12,14,532	12,22,588

Government salary cases and non-Government salary cases below Rs. 18,000	7,48,235	9,60,219
	24,31,536	27,01,733

[Paragraph 39 of Audit Report (Civil) on Revenue Receipts, 1968].

1.2. The following table shows the number of assessees on record as at the end of 1961-62 to 1966-67.

Year	Total No. of assessees
1961-62	12,00,367
1962-63	13,08,854
1963-64	15,59,149
1964-65	21,26,398
1965-66	24,31,536
1966-67	27,01,733

Out of the addition of 2,70,197 cases during the year 1966-67, 2,11,984 relate to Government salary cases and non-Government salary cases below Rs. 18,000 and the balance 58,213 relates to other categories of cases.

1.3. According to a statement furnished by the Ministry, the status-wise break-up of 27,03,097* assessees for the year 1966-67 is as under:

Individuals	22 34,417
Firms (A break-up into registered and unregistered firms is n t available)	2,86,266
Companies	26,787
Hindu Undivided Families	1,40,203
Others	15,424
TOTAL	27,03,097

1.4. According to another statement furnished by the Ministry, the break-up of amounts collected under (i) Taxes on Income (other

*Revised figure determined on verification.

than Corporation Tax), and (ii) Corporation Tax during 1966-67 was as follows:

	Amounts c llected durin 1966-67—under	
	Taxes on income (other than Corporation Tax)	Corporation Tax
	(In crores of Rupees)	
(a) By way of tax deducted at source	80·36	27·86
(b) By way of advance tax	67·41	169·15
(c) By way of tax collected by self-assessment (d) By way of tax paid on provisional assessment	37·97	53·99
(e) By way of tax on regular demand	106·80	83·76
(f) Portion of (e) relatable to :		
(i) Demands made in earlier years	..	..
(ii) Demands made in the current year	..	..
(iii) The percenage of recovery with reference to these figures	..	..

N. B.—Separate figures in respect of (c), (d) and break-up of figures of (e) as indicated in (f) are not available.

1.5. Referring to the following observations of the Administrative Reforms Commission Working Group made in paras 2.6-2.7 of their Report on the Central Direct Taxes Administration, the Committee desired to know whether the Ministry had taken any steps to cut out relatively unproductive work:

> "Of the 47.65 lakhs assessments (including arrears and current) for disposal about 36 lakhs comprise of business cases with incomes of Rs. 5,000 or less, all salary cases, and cases with incomes other than from business or salary. About 6.5 lakhs of assessments relate to business incomes between Rs. 5,000 and Rs. 10,000. Thus, out of a total of 47.65 lakhs of assessments 42.34 lakhs are those which can be regarded as cases which are not important from revenue point of view and do not require much scrutiny."

"For lack of statistical information, it is difficult to precisely estimate the extent of revenue involved in these 42.34 lakhs of cases, but by projecting the figures reported in the All India Statement No. 5 published in the Income-tax Revenue Statistics for the year 1963-64 the amount of revenue involved in these cases will not exceed 4 per cent of the total tax assessed in a year. The total tax assessed in the year 1966-67 was Rs. 517.23 crores. 4 per cent of this is Rs. 20 crores. The average expenditure per assessment has been estimated by the Director of Inspection, Income-tax (R.S. & P.) at around Rs. 46. At the rate of Rs. 46 per assessment, the total expenditure on 42.34 lakhs cases would come to Rs. 19.50 crores. This would show that the revenue yield from these 42.34 lakhs cases is just about equal to the expenditure incurred in raising it. The exchequer thus gets no gain by the time and labour and expenditure incurred in scrutinising cases falling in these lower categories. The first reform which suggests itself to us, therefore, is that the attention now devoted to these cases must be diverted completely to the remaining 5 lakhs cases falling in categories I and II."

1.6. The Chairman, Central Board of Direct Taxes stated: "It is quite true from the way in which we were disposing of assessments previously that we were spending a disproportionate amount of time and labour on small cases. But with the concurrence of the Comptroller and Auditor General, we have introduced a small income-tax assessment scheme. We have made some further improvements streamlining the procedure........This scheme had been in force earlier, but some concrete structural improvements were made in October, 1967; further improvements were made in May/June, 1968. This scheme is working very well now. At present, disposal of small cases is much more rapid......Based on the results we have achieved, I propose to discuss it further with the Comptroller and Anditor General and consider extension of the scheme."

1.7. As to the salient features of the Small Income Cases Assessment Scheme, in a note furnished to the Committee, the Ministry have stated as follows:

"Under this scheme, incomes returned by the assessees are accepted subject to a small test-check and with certain safeguards. The scheme applied to cases with incomes of Rs. 15,000 or less in Bombay and Calcutta and Rs. 10,000 or less in other places. In the case of registered firms with 4 or more partners, the scheme applies to all cases

with total income upto Rs. 20,000. The important feature of this scheme is that the assessees are put on trust. This summary method of assessment saves the time of the assessees and of the officers and the labour and expense involved in attending Income-tax Offices is eliminated."

1.8. The Final Report on Rationalisation and Simplification of Tax Structure contains the following observations on the subject:

"......The drive for enrolling more and more people in the tax register has produced results which are impressive only superficially. In terms of growth of revenue, even potentially, this rather represents a diffusion of administrative effort......Some Revenue officials have estimated that if work on petty assessments is cut out, the improvement in the quality and speed with which the remaining work can be done—e.g., by expeditious disposal of appeals, better investigation, etc., will lead to increase of tax collections by Rs. 100 crores for some years besides an immediate increase of about Rs. 200 crores merely by finalisation of pending assessments. I am not in a position to comment on these figures—maybe they are a bit optimistic—but there is no doubt whatever that a very substantial improvement can be expected. For both economy and on practical administrative grounds I would, therefore, strongly recommend a substantial raising of the exemption limit and would suggest that the limit be fixed at Rs. 7,500 for individuals and Rs. 10,000 or 11,000 for Hindu Undivided Families. This would be justifiable merely on the increase in prices ignoring all other considerations. By doing so, the number of tax payers in the register will be reduced by about 1.7 million (on the assumption that to the 700,000 in this class in 1963-64 would have been added one million out of the increase of 1.2 million since then). The "loss of revenue" as conventionally understood will only be of the order of Rs. 7 to 8 crores. In 1963-64, the revenue from this range of tax payers below Rs. 7,500 was only Rs. 5.82 crores........"

1.9. The Committee desired to know the views of Government on the recommendation made in the above-mentioned Report regarding the raising of the exemption-limit. The Chairman Central Board of Direct Taxes stated that in para 2.8 of their Report, the Working Group of the Administrative Reforms Commission had come to the conclusion "that it would not be a wise or right step to raise the exemption limit."

1.10. The representative of the Ministry of Finance stated: "The approach can only be considered in prospective terms. We would go into the question of costing when we find that with the changes in the procedure how much the rate of disposal can be got expedited and how much of the cost of collection can be brought down. Obviously, there will not be much justification for continuing with the assessment of small incomes if one finds that the taxation of this group results in minus revenue. If the net proceeds are nil, there will be no justification, but efforts are being made to bring down the cost of collection."

1.11. The Committee enquired whether it would not be worthwhile to amend the law and make the assessment machinery automatic in the case of salaried classes—Government servants and employees of limited companies. The Chairman, Central Board of Direct Taxes stated: "In fact even at present, taxes from their salaries are deducted at source........There are about 4 lakh cases which are not dealt with by the Income-Tax Department at all. But such an employee may purchase some shares or some house and he may not account for it. We do want to get at him in such cases. The present provision gives enough scope for that." The Committee enquired whether the purpose could not be achieved if the assessees made a solemn declaration that he had no other source of income. The witness stated, "We will consider it."

1.12. The Committee then referred to the following recommendation of the Working Group of the Administrative Reforms Commission made in para 2.49 of their Report: "...... All the cases which have been closed 'N.A.' (non-assessment cases) for the past three years should be removed from the Register unless there is any information on record that they are likely to have taxable revenue or unless there are any proceedings pending in respect of these cases." The Committee desired to know whether any action had been taken pursuant to the above recommendation. The Chairman, Central Board of Direct Taxes stated: "I issued instructions in July that the Officers should look into the files and all cases which had remained N.A. for three years should be weeded out. If any of them is proposed to be retained, they should take the permission of the Inspecting Assistant Commissioners. As a result of this, we have weeded out 75,294 cases."

1.13. Referring to the figures of cost of collection of tax from small incomes mentioned in para 2.7 of the Report of the Working Group, the witness stated: "....According to those figures the total expenditure on small income-tax cases comes to Rs. 19.50 crores...... May I submit that the total expenditure on all income-tax cases was only Rs. 10.68 crores; there is something wrong there

...... Obviously, the cost of dealing with small income cases will be much less......"

1.14. The Committee desired to know the yield from, and the cost of collection of, taxes on small incomes for the three years ending 31st March 1968. In a note furnished to the Committee, the Ministry have stated:

"The cost of collection relating to the small income cases and the tax yield the reform have been estimated by the Working Group of the Administrative Reforms Commission. The Ministry feels that the basis of their estimates will have to be substantially modified for arriving at more realistic estimates. The following variations are suggested :

"(1) Instead of adopting a dead average for different categories of assessments, the principle of weighted average may be followed. This will mean that one category I case will be taken to equal 20 category V cases, a category II case will count as 5 category V cases, and so on.

"(2) In estimating the tax from cases falling in categories III, IV and V, the Working Group has assumed that the total income in all such cases would be below Rs. 10,000. This is incorrect because the following types of income exceeding Rs. 10,000 would also come under this category:

(a) Business cases with income between Rs. 10,000 and Rs. 15,000.

(b) Salary and property cases with income of Rs. 10,000 and above without any limit.

"The error will be substantially corrected if the yield from the categories III, IV and V cases is estimated at the rate of 8 per cent instead of 4 per cent of the demand made per year as done by the Working Group.

"After making adjustments as suggested above, the Ministry estimates the cost of collection relating to categories III, IV and V

cases and the yield therefrom to be as follows:

(In crores of rupees)

Financial year	Estimated yield of tax from Cat. III, IV and V cases (@8% of the total tax assessed)	Cost of collection relating to Cat. III, IV and V cases
1965-66	29	5·32
1966-67	40	4·97
1967-68	46	5·58

1.15. Analysing the causes for the mistakes made by the Income-tax Officers, the Public Accounts Committee (1964-65), in para 3 of their 28th Report (Third Lok Sabha) observed as follows:

"It appears to the Committee that one reason for the magnitude of mistakes committed by the Income-tax Officer is the very heavy workload. Considering that there are 13.81 lakhs of assessees to be assessed by about 1,300 officers (these figures relate to 1963-64), the workload on each officer on an average comes to about 1,000 cases a year which has been considered high by the Santhanam Committee in its report on prevention of corruption."

1.16. The Committee desired to know the average workload of an Income-tax Officer. In a note furnished to the Committee, the Ministry have stated as follows:

"The average workload of an Income-tax Officer during the financial years 1965-66 to 1967-68 is shown below:

Year	No. of regular assessments for disposal per I.T.O.	No. of regular assessment disposed of by an I.T.O.
1965-66	2945	1543
1966-67	2891	1467
1967-68	2875	1503"

"On the basis of the performance till 31st January 1969 and the usual accelerated rate of disposal during the last two months of the financial year one may estimate the aggregate disposals during the year 1968-69 to be as follows:

Disposal up to 31-1-69	25,29,860
and	
Estimated disposals during February-March, 1969 .	7,70,000
	32,99,860 or 33 lakhs."

"As on 31st October 1968 there were 1950 Income-tax Officers on actual assessment duty. Taking this to represent the average for the whole year 1968-69, the disposal per Income-tax Officer for this year would work out to 1692."

1.17. The Working Group of the Administrative Reforms Commission which considered the implications of the increase in the number of assessments on the workload of Income-tax Officers made the following observations:

"Whereas the number of assessments for disposal had almost trebled during the period 1959-60 to 1966-67, the increase in the number of officers was only 1/3rd of the strength in 1959-60. In 1966-67, if all the assessments for disposal had to be completed by the end of 1967 with the available strength of officers the average disposal per officer would have to be 2,890 per year i.e. about 240 cases per month per Income-tax Officer. Assuming the effective working days per month at about 24, it comes to about 10 cases per day which is an impossible task to perform, however experienced and brilliant an Income-tax Officer may be. If driven to complete a quota beyond his capacity, the result would be perfunctory assessments leading to endless litigations, audit criticisms and irritation to assessees. According to the Santhanam Committee, even an average disposal of 1,000 cases per year per Income-tax Officer was on the high side. The Public Accounts Committee of the Parliament in its 28th Report to the Third Lok Sabha also endorsed the view that the workload of the Income-tax Officers was very heavy and this was one of the contributory causes to the number of mistakes committed in assessment."

"To recruit 1,500 officers, give them adequate training and post them to regular charges cannot be done in the course of one or two years. Even providing for an annual intake of 100 officers it will take 15 years to have a further complement of 1,500 officers and by that time the number of assessments would far outstrip the number of assessing officers, bringing the problem back where it was. It will also involve the problems of additional accommodation and staff. Therefore, the better course would be to rationalise the procedures relating to completion of assessments and fix proper priorities in regard to:

(a) disposal of existing and arrear cases; and

(b) the extent of scrutiny to be exercised before accepting the returns of income for the various categories of assessees."

1.18. The Working Group also called attention to the necessity for divesting Income-tax Officers of certain functions now performed by them. In this connection they observed as follows:

"A good deal of time of the Income-tax Officer is now taken up in attending to duties of a varied nature which could be profitably performed by an Inspector or a Supervisor. He has to send a number of monthly/quarterly/half-yearly/annual returns to the higher authorities and a host of other statements arising from Parliamentary Questions, Audit queries and other Committees and Commissions. He has also to maintain very many registers which he is expected to scrutinise personally ..... Apart from this, the responsibility of sending the other reports and maintaining the registers should be that of the Administrative Income-tax Officer in functional Circles and in non-functional Circles of the Inspector attached to the Income-tax Officer. Where there is no Inspector, the Supervisors should be in charge of this work. These officials should sign these statements and they should be responsible for the accuracy of the figures stated therein."

1.19. The Committee observe that the number of assessees on record increased from 12,90,367 as on 31-3-1962 to 27,08,733 on 31.3.967. This sharp increase in the number of assessees without a corresponding increase in the man-power resources of the Income-tax Department has resulted in substantial accumulation of assessments, apart from "perfunctory assessments leading to endless litigations. Audit criticisms and irritation to assessees."

1.20. As pointed out by the Working Group of the Administrative Reforms Commission, it is "neither possible nor desirable" to tackle the problem of mounting assessments just by augmenting the strength of assessing officers and ministerial staff. A better course would be "to rationalise the procedures relating to completion of assessments and fix proper priorities in regard to the disposal of existing and arrears cases and the extent of scrutiny to be exercised before accepting the returns of income for the various categories of assessees." The Small Income Cases Assessment Scheme introduced by Government is from this point of view a step in the right direction. The Committee would like Government closely to watch the working of the Scheme, with a view to considering to what extent its scope could be extended, consistently with the need to stop tax evasion.

1.21. The Committee would like to commend the following other suggestions to Government to tackle the problem of mounting assessments:

(i) There would not be "much justification", as conceded by the representative of the Ministry of Finance, "for continuing with the assessment of small incomes if one finds that the taxation of this group results in minus revenue." Government should therefore arrange for reliable data being collected about the cost of collection in respect of various income brackets vis-a-vis revenue realised. This would help to determine which of the present categories of tax-payers should continue to be borne on the tax register and how assessment procedures should be simplified, if the taxation of these categories is not to become a drag on Government revenues.

(ii) To enable assessing officers to devote their time effectively to assessment work, Government may examine how far they can be divested of routine jobs, by alternative arrangements on the lines suggested by the Study Group of the Administrative Reforms Commission.

(iii) All cases which have been closed 'N.A.' (non-assessment cases) for the past three years may be struck off the tax register "unless there is information on record that they are likely to have taxable revenue or unless there are any proceedings pending in respect of these cases."

Arrears of assessments

Audit Paragraph

1.22. As on 31st March, 1967, 23.48 lakhs cases were outstanding with Income-tax Officers pending assessment. The approximate tax involved in these cases is stated by the Ministry to be about Rs. 90 crores. The position of pendency of assessments for the last three years is indicated below:—

Year	As on 31-3-1965	As on 31-3-1966	As on 31-3-1967
1962-63 and earlier years	2,54,828	1,41,780	32,346
1963-64	3,86,556	2,18,503	1,60,755
1964-65	11,43,131	6,01,100	3,14,037
1965-66	..	12,08,146	6,38,623
1966-67	..	..	12,01,752
TOTAL	17,84,515	21,69,529	23,47,513

Category-wise break-up of the cases that are pending is as follows :—

	As on 31-3-1966	As on 31-3-1967
(i) Business cases having income over Rs. 25,000	1,20,185	1,41,277
(ii) Business cases having income over Rs. 15,000 but not exceeding Rs. 25,000	1,14,435	1,36,498
(iii) Business cases having income over Rs. 7,500 but not exceeding Rs. 15,000	2,99,353	3,35,866
(iv) All other cases except those mentioned in Category (v) and refund cases	12,39,888	13,58,222
(v) Small income scheme cases, Government salary cases and non-Government salary cases below [illegible],000	3,95,668	3,75,650
	21,69,529	23,47,513

The number of assessments completed out of the arrear assessments and out of current assessments during the past five years are given below:—

Financial year	Number of asessments for disposal	Number of assessments completed				Number of assessments pending at the end of the year
		Out of current	Out of arrears	Total	Percentage	
1	2	3	4	5	6	7
1962-63	22,18,376	7,96,815	5,12,902	13,09,717	59·4	9,08,659
1963-64	27,09,107	9,22,670	5,60,031	14,82,701	54·7	12,26,406

1	2	3	4	5	6	7
1964-65 ·	36,26,144	11,54,834	6,86,795	18,41,629	50·8	17,84,515
1965-66 ·	45,58,556	14,59,776	9,29,251	23,89,027	52·4	21,69,529
1966-67 ·	47,65,607	13,32,672	10,85,422	24,18,094	50·7	23,47,513

(The percentage in column 6 represents cases disposed of to total number of assessments for disposal).

In terms of percentage and in absolute terms, the arrears have gone up.

[Paragraph No. 58(a), Audit Report (Civil) on Revenue Receipt.]

1.23 The following table shows the number of pending assessments, together with the approximate amount of tax locked up as at the end of the years 1963-64, 1964-65, 1965-66 and 1966-67:

Financial year	No. of assessments pending (in lakhs)	Amount locked up (in crores of rupees)
1963-64	12·26	25
1964-65	17·85	40
1965-66	21·78	65
1966-67	23·48	90

The position of pendency for the years 1964-65, 1965-66 and 1966-67 in case of persons wih incomes above Rs. 25,000 was as follows:—

1964-65	97,657
1965-66	1,20,185
1966-67	1,41,277

1.24. The following table shows the status-wise pendency as at the end of March, 1966 and March, 1967:—

	Pendency at the end of March, 1966	Pendency at the end of March, 1967
(i) Individuals	17,34,530	18,65,534
(ii) Hindu Undivided Families	1,38,008	1,33,678
(iii) Firms	2,52,055	2,99,461
(iv) Companies	31,516	31,354
(v) Other associations of persons	13,414	17,486
	21,69,529	23,47,513

1.25. In a note furnished to the Committee Appendix I, the Ministry have stated:—

"Audit Para 58 has correctly drawn attention to increase in arrears of assessments. However, on 31.3.1968 arrears were brought down to 23.30 lakhs—a reduction of 18,000 as compared with end of preceding year. In addition, as there were 23 lakhs of assessees (other than 4 lakhs of salary assessees), we had to do 23 lakhs new assessments this year. This problem has been engaging the continual attention of the Board who have discussed it with the Commissioners. As a result, various administrative and technical measures, including strengthening of staff were taken. Target has been fixed to complete 800,000 more assessments this year. This target will not only be reached but improved. Upto the end of December, 1968 the Department has done 578,000 more assessments (21.32 lakhs against 15.54 lakhs last year.) At this rate, we should exceed the figure of 800,000 targeted.

Though a high percentage of the cases disposed of represent cases in the 'small income' group, the procedures for which were streamlined, there has been an increase, ranging from 35 to 40 per cent in the disposal of higher category cases. For instance, in cases falling under category I (business incomes above Rs. 25,000), 116,941 assessments were disposed of till December, 1968, as compared with 87,140—an increase of 34 per cent."

1.26. The Committee desired to know whether any special steps were proposed to be taken to liquidate high income cases on a priority basis. In a note furnished to the Committee, the Ministry have stated as follows:

"The following steps have been taken for liquidating high income cases more promptly than in the past:

(a) The time-limit for completion of assessments has been reduced from 4 years to 2 years by stages. From the assessment year 1970-71 onwards, the time-limit will be two years only.

(b) The cases of companies and higher category of business cases are being increasingly centralised under experienced Income-tax Officers. Since the jurisdiction of Income-tax Officers is generally territorial, a total segregation of such cases may not be possible.

(c) For securing proper and prompt attention to complicated cases with wide ramifications in more than one Commissioner's charge, the Central charges at Bombay, Calcutta, Delhi and Madras have been recently provided with 40 additional Income-tax Officers under 4 new I.A.Cs."

1.27. Referring to the reduction of the period of limitation from four to two years, the Committee pointed out that the assessing Officers could make assessments under section 144 of the Income-tax Act, and subsequently, re-open the assessments, thereby circumventing the object underlying the reduction of the period of limitation. The Finance Secretary stated: "Government will see that this sort of circumvention does not happen." Asked whether Government would issue instructions in this regard, the Chairman, Central Board of Direct Taxes stated: "We are already watching it. We have issued instructions drawing attention to the new provisions that the assessments for 1968-69 should be completed within three years and those for later years within two years."

1.28. The Committee note that the Administrative Reforms Commission Working Group have exhaustively dealt with the problem of arrears of assessments in their Report on Central Direct Taxes Administration. The following are some of the remedial measures suggested by the Working Group:

(a) "Assessments are delayed by frequent adjournments and more cases are adjourned by the Income-tax Officers than got adjourned by the assessees. In order to avoid adjournments, the Income-tax Officer should pre-study the cases and prepare a weekly or fortnightly list of cases for hearing and then only have notices for hearing issued."

(b) "As assessees find it advantageous to delay returns till September of every year or even to delay thereafter on payment of interest, which is less than the market rate of interest, the Law may be amended to provide that in all cases, other than companies, returns should be received by the 30th of June and in cases of Companies by the 30th of September. Interest should run from the expiry of these dates and should carry 12 per cent rate.

Reduction or waiver of interest should be only for reasons recorded in writing."

(c) "The time limit for making assessments should be reduced from 4 to 3 years presently and 2 years ultimately."

(d) "In the cases of existing assessees who fail to file their returns voluntarily, *ex parte* assessment should be made permissible without issuing any further notice, by amending Section 144."

(e) "Assessment under Section 143(I), accepting the return after making additions for routine inadmissible expenses should be made permissible without issuing a notice under section 143(2), by amending section 143(I)."

(f) "A time limit for making re-assessments under section 146 and under Sections 250, 254, 260, 262, 263 or 264 pursuant to appellate directions should be prescribed."

(g) "The procedure of making provisional assessments which is time-consuming and unnecessary should be given up and section 141 should be deleted. Section 140A requiring payment of tax on self assessment should be made applicable to all assessees."

(h) "The work of the Income-tax Officer should be rationalised so that all items of miscellaneous nature can be entrusted to the head of the ministerial section."

(i) "Transfer of officers should be minimised."

(j) "The time-limit for posting a case after the return is received should not exceed two months."

(k) "The time-limit for issuing an assessment order after the date of the last hearing should not normally exceed a fortnight."

1.29. **The Committee note that the number of pending Income-tax assessments as at the end of 1967-68 was 23.30 lakhs, or nearly double the number of pending assessments as at the end of 1963-64. Earlier in the Report, the Committee have drawn attention to the need for the rationalisation of procedures relating to assessments and for a proper scheme of priorities for the disposal of cases, so that the time now devoted to the assessment of small income cases, from which the Exchequer gets very little gain, could be profitably diverted to the examination of business cases which are likely to yield substantial revenue. The data about pendency of assessments involving business income of over Rs. 25,000 given in this Report would show that the number of pending cases in this category has been going up. The Committee would like this tendency to be arrested through proper programming of the work of assessing officers. The Committee note**

that the Working Group of the Administrative Reforms Commission have made a number of useful suggestions for bringing down the number of pending assessments. The Committee would like particularly to draw attention to the following suggestions:

(i) Fixing of time-limits for assessments which have been re-opened, for posting cases for hearing and for the issue of assessment orders.

(ii) Dispensing with provisional assessments.

The Committee would like to be apprised of the action taken by Government pursuant to the foregoing suggestions.

Pendency of Super Profits Tax and Sur Tax Assessments*

Audit Paragraph

130. The position regarding disposal of Super Profits Tax assessments and Sur Tax assessments during 1966-67 and the assessments pending as on 31st March, 1967 are as follows:

	Super Profits Tax		Super-tax	
1. Number of cases for disposal during 1966-67		1,293		3,932
2. Number of cases disposed of provisionally		6		461
3. Number of cases disposed of finally		383		911
4. Amount of demand raised on provisional assessments	Rs. lakhs	11·44	Rs crores	12·59
5. Amount of demand collected on provisional assessments	..	2·77	..	11·81
6. Amount of demand raised on final assessments	..	386·65	..	6·16
7. Amount of demand collected of final assessments	..	270·85	..	4·60
8. Number of cases pending as on 31st March, 1967		910		3,021

[Paragraph No. 58(b), Audit Report (Civil) on Revenue Receipts, 1968]

1.31. In a statement furnished to the Committee, the Ministry have indicated the following position regarding disposal of Super Profits

*Figures are as furnished by the Ministry.

Tax assessments and Sur-tax assessments during 1967-68:

	Super Profit Tax	Sur-tax
1. No. of cases for disposal during 1967-68	1,087	4,374
2. No. of cases disposed of provisionally	4	387
3. No. of cases disposed of finally	571	936 (including 689 pending)
	Rs. lakhs	Rs. Crores
4. Amount of demand raised on provisional assessments	23·81	12·11
5. Amount of demand collected on provisional assessments	7·56	11·23
6. Amount of demand raised on final assessments	5·58	7·62
7. Amount of demand collected on final assessments	2·51	5·34
8. No. of cases pending as on 31-3-1968	516	3,438 (including 2,330 pending

1.32. The Committee desired to know the reasons for delay in the disposal of Super Profits Tax and Sur-Tax assessments and the remedial measures taken or proposed to be taken in the matter. In a note furnished to the Committee, the Ministry have stated as follows:

> "The main reason for the pendency of Super Profits Tax and Sur-Tax assessments is that these cases are linked up with the disposal of the relevant Income-tax assessments. Without first ascertaining the total income of an assessee company, its 'chargeable profits' cannot be determined Another reason is the complexity of the calculations involved."

> "A clearance drive for the disposal of assessments, covering cases of all categories was started in August, 1968. It has already yielded good results. The number of category I cases disposed of during the year (upto 31.1.1969) is more than 40 per cent of what it was in the year preceding. The

rate of disposal of category I assessments is certain to be steepened with the reduction of the statutory time-limit for completion of Income-tax assessments to only 2 years from the assessment year 1969-70 onwards. These measures will remove the initial difficulty about taking up Super Profits Tax and Sur-tax assessments."

"The other cause for pendency will be sought to be removed by transferring the Super Profits Tax and Sur-tax assessments to the senior-most Income-tax Officers in the Companies Circles."

1.33. Analysing the reasons for the pendency of Super Profits Tax cases, the Chairman, Central Board of Direct Taxes stated that several cases had been kept pending at the instances of the assessees. He, however, could not indicate the exact number of such cases. The Committee enquired whether the Board were in a position to assure that barring the cases which had been kept pending for compelling reasons, all other cases would be completed during the course of the next twelve months. The witness stated: "We can give that assurance."

1.34. The Committee note that 516 Super Profits Tax and 3,438 Sur-tax assessments were pending as on 31st March, 1968. The disposal of these cases is obviously linked with the disposal of the relevant income-tax assessments and the Committee would like concerted steps to be taken for their clearance. The Committee note that the Board expects all the pending Super-Profits Tax and Sur-tax assessments to be cleared within the next twelve months, except for those which have to be kept pending for compelling reasons. They would like to watch the position in this regard.

1.35. From the information furnished by the Department, the Committee note that of demands aggregating Rs. 13.2 crores raised in 1,507 super-profits tax and sur-tax cases finalised in 1967-68, a sum of Rs. 5.35 crores remains to be realised. The Committee would like to be informed of the progress made in the realisation of the balance due.

Pendency of Excess Profits Tax and Business Profits Tax assessments*

Audit Paragraph

1.36. The number of assessments disposed of during 1966-67 and

*Figures are as furnished by the Ministry.

of those pending on 31st March, 1967 under the Excess Profits Tax Act, 1940 and Business Profits Tax Act, 1947 are shown below:—

		Excess Profits Tax	Business Profits Tax
1.	Total number of cases pending for disposal by way of final assessments on 1st April, 1966	111	30
2.	Total number of cases out of (1) in which provisional assessments have been made .	10	2
3.	Number of cases in which re-assessment proceedings if any, started during the year 1966-67 Execss) Profits Tax Act, 1940, *i.e.*, number of cases added during the year); . .	Nil	Nil
4.	Total number out of (1) and (3) disposed of during the year	11	..
5.	Total number pending as on 31st March, 1967	100	30
6	The amount of tax (approximate) involved in 5) (In thousands of rupees) . . .	15518	405

[Paragraph No. 58(c) Audit Report (Civil) on Revenue Receipts, 1968.]

1.37. The position of pendency of Excess Profits Tax/Business Profits Tax cases as on 31st March, 1965, 31st March, 1966 and 31st March, 1967 is compared below:

	As on 31-3-1965	As on 31-3-1966	As on 31-3-1967
Excess Profits Tax	117	112	100
Business Profits Tax	20	26	30

The number of cases disposed of during the last three years was as follows:

	1964-65	1965-66	1966-67
Excess Profits Tax	[illegible]		11
Business Profits Tax	6		

1.38. In a statement furnished to the Committee, the Ministry have indicated the following position of pendency as on 31st July, 1968:

		Excess Profits Tax	Business Profits Tax
1.	Total number of cases pending for disposal by way of final assessments on 1-4-1967	100	30
2.	Total number of cases out of (1) in which provisional assessments have been made	..	..
3.	No. of cases in which re-assessment proceedings, if any, started during the period 1-4-67 to 31-7-68 (Excess Profits Tax Act, 1940, *i.e.*, number of cases added during the period)	..	..
4.	Total number out of (1) and (3) disposed of during the period from 1-4-1967 to 31-7-1968	49	10
5.	Total number pending on 31-7-1968	51	20
6.	The amount of Tax (approximate) involved in	Rs. lakhs 28·60	Rs. lakhs 5·00

1.39. The Committee desired to know the reasons for delay in the disposal of Excess Profits Tax/Business Profits Tax cases and the measures taken or proposed to be taken to expedite the disposal of these cases. In a note furnished to the Committee, the Ministry have stated as follows:

> "As on 31st July, 1968 there were only 51 Excess Profits Tax and 20 Business Profits Tax assessments pending all over India. The reasons for the pendency of these Excess Profits Tax and Business Profits Tax assessments are given below:

Reasons	Excess Profits Tax Assessments	Business Profits Tax Assessments
Reference application writ petitions are pending before High Courts	3	4
Assessments have been set aside by appellate authorities and fresh proceedings are in progress	3	..
Account books are in Police custody	2	2
Corresponding Income-tax assessments have been reopened and investigations are in progress	37	7
Non-cooperation of assessees	6	7
TOTAL	51	20

1.40. As to the measures taken to expedite the disposal of pending assessments, the Ministry have stated: "The Member in charge of Excess Profits Tax and Business Profits Tax matters addressed on 13th November, 1968 four Commissioners of Income-tax, in whose charge the Excess Profits Tax and Business Profits Tax assessments were pending, asking them to take all necessary steps for having the cases finalised by 1st February, 1969. As to whether all the cases have been disposed of by the target date is not yet known."

1.41. While the Committee recognise that some progress has been made in the clearance of pending Excess Profits* and Business Profits Tax cases, they would like the Department to take steps to ensure that the remaining 71 cases are speedily cleared. According to the target fixed, these cases were to have been cleared by 1st February, 1969. The Committee would like to know whether this has been done.

Arrears of assessment of Wealth-tax

Audit paragraph

1.42. As on 31st March, 1967, Wealth-tax assessments are pending in 39,282 cases and approximate amount of tax involved in these assessments is reported to be Rs. 252.77 lakhs. The yearwise break-up of the outstanding is given below:—

	No. of assessments pending as on 31st March, 1967.	Approx. amount of tax involved (figures in thousands of rupees)
1962-63 and earlier years .	2,981	3,878
1963-64	1,732	2,428
1964-65	4,757	3,506
1965-66	10,804	6,182
1966-67	18,958	9,283
TOTAL	39,282	25,277

[Paragraph No. 76(2)(d), Audit Report (Civil) on Revenue Receipts, 1968.]

1.43. The Committee desired to know the reasons for 'almost stagnant' proceeds under the Wealth Tax. The Chairman, Central Board

of Direct Taxes stated: "We have ourselves been studying this matter and I have been in correspondence with the more important Commissioners in the bigger cities on the subject......Taking the Urban Wealth Tax, because of problems of valuation, lack of civic consciousness and other factors, assessments have not been completed. We are now devoting more attention to it....With the recent changes in the law providing for more deterrent penalties, we find that a much larger number of Wealth Tax returns is coming in. Also the assessees are going to authorised valuer and availing of their services which we hope will have a healthy effect. Also we are gearing up simultaneously our assessments and collection machinery....(But), we can do only one thing at a time. First, I am seeing that the Income-tax assessments are disposed of and then we will be attending to collection and disposal of wealth tax cases. Our efforts this year are to bring down the number of cases pending to a minimum level—at best two-thirds of what it is in the beginning of the year."

1.44. The Committee desired to know the final figures of Wealth Tax assessments, pending as on 31st March, 1967. They also enquired whether any special measures were taken or proposed to be taken by the Income-tax Department for the expeditious clearance of arrears of assessments. In their reply, the Ministry have stated:

"The figures given in para 76(d) of the Audit Report, 1968 were provisional figures. The correct figures of Wealth Tax assessments, pending as on 31st March, 1967, are furnished below:—

Year	No. assess-ments pending as on 31-3-1967	Approx. amount of tax involved (Figures in thousands of rupees)
1962-63 and earlier years	4,261	6,027
1963-64	3,255	3,882
1964-65	8,310	6,517
1965-66	18,570	12,107
1966-67	39,836	24,138
TOTAL	74,232	52,671

"It will be seen that as on 31st March, 1967, there were 74,232 assessments pending, which comes to about 9 months' workload. The Board have been issuing instructions from time to time for expeditious disposal of arrear assessments. The latest instructions were issued on 20th August, 1968. It is expected that by 31st March, 1969, the arrears of Wealth Tax Assessments would be brought down by at least 50 per cent as compared to the pendency as on 31st March, 1968."

1.45. The Committee enquired whether there was a bar of limitation for completion of Wealth Tax assessments. The witness replied in the negative. The Committee desired to know the views of Government regarding laying down of a statutory time-limit for completion of Wealth Tax assessments. In their reply, the Ministry have stated:

"The Board are not in favour of prescribing any time-limit for completing the Wealth Tax assessments. The issue was discussed in the Commissioners' Conference held in July, 1968 wherein it was decided that the Commissioners should ensure the completion of Wealth Tax assessments ordinarily within two years from the end of the relevant assessment year."

1.46. During evidence, the Chairman, Central Board of Direct Taxes stated: "I think for instructions will be more useful in completing the assessments...... Now that we are bringing the Income-tax assessments within the two year limit, the Wealth Tax assessments are also brought in automatically."

1.47. In para 13.1 of the Final Report on Rationalisation and Simplification of Tax Structure, it has been observed:

"The wealth tax should continue if for no other reason than for ensuring in the long term that income tax is properly administered. It also plays a useful role in discouraging the unproductive possession of wealth. The higher rate of tax on wealth in the form of urban property exceeding certain limits is designed to discourage concentration of highly valuable and not too easily expandable urban property. I therefore think that the wealth tax should remain as an integral part of the permanent tax structure. It is, however, necessary that this valuable instrument should be made use of properly and adequately. From the rather slow increase in the yield of this tax it seems

that the administration of the tax needs improvement. The establishment of a Valuation Department which I have already recommended in another connection will be very useful for this purpose. There is also more room for using the wealth tax for improving th quality of administration of income tax. Much could be gained if the wealth tax and the income tax returns are meaningfully dealt with together. This is not usually done, although even today the same officer deals with both types of cases."

1.48. The Working Group set up by the Administrative Reforms Commission have in their Report on the Central Direct Taxes Administration, observed as follows:

"Introduction of an integrated return for all taxes other than Estate Duty, will facilitate effective cross verification of the correctness of the income, wealth and gifts and prevent tax evasion."

"Another measure to tackle tax evasion would be to have in integrated return for all the Direct Taxes (other than Estate Duty). The very purpose of the introduction of Gift Tax, Wealth Tax and the Expenditure Tax was to enable the Income Tax Officer to verify the correctness of the Income-tax return."

"Wealth Tax is payable only where the total net wealth on the valuation date is in excess of Rs. 1 lakh. It can be reasonably assumed that for having an income of Rs. 25,000 and above, a minimum wealth of Rs. 1 lakh will be necessary. Hence it can be provided that all persons with a net income of Rs. 25,000 or more should send their return in the comprehensive return form showing their taxable income, their taxable wealth and taxable gifts, if any. We, accordingly recommend that a comprehensive return form should be provided for the use of these persons who will be having income about Rs 25,000. This, in fact, would save these assessees the bother of filling in three separate return forms and also putting in three appearances for having their assessments completed. This is bound to lead to greater efficiency in assessment and will plug the loopholes of tax evasion. In cases of less than Rs 25,000 the assessees may be asked to append a statement alongwith the returned income showing briefly the opening and the closing capital in the cases of business and/or the total value at cost of the wealth at the beginning to the end

of the previous year, comprising all the moveable and immoveable property, together with particulars of all gifts made during that year, whether they are taxable gifts or not."

1.49. The Committee desired to know the views of Government on the above recommendation of the Administrative Reforms Commission Working Group. The Chairman, Central Board of Direct Taxes stated: "This point has been considered. In fact, we thought of having one consolidated return for income-tax, wealth tax, expenditure tax, etc. But then we have to remember that the wealth tax, expenditure tax, gift tax, etc. are paid by only a small number of assessees. In fact some of them may be having only small incomes and *vice-versa*. One may be having property worth Rs. 2 lakhs in the countryside which may not give any return. There are some ladies in that category. To burden them with the submission of both Income-tax and Wealth Tax returns, when they are not subjected to both the taxes, will be an unnecessary hardship." He also stated that "the more enlightened of the assessees and their auditors prefer to have all the forms together. Further, "as the Income-Tax Officer is also the Wealth Tax Officer, he makes it a point in such cases to examine both the returns at the same time; they are sent also to the assessee practically on the same date."

1.50. The Committee find the position in regard to pending Wealth Tax assessments rather unsatisfactory as, at the end of March, 1967, 74,232 cases involving Rs. 5.26 crores were pending, over a fifth of these for more than two years. The Committee feel that concerted action for the clearance of these cases is called for. There is also need to link these cases with the corresponding income-tax assessments so that "the quality of administration of income-tax" could be improved and it could be ensured that tax evasion is curbed. The Committee would, in this connection, like Government to examine the suggestion made by the Working Group of the Administrative Reforms Commission for an integrated return.

Income from Property

1.51. The Committee desired to know as to how the Department ensured that incomes from property were duly assessed. The Chairman, Central Board of Direct Taxes stated; "Our inspectors go through the municipal records and as soon as a new building comes up, they assess the rental value in their registers; they also go into the source of funds, out of which the property has been constructed, to see if any income has escaped tax. The income from property is

not shown separately. It is included in their total income shown there."

1.52. The Ministry have added:

"Where an assessee declares an income from property, the department does scrutinise in the first year of assessment whether the income returned is adequate in relation to the municipal value of the property and the rent realised, if any. In the subsequent assessments also, there is an element of check. The Committee is evidently more concerned about the properties, the existence of which is not declared before the Income tax Department. Such cases are sought to be covered by systematic door to door survey by squads of Inspectors. Further, the Special Investigation Branches, attached to the office of each Commissioner of Income-tax collect information regarding the new constructions from the municipal authorities and take suitable action for initiating assessments. No special review regarding the Department's work for assessing the income from property has been undertaken so far."

1.53. The Committee desired to be furnished with a statement regarding assessment of income from property in the seven major cities of India for five years ending 31st March, 1968.

In their reply, the Ministry have stated:

"Within the time available it has not been possible to collect the information regarding the assessment of income from property in the seven major cities of India for five years ending 31st March, 1968. State-wise statistics are available for the assessment years 1963-64 and 1964-65 only and therefrom statistics in regard to Delhi only can be furnished. The figures for Delhi for the financial years 1960-61 to 1964-65 are furnished below:

Name of the city — Delhi	1960-61	1961-62	1962-63	1963-64	1964-65
(a) No. of assessments completed . .	[illegible]305	8951	10013	11[illegible]66	12638
(b) Amount of tax realised (in lakhs of rupees) .	40·78	46·27	57·48	57·92	60·62"

1.54. The Final Report on Rationalisation and Simplification of Tax Structure, *inter-alia,* contains the following observations regarding Income from property:

"There is need to streamline and improve the methods of determining annual letting value. This is of direct importance in the case of property not let out but it is useful and necessary as a check even in the case of properties which are let out. The tax authorities have now to determine this after consideration of such data as valuation by the Municipal authorities where available, the cost of the property, the rent fetched by a similar property in the locality, etc. It is common knowledge that valuation by municipal authorities is, to put it mildly, far from perfect. In connection with the wealth tax, the capital gains tax and estate duty, the correct valuation of properties has become a matter of considerable importance. The Income tax authorities are not sufficiently equipped to deal with this subject which often can be quite intricate. Even now the expert opinion of valuers has often to be obtained, but usually this arises only in cases of dispute. It would help sound administration in the long run if adequate permanent arrangements are made for periodical valuations. I would, therefore, suggest the creation of special machinery for this purpose."

"Low valuation of properties is resorted to for various purposes, although it is not easy to determine its extent. One possible way of discouraging it would be for the State to have the right to acquire the property at the value declared by the owner in various situations."

1.55. The Administrative Reforms Commission who considered the question of determination of income from House property made the following suggestion in their Report on Central Direct Taxes Administration:

"We recommend the Income-tax Act may be amended so as to provide that the annual value of a house property is determined on the basis of annual rentals received or receivable or the municipal valuation of property whichever is greater."

1.56. The Committee would like Government to examine how the existing system for determination of income from property can be streamlined and improved to ensure that properties are carefully and correctly valued and income therefrom properly determined and

assessed. In this connection, they would like to invite attention to the suggestion of the Administrative Reforms Commission for the amendment of the Income-tax Act to provide for determination of the annual value of house property on the basis of the annual rentals received or receivable or the municipal valuation, whichever is greater.

1.57. From the information furnished by Government, the Committee observe that the number of assessments relating to property income in Delhi has not shown a very perceptible rise over the period 1962-63 to 1964-65. It is well known that there has been a substantial increase in real estate investment in Delhi and other metropolitan cities in the last few years. The Committee would therefore like Government to review the position in all the major cities to ensure that the owners of these properties have not escaped tax either on income channelised into these investments or on income accruing from the properties.

Arrears of tax demands

Audit Paragraph

1.58. The total outstanding demand of tax on 31st March, 1967 was Rs. 541.73 crores. The break-up of the arrears between Corporation Tax, Tax on income other than Corporation tax and interest* and the years to which they relate are shown below:

Year	Corporation Tax	Income Tax	Interest	Total
	(Figures in crores of rupees)			
(i) Arrears of 1956—57 and earlier years . .	5·00	48·52	1·54	55·06
(ii) Arrears of 1957-58 to 1964-65	24·33	104·51	5·89	134·73
(iii) Arrears of 1965-66 .	23·53	58·78	3·80	86·11
(iv) Arrears of 1966-67 .	123·71	133·56	8·56	265·83
TOTAL . . .	176·57	345·37	19·79	541·73

[Paragraph No. 56(a), Audit Report (Civil) on Revenue Receipts, 1968]

*Figures are as furnished by the Ministry.

1.59. The following table brings out the comparison between the demands of tax in arrears to total realisation in the corresponding years:

Period (year ending)	Total realisation	Arrears out-standing	Percentage of Column 3 to Column 2
1	2	3	4
	(Amount in crores of rupees)		
March, 1965	456·80	322·72	70
March, 1966	453·30	381·88	84
March, 1967	500·33	541·73	108

1.60. The break-up of the arrears between Corporation Tax, Taxes on incomes other than Corporation Tax and interest and the years to which they relate are given below:

	Corporation Tax	Income Tax	Interest	Total
	(Amount in crores of Rupees)			
(i) Arrears of 1957-58 and earlier years . .	5·01	51·61	1·79	58·41
(ii) Arrears of 1958-59 to 1965-66 . . .	28·33	122·12	7·26	157·71
(iii) Arrears of 1966-67 .	32·12	80·57	6·83	119·52
(iv) Arrears of 1967-68	110·15	163·23	13·59	286·97
TOTAL : . .	175·61	417·53	29·47	622·61

1.61. The following table indicates the position regarding effective and non-effective arrears of Income-tax and Corporation Tax as on 31st March, 1966 and 31st March, 1967:

(Figures in crores of rupees)

	As on 31-3-66		As on 31-3-67	
(a) Total arrears of Income Tax and Corporation Tax outstanding		381·88		515·25
(b) Effective arrears out of (a) above . . .		244·67		320·87
(c) Non-effective arrears out of (a) above . . .		137·21		194·38
(d) Break-up of non-effective arrears :				
(i) Amount pending settlement of DIT or other relief claims . .	4·10		3·26	
(ii) Amount due from persons who have left India leaving behind no assets ..	6·61		5·67	
(iii) Amount due from companies under liquidation .	6·53		5·13	
(iv) Arrears of Excess Profits Tax	2·20		2·53	
(v) Arrears of Business Profits Tax . . .	0·07		0·18	
(vi) Amount under protective assets . .	2·42		4·93	
(vii) Amount pending disposal of appeals (wherein stay has been granted). .	12·59		15·52	
(viii) Amount pending disposal of scaling-down petitions, writeoff proposals etc.	3·32		1·59	
(ix) All other amounts covered by certificates estimated to be irrecoverable.	24·71		26·99	
(x) All other amounts not covered by certificates which were not fallen due	74·66		130·58	
		137·21		194·38

1.62. During evidence, the Chairman, Central Board of Direct Taxes stated: "As on 31st March, 1968, the figure of arrears is

Rs. 622.61 crores and the net figure is Rs. 374.52 crores. Here I may explain that the practice of presenting the gross arrears is really not correct, because it includes even demands which have not fallen due. Whenever we have been asking the Income-tax Officers to give us figures of arrears they have been quoting the figures from the demand and collection register....Really speaking, the demand which has not fallen due should be excluded. Then, whenever the assessee pays advance tax, it usually takes a period of three months for the Income-tax Officer to adjust it. That has also to be excluded. Then, there are stay orders by Courts or appeals pending before the Assistant Commissioner or Income-tax Appellate Tribunal. If the Inspecting Assistant Commissioner or the Income-tax Officer permits an assessee not to pay the tax, or pay only a portion until the appeal is disposed of, that has also to be excluded. If you exclude all that, the arrears as on 31st March, 1968 come to Rs. 374.52 crores."

1.63. Giving details of deductions made from the gross arrears to arrive at the figures of net arrears, the Finance Secretary stated that Rs. 153.7 crores represented demands not fallen due, advance tax availing adjustment amounted to Rs. 56 crores and collections stayed by higher authorities or Income-tax Officers amounted to Rs. 38 crores, making a total of Rs. 248 crores.

In reply to a question, the Chairman, Central Board of Direct Taxes stated that the above figures of net arrears (*viz.* Rs. 374·52 crores) includede the amounts in respect of which proceedings were pending before recovery Officers.

In reply to another question, he stated that the aforesaid figure of net arrears (Rs. 374.52 crores) also included "a large number of arrears relating to War Years and Post-War Years."

1.64. During the course of examination of Finance Accounts in July, 1968, the Committee had enquired about uncollectable arrears. The Finance Secretary had stated: "We are working on these figures. The Government instructions have still to be obtained. It is my estimate that somewhere about Rs. 60 to 70 crores of dues are such as are not capable of being realised."

1.65. As to the reasons for uncollectable arrears, the witness had stated that some assessees had left the country and the assets of some others had got dissipated. The Committee had enquired whether any party could get out of the country without producing the Income-tax clearance certificate. The Finance Secretary stated:

"Such cases are not many. There are a few such cases. Probably the assessments were not finalised before they left. It takes time to finalise the assessment, particularly when the Officers are faced with a heavy load of work. In between if somebody gets out and does not come back and we cannot lay our hands on any other assets, the arrear will become unrealisable."

1.66. The Committee had then enquired how much of the uncollectable arrears had so far been written off. The Finance Secretary had stated: "We have not yet written off anything. This is an exercise which has not been earnestly pursued and it will be evident from the fact that in 1966-67, the amount written off was only Rs 22 lakhs whereas quite a lot of the dues are continuing over twelve years or so. The intention now is to take up this exercise in earnest and to see that we do not carry the uncollectable arrears inflating our arrear figures and give a wrong picture to the public."

1.67. During the course of evidence in January, 1969, the Chairman, Central Board of Direct Taxes stated: "In a number of cases, the assessees are dead or do not have any assets. Those cases should really have been written off but (the officers) are reluctant to write off fearing that these might be questioned. Because of this we have found Zonal Committees. Even in respect of demands of Rs. 5 lakhs and over, the Commissioner can sit with two of his colleagues and send recommendations. If three people take the decision, then there will not be criticism. They will really go into the matter deeply. In the Board also we are following this. The process has not been so far much, but we hope that in the remaining part of this year and the next year we will be able to write off substantially. In regard to petty amounts, we have issued instructions, in consultation with the Comptroller and Auditor General to the Income-tax Officers to write off demands upto Rs. 25 when they find that the assessees could not be traced." In reply to a question, he added: "We have given top priority to this matter and the Board has a programme of writing off of these irrecoverable demands." The Comptroller and Auditor General stated that, with a view to presenting a clearer picture of the arrears, he was prepared to alter the form of the table if the Board clearly indicated the amount of gross demand raised and the amount stayed by the Appellate authority. The Chairman, Central Board of Direct Taxes stated: "We will discuss this with the Comptroller and Auditor General and present figures which will give the real state of affairs."

1.68. In a note, the Ministry have stated:

> "The Comptroller and Auditor General wishes to show in the future Audit Reports only the net effective figures of tax, which are clearly outstanding without recovery. For the proposed Audit Report, 1969, he has just asked the Minister to report the amounts stayed pending appeal decisions. The Ministry is trying to furnish the requisite information regarding the amounts of tax stayed by the appellate authorities, including the High Courts and the Supreme Court, as on 31st March, 1968."

1.69. In para 3.19 of their Report on the Central Direct Taxes Administration, the Administrative Reforms Commission Working Group have observed as follows:

> "The real and the more serious reason for heavy arrears is the tendency on the part of many Income-tax Officers to delay the assessments till the end of the financial year and make cumulative assessments for more than one year, particularly in big assessments cases, resulting in pilling up of huge demands which naturally the assessee is unable to discharge. Out of a total demand of Rs. 366 crores raised in 1965-66, demand for Rs. 152 crores was raised in the closing months of February and March, 1966. Out of this, demand for Rs. 106 crores was raised in the closing month of March and near about one-half of this 106 crores was raised in the last seven days of March. The total number of assessments completed during the last seven days was nearly 64,000. When assessments are hurried through like this in the closing months of the year, a natural tendency is to make huge additions expecting the matter to be set right on appeals. When the matter comes up on appeal the appellate authority remands the case for full investigation or sets aside the assessment for being re-done after further examination. This gives unlimited time to the Income-tax Officer to submit the remand report or complete the set aside assessment. We have suggested (earlier) that a time limit should be imposed for re-doing the set-aside assessments. For submitting remand reports also, we would suggest that a suitable time limit should be laid down and if no remand report is submitted by the Income-tax Officer by that date, the appeal should be disposed of by the Appellate authorities without such reports and the responsibility for loss of revenue in such cases should rest on the Income-tax Officer."

1.70. In para 1.27 of their 17th Report, the Public Accounts Committee (1967-68), *inter alia,* observed as follows:

"The Committee desire that Government make a thorough probe to ascertain whether the disparity in book figures of arrears of demand and effective demand is due to a tendency on the part of assessing officers to create high and unrealistic demands which, on the one hand, might lead to wasteful litigation and on the other fictitiously boost the demand figures with its other pernicious ramifications." The Committee would also like Government to examine all cases involving non-recovery of taxes of Rs. 1,00,000 and above out of the total irrecoverable amount of Rs. 37.85 crores. The Committee have no doubt that Government will take suitable action against the officers found responsible for neglect, if any, in respect of the irrecoverable demands mentioned above."

1.71. The Committee desired to know whether the Board had taken any action pursuant to the above mentioned observations of the Administrative Reforms Commission working Group and the Public Accounts Committee (1967-68). The Chairman. Central Board of Direct Taxes stated: "We ourselves are aware of this problem of completing assessments in a hurry which is to escape the time bar. Most of these cases arise in the Central circles partly because of the non-cooperative attitude of the assessees. We discussed this problem in the conference of the Commissioners of Income-tax and we decided to strengthen the Central charge suitably by experienced officers. In fact, thereafter, I have had 4 Assistant Commissioners and 40 senior Income-tax officers added to the Central charge. As a result of this I think this year not only will they be able to dispose of time-bar assessments but also. assessments of one more year. We will also be more selective in transferring cases to the Central charge and more positive in transmitting cases from the Central charges so that with the necessary assistance from higher authorities, officers may make more realistic assessments. I think, this year our record will be much better than in the past about the number of time-bar assessments completed well before the end of the year. We are giving a good deal of emphasis on this point."

1.72. The Committee enquired whether the assessing officers had a properly-phased programme of assessments. The Chairman. Central Board of Direct Taxes stated: "There is a planned programme of disposing of cases for every Income-tax Officer. This is the crux or king-pin of the whole scheme for this year. Every Income-tax Officer was asked to look into the assessments and state, month-

wise, what he will be able to dispose of. So far as the Central charges and Special Circles are concerned, this has been looked into carefully by the Inspecting Commissioner and the Commissioner. We in the Board have also looked into it. Some Income-tax Officers said that he would dispose of so many cases in March. We said, 'You have to dispose them of earlier'........We are looking at it in respect of each Income-tax cirle."

1.73. In a note the Ministry have added: "The Ministry is alive to the criticism that a part of the arrears may be due to over-pitched assessments. For examining to what extent this criticism is justified, the Ministry had recently undertaken a study of the appellate orders passed in six Appellate Assistant Commissioners' Ranges in Uttar Pradesh, Delhi and Punjab. The study has not indicated any serious malady. On the basis of the findings of the Study Team, instructions have, however, been issued by the Ceneral Board of Direct Taxes urging the assessing officers to exercise restraint in making assessments. Further studies in other charges will be undertaken and suitable steps taken to curb any tendency to over-pitch assessments."

1.74. In another note furnished by the Ministry in pursuant to para 1.27 of the 17th Report of the Public Accounts Committee (1967-68), it has been stated: "The observations made by the Committee have been noted. Necessary instructions in the matter have been issued to all Commissioners of Income-tax."

"With regard to arrear demands of Taxes of Rs. 1,00,000 and above, Zonal Committees consisting of Commissioner, of Income-tax have been constituted for reviewing such cases."

1.75 In the Commissioners' Conference held in August, 1967, certain decisions were taken for the clearance of tax demands. The Committee desired to know whether a review had been conducted as to how much progress had been made in implementation of the decisions of the aforesaid conference.

In a note furnished to the Committee, the Ministry have stated "The following decisions were taken in the Commissioners Conference held in August, 1967 about the clearance of arrears of tax demand.

(i) Fix responsibility for action at different levels, depending on the amount of tax in arrears.

(ii) Expedite the disposal of court proceedings which were holding up action for recovery.

(iii) Take over tax recovery work from State Governments.

(iv) Expedite the write off or irrecoverable demands."

"Steps were taken to implement the decisions. The most important step was the taking over of recovery work from the State Governments fully in Delhi, Andhra Pradesh, Gujarat, Rajasthan and Bombay and partly in West Bengal, Madras, Mysore and Uttar Pradesh. In the other States also, steps on similar lines are being taken. As a result of the measure taken for improving collection, the yield out of arrear and current demand has improved during 1968-69, as would be evident from the following comparative figures:

	Collections upto October, 1967	Collections upto October, 1968
	(In crores of rupees)	
Arrear demand	48·41	68·07
Current demand	45·70	57·45
Total collections	upto 31-12-67	upto 31-12-68
	364·57	397·70
	Excess 33·1[illegible] crores."	

"The progress about write off was reviewed in the Commissioners' Conference held in July, 1968, when it was generally agreed that the progress has been halting because of over-centralisation of the procedure of write off. In pursuance of the decision taken at the Conference, the procedure has since been decentralised by constituting zonal committees each with three Commissioners from the same station or from contiguous States. These committees will henceforth consider proposals of write off of over Rs. 1 lakh and forward their recommendations to the Board, through DI(RS&P) for orders."

1.76. Referring to the demands locked up on account of court proceedings, the Chairman, Central Board of Direct Taxes stated: ".... The Commissioners had informal discussions with the Chief Justices of many States, and the Chief Justices have agreed to constitute a Special Tax Bench for hearing the writ petitions....

In Uttar Pradesh where there are a very large number of arrears, the Tax Bench will be sitting continuously for this purpose. The same is the case with regard to Madras, Gujarat and many other States. It is only in Calcutta that there is a difficult problem, but there also we have met the Chief Justice and requested him to help and he has said that he would be constituting a Special Tax Bench."

1.77. Enumerating the other measures taken by the Board to improve the position, the representative of the Board referred to the recently introduced functional system. He stated: "The basic feature before the functional system was introduced was that the same Income-tax Officer was asked to do a number of things. Under the new system, one Income-tax Officer is concerned with assessment, another with collections and another with various miscellaneous matters, like administration, sending reports and returns, etc. Previously the fact was that the emphasis had always been on the assessment part of it with the result that the collection work and public relations work had suffered very much. The functional system has set right these things. An Income-tax Officer is responsible solely for collections and he sees that reminders are issued, penalty action is taken, etc. Previously these matters used to remain neglected and queries from assessees unanswered. Under the functional system, we maintain arrear sheets and ledger cards for watching recoveries. We have also standardised the procedure. We have drawn up the work programme and work schedules for each clerk. We invited the comments of all the Commissioners...... All of them agreed that the scheme was good though there were some individual differences of opinion on particular matters. Now, after discussing with them, the procedure has been finalised. I think the system is now yielding very good results. In the years to come, it will be seen that this is one of the most important measures taken by Government to reorganise the Department and to make it more efficient and more serviceable to the tax-payer.

1.78. The Committee enquired whether as a result of the functional separation between assessment and collection, it was not likely that the Department might not be able to get the cooperation of the assessees as before. They also enquired whether, as a result of the reduction of the time-limit for assessment from four to two years, there was not a likelihood of the assessing officer completing the assessments just to comply with the provisions of the law and keeping the matter pending without realising the tax. The Finance Secretary stated: "These are valid mis-givings and they should be looked into and necessary precautions taken."

1.79. In a further note (Appendix I), the Minister have added:

"Arrears of tax collections:

(a) Collection position is also kept under constant review. The extension of the Functional Scheme to 80 out of 122 Ranges has itself resulted in greater attention being paid to collections. Further, recovery work has been taken over from the State Governments in 9 States (6 fully and 3 partly).

(b) Other steps taken to improve collections are—

(i) maintenance of arrears sheets and ledger cards;

(ii) constant and systematic review by senior officers;

(iii) strict enforcement of recovery measures including levy of penalties;

(iv) attachment of assets and credit balances;

(v) sale of attached assets etc.; and

(vi) publication of names and defaulters in the news papers (Rs. 1 lakh in Bombay and Calcutta and Rs. 25,000 in other charges)."

"A systematic review of old arrears and a drive for write off of irrecoverable amounts by various authorities is under way. Upto 31st December 1968, collections were better by Rs. 33.17 crores than in the corresponding period last year (Rs. 397.74 crores against 364.37 crores)."

1.80. The Committee cannot help expressing their concern over the increase in "effective arrears" of income-tax from Rs. 244.67 crores as on 31st March, 1966 to Rs. 320.87 crores as on 31st March, 1967. The provisions of the Act contain built-in safeguards against accumulation of arrears which the Committee feel should be purposefully enforced, so that the problem of arrears could be effectively tackled. In this connection the Committee would like Government to consider the adoption of the following preventive steps to avoid accumulation of arrears:

(i) Tax on dividends and salaries statutorily deductible at source constitute a major portion of the total tax realisation. Elsewhere in this Report, the Committee have drawn attention to instances of failure to remit taxes deducted at

source. The departmental machinery should be geared to check compliance with the provisions of law in this regard.

(ii) Advance Tax which is collected also accounts for a major portion of the tax realisations. The Department should work out an arrangement to ensure that advance tax notices are duly issued and collections watched.

(iii) "The real and serious reason for heavy arrears", as pointed out by the Working Group of Administrative Reforms Commission, "is the tendency on the part of many Income-tax Officers to delay assessments till the end of the financial year and make cumulative assessments for more than one year, particularly in big assessment cases, resulting in pilling up huge demands which naturally the assessee is unable to discharge." This tendency should be firmly checked and the assessment work spaced out evenly over the year.

(iv) The Department should also firmly curb any tendency on the part of assessing officers to over-pitch assessments, as these result in needless inflation of demands and arrears. The Committee had already drawn attention to this problem in para 1.27 of their 17th Report (Fourth Lok Sabha) and they hope that the matter will be kept under constant study.

1.81. The Committee note that some part of the arrears is due to pending court cases. The Committee are glad that Government have, in consultation with the judiciary, taken steps to expedite disposal of these cases. They hope this would bring about some improvement in the arrears position. The Committee would in this connection like Government to consider the suggestion made by the Working Group of the Administrative Reforms Commission to the effect that the Act should be amended to "provide that where an appeal is preferred against an assessment, such an appeal will not be admitted unless tax is paid on the undisputed amount involved in the assessment." An allied suggestion made by the Working Group to reduce arrears is to fix "a time limit for giving effect to appellate orders", so that tax demands disallowed are promptly refunded to assessees. This, apart from creating a better public image of the Department, would also tend to make the picture of arrears more realistic.

1.82. Amongst other suggestions for amending the law to tackle the problem of arrears is the one relating to demands against assessees who have become untraceable. The Working Group of the

Administrative Reforms Commission have pointed out that there is a tendency for assessees to go "underground till the period of limitation of 8 years is over" to evade demands made against them. The Committee would like it to be considered whether amendment of the law to make it permissible to re-open assessments in such cases without any time-limit would help to meet this situation.

1.83. Finally, the Committee would also like Government to gear up their recovery mechanism. The Committee note in this respect that the Commissioners are progressively taking over the work hitherto done by the State Governments. The Committee hope that the recovery squads would function effectively and energetically to realise all recoverable tax dues.

CHAPTER II

RESULTS OF TEST AUDIT

Audit Paragraph

2.1. (i) During the period from 1st September, 1966 to 31st August, 1967 a test audit of the documents of the Income-Tax Offices revealed a total under-assessment of tax of Rs. 1179.98 lakhs in 9469 cases and over-assessment of tax of Rs. 58.73 lakhs in 2392 cases. Besides these, various defects in following the prescribed procedure also came to the notice of audit.

Of the total 9469 cases of under-assessments short-levy of tax of Rs. 1088.94 lakhs noticed in 687 cases alone. The remaining 8782 cases accounted for an under-assessment of tax of Rs. 9104 lakhs.

The position regarding rectification of the cases of under-assessment mentioned above is indicated below:—

Under-assessment	No. of cases	Amount in lakh of rupees
(a) Cases since rectified or being rectified by the Department of Revenue	5496	322·24
(b) Cases where no rectification is possible because of time-bar resulting in loss of revenue . .	46	3·87
(c) Cases where rectificatory action has still to be taken by the Department of Revenue . .	3771	360·10
(d) Cases still under correspondence with the Ministry :		
(i) where final replies from the Ministry are due	19	421·77*
(ii) where after discussion with the Ministry verification by audit is in hand . . .	137	72·00
TOTAL . . .	9469	1179·98

*This includes a sum of Rs. 4·10 crores in the case of a Corporation on the ground of incorrect status accorded in the assessment. The legality of issue involved is under examination by the Ministry in another case.

Over-assessment	No. of cases	Amount in lakhs of rupees
(a) Cases since rectified or being rectified by the Department of Revenue	2074	51·35
(b) Cases where no rectificatory action is possible because of time-bar	5	0·09
(c) Cases where rectificatory action has still to be taken by the Department of Revenue . .	313	7·29
TOTAL . . .	2392	58·73

(ii) The under-assessment of tax of Rs. 1179·98 lakhs has been the result of the following lapses :—

	Amount in lakhs of rupees
(1) Errors and omissions attributable to negligence or failure to apply the correct rates of tax	33·99
(2) Incorrect computation of income under the head "salary" .	3·11
(3) Incorrect computation of income under the head "House-property"	3·35
(4) Incorrect computation of income from "Business" . .	91·86
(5) Under-assessment arising from wrong computation of development rebate and depreciation	41·94
(6) Irregular exemption from tax of newly established industrial undertakings or hotels	9·22
(7) Incorrect allowance of rebate of tax in relation to exports .	1·33
(8) Other irregular exemption or excess reliefs given . .	294·56
(9) Incorrect computation of super-tax income-tax payable by companies	29.20
(10) Non-levy of additional super-tax income-tax under Section 23A 104 of I.T. Act, 1922 1961	36·22
(11) Non-levy incorrect levy of penal interest	40·48
(12) Mistakes committed while giving effect to appellate orders .	3·02
(13) Income escaping assessment	83·50
(14) Incorrect determination of super-profits tax or sur-tax .	5·97
(15) Other lapses	502·23

[Paragraph 40(i) & (ii) of Audit Report (Civil) on Revenue Receipts, 1968]

2.2. In a note furnished to the Committee, the Ministry have indicated the following position as on 31-8-1968 regarding rectification of cases of under-assessment and over-assessment mentioned in the Audit paragraph:

"UNDER ASSESSMENT

(Cases involving Rs. 10,000 and above)

	No. of cases	Amount (in lakhs of Rs.)	
a) Cases since rectified or being rectified by the Department of Revenue . . .	217	70·33	
(b) Cases where no rectification is possible because of time-bar resulting in loss of revenue	12	3·48	(In each such case audit raised objection after any possible action was barred by time)
(c) Cases where rectificatory action has still to be taken by the Department of Revenue .	61	24·79	
(d) Cases still under correspondence with the Ministry .	120	63·49	
e) Cases where the Audit objections have been found unacceptable by the Ministry .	277	912·04	(The total shown in the Audit Report, 1968 is Rs. 1,088·94 lakhs. The difference is due to variations caused by appellate orders.)
	687	1,074·13	

UNDER ASSESSMENT

(Cases involving less than Rs. 10,000)

1	2	No of Cases 3	Amount (in lakhs of Rs.) 4
(a)	Cases since rectified or being rectified by the Department of Revenue	4,384	37·80

1	2	3	4
	(b) Cases where no rectification is possible because of time bar resulting in loss of revenue . .	74	1·09
	(c) Cases where rectificatory action has still to be taken by the Department of Revenue . .	3,265	37·95
	(d) Cases still under correspondence with the Ministry	786	8·90
	(e) Cases where the Audit objections have been found unacceptable by the Ministry	273	5·30
		8,782	91·04

OVER ASSESSMENT

	No. of cases	Amount
(a) Cases since rectified or being rectified . .	2,189	53·56
(b) Cases where no rectification is possible because of time-bar	5	0·09
(c) Cases where proper action has yet to be taken by the Department	184	4·67
(d) Cases not accepted by the Ministry . .	14	0.41
	2,392	58·73

According to Audit, the position in respect of rectification of cases of under-assessment and over-assessment as on 15-1-1969 was as follows:

UNDER ASSESSMENT

(Cases involving Rs. 10,000 and above)

	No. of cases	Amount (in lakhs of Rs.)
(a) Cases since rectified or being rectified by the department of Revenue	273	314·72
(b) Cases where no rectification is possible because of time-bar	10	3.90
(c) Cases where rectificatory action is still to be taken by the department of Revenue	184	158·72

(d) Cases still under correspondence with the Ministry :		
(i) where final replies from the Ministry are due	48	437·63
(ii) where after discussion with the Ministry variation by audit is in hand . . .	140	100·41
(e) Items deleted or dropped	32	73·56
Total	687	1088 .94"

UNDER ASSESSMENT

(Cases invoing Rs. 10,000)

	No. of cases	Amount (In lakhs of Rs.)
"(a) Cases since rectified or being rectified by the department of Revenue	7649	75·75
(b) Cases where no rectification is possible because of time-bar	74	1·09
(c) Cases where rectificatory action is still to be taken by the department of Revenue	783	8·99
(d) Cases still under correspondence with the Ministry :		
(i) where final replies from the Ministry are due	..	..
(ii) where after discussion with the Ministry verification by audit is in hand . . .	..	..
(e) Items deleted or dropped	276	5·21
TOTAL	8782	91·04"

OVER ASSESSMENT

	No. of cases	Amount (In lakhs of Rs.)
"(a) Cases since rectified or being rectified by the department of Revenue	2154	52·77
(b) Cases where no rectification is possible because of time-bar	5	0·09
(c) Cases where rectificatory action has still to be taken by the department of Revenue . . .	223	5·57
(d) Cases where audit objection has not been accepted	10	0·30
	2392	58·73"

2.3. During evidence, the Committee enquired as to out of the 9469 cases of under-assessment (involving an amount of Rs. 1179,98 lakhs) and 2392 cases of over-assessment (involving an amount of Rs. 58.73 lakhs) mentioned in the Audit Report, how many had been subjected to internal audit earlier. The Chairman, Central Board of Direct Taxes stated that a majority of the mistakes pointed out in the Audit paragraph related to questions of interpretation of law which was hitherto beyond the scope of Internal Audit. Till recently, they could not even go into questions of depreciation allowance, development rebate, etc. Their function was mostly confined to arthmetical test checks. But the Internal Audit was now being strengthened both quantitatively and qualitatively and they would be able to look into quasi-judicial questions. It was proposed to introduce suitable refresher courses for Internal Audit parties and place them under the charge of an Inspecting Assistant Commissioner, as recommended by the Administrative Reforms Commission. He also proposed to address the Commissioners to direct the Internal Audit Parties to look into the errors pointed out in the Audit Report.

As to other measures proposed to be taken by the Board to obviate the recurrence of the mistakes pointed out in the Audit paragraph, he stated that they were simplifying tax calculations. Hitherto the Income-tax Officers' main attention was concentrated on getting the assessment order completed. He left the tax calculations to clerks and supervisors, which got neglected in the 'stress and strain' of work. He was now thinking of drawing the attention of Income-tax Officers to the importance of tax calculations. The system of functional distribution introduced by the Board would also be helpful in this regard. The witness hoped that as a result of these measures, they would be able to show 'a noticeable improvement in not too distant future.'

In reply to a question, the witness stated that of the cases of over-assessment mentioned in the Audit paragraph, 80 related to Central Charges. 330 cases of over-assessment and 316 cases of under-assessment related to companies.

2.4. The Committee desired to be furnished with a note on the scope and functions of Internal Audit and the measures taken or proposed to be taken to make the functioning of Internal Audit more

effective. The Ministry have since furnished the note in which they have stated as follows:

"The duty of the Internal Audit Parties, presently in force, is to check—

A. All company cases, irrespective of income.

B. Non-company cases—

(i) All cases with income over Rs. 50,000.

(ii) 10 per cent of cases with income between As. 20,000 and Rs. 50,000, and

(ii) 1 per cent of cases with income below Rs. 20,000.

C. All cases of Wealth-tax, Gift-tax and Expenditure-tax, giving priority to cases involving a tax of Rs. 25,000.

"Special priority is to be taken to company cases and all other cases with income over Rs. 50,000. In addition, the Audit Parties are expected to complete checking of the demand and Collection Registers of all ITOs under their jurisdiction."

"Even with a programme of selective audit, the Internal Audit Parties have found the volume of work to be beyond their capacity— The annual target of scrutiny for each Internal Audit Party had been fixed initially at 4,500 company cases or 6,000 other cases. As an experimental measure, the quota was raised in November, 1964 to 8,000 cases, but in February, 1967 it was lowered to 6,000 priority cases. The actual average output of the Internal Audit Parties has, however been about 3,000 priority cases only, so that the Internal Audit Parties are at present covering only 50 per cent of the cases they should have scrutinised."

"Though the Internal Audit Parties cover at present only about 50 per cent of their specified field of work, they have been able to detect mistakes involving about Rs. 5½ crores of under-charge of tax per year."

"It may appear rather strange that even in the cases looked into by Internal Audit Parties, Revenue Audit Parties have often detected some omissions or mistakes. This has happened mostly because the Internal Audit Parties have not hitherto been required to check whether the Income-tax Officers are interpreting the tax laws and

rules properly......The Ministry is considering the question of expanding the scope of Internal Audit Parties so as to cover the interpretation of law too, to a limited extent not incompatible with the exercise of discretion by Income-tax Officer."

"As has been already mentioned above, the Internal Audit Parties are unable to cope with even their present work. This calls for an increase in the number of Audit Parties, as also the strengthening of each party, both quantatively and qualitatively. As such, the Ministry has recently moved for the increase in the number of Internal Audit Parties from 71 to 120. Besides, it has been decided that the Internal Audit Parties should be headed not by Supervisors Grade II, but by Inspectors who have qualified in the ITO's Examination. They should be assisted by three UDCs (at present some of the Internal Audit Parties have only 2 UDCs) who are qualified in the Inspectors' Examination. It will of course take some time for implementing the decision, because diverting the trained hands from assessment charges to Audit will be possible only after their substitutes have acquired the required experience or have at least gone through some special courses of training."

"The following new measures for improving the efficiency and effectiveness of the Internal Audit Parties are being processed by the Ministry:

(i) An Internal Audit Manual is to be published. A draft Manual has already been drawn up by the Directorate of Inspection (Income-tax). It will be printed after the Board has carefully examined the draft.

(ii) A separate Internal Audit Organisation, headed by a Director is to be set up. It will have a field organisation in the various Commissioners' charges.

(iii) An Inspecting Assistant Commissioner in each Commissioner's charge will be put in charge of co-operation and supervision of the work of the Internal Audit Parties and the Special Investigation Branch. This will be in pursuance of a recommendation made by the Administrative reforms Commission.

(iv) Groups of 5 to 6 Internal Audit Parties will be placed under one Chief Auditor, who will be responsible for checking their day-to-day work as also for seeing that the follow-up action on Audit objections is initiated and completed within a reasonably short time."

"At present there is no separate machinery for a follow-up of the objections raised by Revenue Audit and the collection and processing of information required by the Public Accounts Committee. It is expected that when the work relating to Internal Audit Parties has been reorganised on the lines indicated above, it will be possible to show a much better performance than now in respect of the following types of work:

(i) Timely detection of mistakes;

(ii) Follow-up action regarding the mistakes pointed out by both Internal Audit Parties and Revenue Audit;

(iii) Processing of information required by the Public Accounts Committee; and

(iv) Reviews desired by the Public Accounts Committee."

2.5. The Committee note that a test audit disclosed under-assessment of tax amounting to Rs. 1101.16 lakhs in 9,161 cases during the period 1st September, 1966 to 31st August, 1967. Corrective action is still to be taken in 967 of these cases, involving Rs. 167.71 lakhs, while in respect of 84 cases involving Rs. 4.99 lakhs action has become time-barred. The Committee would like corrective action to be speedily finalised. In those cases where action is now precluded by time-bar, the Committee would like Government to examine whether there was any default on the part of the officials conerned, warranting action against them.

2.6. The Committee also note that in 48 cases involving Rs. 437.63 lakhs, where Audit are of the view that there has been under-assessment, the matter is still "under correspondence." The Committee would like these cases to be examined expeditiously and corrective action to be initiated promptly in all cases where it is called for.

2.7. The Committee take a serious view of the over-assessments disclosed in test-audit. In 2,154 such cases involving Rs. 52.77 lakhs, corrective action has been completed but action is still to be taken in 223 cases involving Rs. 5.57 lakhs.

2.8. The Committee trust that action will be finalised quickly. The Committee have in the past and elsewhere in this Report stressed the need to curb the tendency of assessing officers to over-pitch assessments. The Committee trust that this question will receive the continuous attention of the Board.

2.9. The Committee observe that a large number of these cases of under-assessments and over-assessments escaped the notice of Internal Audit parties in the Department. This suggests the need for toning up their performance. The Committee note that a number of steps have been taken in this regard. They hope that as a result, the work of these parties will show qualitative improvement.

CHAPTER III

UNDER-ASSESSMENTS OF TAX-ERRORS AND OMISSIONS IN ASSESSMENTS

(a) FAILURE TO APPLY THE CORRECT RATE OF TAX

Audit Paragraph

3.1. Under the provisions of the Income-tax Act, payment of interest on tax dues is not an admissible expenditure. In the Profit and Loss account of a company, for the previous year relevant to the assessment year 1965-66, a sum of £ 12,123 was debited as interest on Indian taxation. While determining the total income of the company, the Income-tax Officer, instead of disallowing the sum and adding it back to the book profits, deducted it from the book profits and assessed it separately as "income from other sources". Thus, on the one hand, the income from business was reduced and underassessed to the extent of £ 24,246 and on the other hand, the income from other sources was overassessed to the extent of £ 12,123. In effect, the total income of the company for the assessment year 1965-66 was underassessed to the extent of £ 12,123 or Rs. 1,61,640, the short-levy of tax being Rs. 1,05,066. Further as the company was allowed interest on excess payment of advance tax made by it for the assessment year 1965-66, the under-charge of tax mentioned above, also resulted in excess payment of interest to it to the extent of Rs. 5,078. Report regarding dectification and recovery of the tax is awaited.

[Paragraph No. 41(b), Audit Report (Civil) on Revenue Receipts, 1968]

3.2. During evidence, the Chairman, Central Board of Direct Taxes stated that in the statement of accounts for the assessment year 1965-66, £ 12,123 was shown as interest on Indian Tax payments. The Income-Tax Officer overlooked the fact that it was an item of debit and mistook it as interest on Indian taxes. The explanation of the Income-tax Officer had been called for. His explanation was that in the earlier years' assessments, the company had shown interest received from the Indian Government on advance tax paid. Without going into the matter, he thought that £ 12,123 was also interest received from Government for the assessment year 1965-66 and treated as such in the assessment order.

3.3. Asked whether the assessment order had been checked by the Inspecting Assistant Commissioner, the witness stated: "The Inspecting Assistant Commissioner (has) said that he actually saw the draft assessment order but at that time the records were with the Appellate Tribunal in connection with another year's assessment."

3.4. In reply to a question, he stated that the Commissioner of Income-tax who had looked into the case was of the view that no *mala fides* were involved. Asked whether the case had been investigated by the Directorate of Inspection (Investigation), he stated: "It is not physically possible for the Directorate of Inspection (Investigation) to check all these things."

3.5. The Committee desired that the case should be inquired into and a report submitted to them. In a note, the Ministry have stated: "The matter has been inquired into. No *mala fides* are involved in the case." The Ministry have also stated that "no similar mistakes had occurred in the past assessments made by the Income-tax Officer." In reply to a question, the Ministry have stated that the short levy of Rs. 1.05 lakhs had been recovered from the company on 12-10-1968.

3.6. The Committee understand from Audit that the mistake occurred in a Central circle where the number of assessments expected to be completed in a year is comparatively less than in other circles.

3.7. The Committee observe that the Income-tax Officer, instead of dis-allowing the inadmissible deduction of £ 12,123 on account of interest on tax dues and adding it back to the book profits, deducted it from the book profits, thereby reducing the assessable income by £ 24,246. Another mistake made by the Income-tax Officer was to assess the amount of £ 12,123 which was actually an expenditure item as income under 'other sources of income.' The cumulative result of the two mistakes was under-assessment of tax to the tune of Rs. 1,05,066 and excess payment of interest to the tune of Rs. 5,078. While the Committee note that the short levy of Rs. 1.05 lakhs has since been recovered, they cannot help observing that the short levy was caused by negligence on the part of the official concerned. It is regrettable that the mistake should have occurred in a Central Circle where the number of assessments expected to be completed is comparatively less than in other Circles. The Committee would like the Board to take these matters and the enquiries more seriously. The Board should issue detailed instructions as to the checks it wants its officers to exercise to avoid such mistakes in assessment.

Audit Paragraph

3.8. The super-tax payable by an assessee for the assessment year 1961-62 was determined by the department at Rs. 1,99,267 on 28th February, 1966. At the time of calculating the total tax payable, the figure was, however, erroneously taken at Rs. 1,19,267 as a result of which the total tax payable was undercast to the extent of Rs. 80,000. The demand notice for the tax payable was issued by the department on the basis of the reduced total figure. The certificate proceedings for recovery of arrears of tax were also initiated on the same basis on 23rd March, 1967. The assessment for the year 1961-62 had been checked by Internal Audit on 19th October, 1966, but the mistake remained undetected.

[Paragraph No. 41(c), Audit Report (Civil) on Revenue Receipts, 1968]

3.9. The Committee were informed by Audit that though the amount of super-tax was rightly computed, a mistake was committed while arriving at the amount of total tax payable by the assessee in the assessment form.

3.10. The Chairman, Central Board of Direct Taxes informed the Committee that the assessing officer in this case was a senior Income-tax Officer in West Bengal city I. The mistake was detected by the Internal Audit Party and when they were in the process of rectification, Audit also noticed it. The Committee enquired whether Income-tax Officers should not be instructed to check the accuracy of assessment figures before issuing demand notices. The Chairman, Central Board of Direct Taxes stated: "It is impossible. The Income-tax Officers have to deal with so many items of work. It is easy to say I will issue instructions. But it is certain that instructions will not be practically and honestly implemented. You know the way in which the Income-tax Officer functions. He has got time-barred assessments to set in motion. He has so many records to furnish to the Board. There are questions in Parliament....In respect of these things, mistakes do get committed and no amount of instruction will improve matters unless we relieve them of excessive work and our instructions are there quite clear and beyond doubt." In reply to a question, he stated: "I am not saying that we will have to live with (mistakes). We are constantly improving the environment."

3.11. The Committee were informed by Audit that the mistake was pointed out by Internal Audit who had checked the assessment order in October, 1966. The Committee enquired why necessary rectification had not effected in the certificate proceedings initiated by the Department in March, 1967. In their reply, the Ministry have stated: "No rectification order was passed on the date of the

issue of the recovery certificate. The recovery certificate had to go on the basis of the figures as per the demand register." "The notice for rectifying the mistake was issued on 6-4-1967 (subsequent to the issue of the recovery certificate but prior to the Audit Memo dated 31-5-1967). The demand was revised in June, 1967 and the recovery certificate automatically was to be issued on the basis of the revised demand raised."

The Committee enquired whether the Board had ascertained that there were no *mala fides* involved. The Chairman, Central Board of Direct Taxes stated that the Commissioner of Income-tax who had gone into the case was of the view that there were no *mala fides*. In reply to a further question, the Finance Secretary agreed to institute an inquiry into the case. In a subsequent note, the Ministry have stated: "The Board has examined the matter and is satisfied that the mistake which was a *bona fide* error had already been pointed out by the Internal Audit Party."

3.12. As to the position regarding recovery of the short-levy, the Department have stated: "A sum of Rs. 5,400 was collected on 20-2-1968. The collection of the balance has been stayed pending the disposal of an appeal before the Income-Tax Appellate Tribunal."

3.13. The Committee note that though the amount of super-tax payable by the assessee was correctly computed at Rs. 1,99,267, the figure was erroneously taken at Rs. 1,19,267 at the time of calculation of the total tax demand in the assessment form. This shows that before issuing the demand notice, the Income-Tax authorities had not subjected the tax calculation in the assessment order to a proper check.

3.14. The Committee regret that though the mistake was [illegible] out by Internal Audit in October, 1966, notice for its rectification was issued only in April, 1967—i.e., after a lapse of nearly six [illegible] With a view to avoiding unnecessary delay in the recovery of tax dues, the Committee desire that corrective action should be initiated by the Department soon after the errors in assessment come to notice.

3.15. The Committee note that out of the short levy of Rs. 80,000, a sum of Rs. 5,400 has so far been recovered, the recovery of the balance (Rs. 74,600) having been stayed pending disposal of an appeal before the Income-Tax Appellate Tribunal. The Committee would like to be informed of the position regarding recovery after the disposal of the appeal by the Tribunal.

(b) INCORRECT COMPUTATION OF INCOME

Audit Paragraph

3.16. Under the provisions of the Income-tax Act, 1961 unabsorbed loss of any assessment year pertaining to a business, carried forward for set-off against future profits under the head "Profits and gains of business etc." in any subsequent assessment, cannot be so set-off after the business in question had ceased to exist. But if any profit arise, after such cessation, on account of sale of assets, etc. which are chargeable to tax under section 41, the loss if any that arose in the business in the last year of its working could alone be set-off against such profits. An assessee company which discontinued its business in the previous year relevant to assessment year 1963-64 had profits chargeable to tax under section 41 for the assessment year 1965-66. The Income-tax Officer allowed the set-off of the unabsorbed depreciation relating to assessment years 1961-62 and 1962-63 against such profits though the loss pertaining to the year relevant to assessment year 1963-64 (being the year in which the said business was discontinued) should alone have been allowed the set-off. This mistake led to under-assessment of income of Rs. 2,29,357 with a consequential short-levy of tax of Rs. 1,14,579 for assessment year 1965-66.

[Paragraph 44(a) of Audit Report (Civil) on Revenue Receipts, 1968).

3.17. The Committee were informed by the Ministry that as the Audit objection had not been accepted, no rectification had been made.

3.18. The Committee enquired whether the Law Ministry had been consulted on the point whether an assessee who derived taxable profits on sale of assets in a year subsequent to the year in which the business ceased to exist can adjust, against the profits, the carried-forward unabsorbed depreciation of ealier years. In their reply, the Ministry have stated:

"The matter is still under examination. Steps are being taken to finalise it as early as possible."

The Committee learn from audit that the Law Ministry have held that the audit objection is correctly taken.

3.19. In the Committee's opinion, this case raises an important question of law, i.e., whether, in terms of the Act, an assessee who derives taxable profits in a year subsequent to the year in which his

business ceased to exist can adjust against the profits, for purposes of tax, the carried-forward unabsorbed depreciation of earlier years. As the Law Ministry have held the audit objection to be correct, the Committee would await report regarding rectification and recovery of the tax involved.

Audit Paragraph

3.20. A company is entitled to a deduction in respect of expenditure in the nature of entertainment expenditure at slab rates, the first slab being 1 per cent of the profits and gains of the business of Rs. 10 lakhs or less or Rs. 5,000 whichever is higher and at ¾ per cent on the next slab of profits and gains of business of Rs. 40 lakhs.

In the assessment of a company with a total income of Rs. 95,096 for the assessment year 1961-62 a deduction of Rs. 42,086 towards entertainment expenditure was allowed without limiting the deduction to Rs. 5,000. This has accounted for an under-assessment of tax of Rs. 16,688.

In another case the assessing officer allowed entertainment expenditure of Rs. 68,194 and Rs. 50,390 for the assessment years 1961-62 and 1962-63 though according to the provisions of Income-tax Act, only deduction of Rs. 5,000 and Rs. 10,368 are admissible. The consequential under-assessment of tax is Rs. 51,516. The mistakes have since been rectified but report regarding recovery of the tax involved is awaited.

[Paragraph No. 44(b), Audit Report (Civil) on Revenue Receipts, 1968].

3.21. The Chairman, Central Board of Direct Taxes stated that one of the assessees was from the U.P. and other from Bombay. The Commissioner's conclusion was that the mistake was due to oversight and that no *mala fides* were involved. The Committee enquired whether any instructions had been issued by the Board to ensure that the allowance to be made on account of entertainment expenditure was properly computed. The Chairman, Central Board of Direct Taxes stated: "When this provision was introduced, we did issue elaborate instructions. But the point is that the Income-tax Officers get so many instructions. In this connection, the question of having a refresher course is very important."

3.22. As to remedial measures, he stated that deductions to be allowed on account of entertainment expenditure which had so far been beyond the scope of Internal Audit had been brought within

their purview. He hoped that with the strengthening of Internal Audit and the introduction of the Manual of Internal Audit, they would be able to prevent mistakes of the present type.

3.23. In reply to a question, the Committee were informed that three cases of the present nature—in three different Commissioners' charges—had so far come to notice. They desired to know whether the Ministry had conducted a review to verify that such mistakes had not occurred in other cases. In a note, the Ministry have stated: "The Internal Audit Parties do check up if the entertainment expenditure is restricted to the limits prescribed. Hence no specific review of other cases was made regarding the application of this newly-introduced provision. Now that the scope of Internal Audit Parties is being extended and as the Internal Audit Parties have to check up whether the computation of the total incomes of company cases is as per the provisions of law, it is hoped that in future such mistakes may not go undetected by the Internal Audit Parties."

3.24. As regards the position of recovery from the two firms, the Ministry have stated as follows: "In one case, out of the additional demand of Rs. 16,688, a sum of Rs. 4,408 was collected by adjustments. As regards the balance, the matter is pending before the Recovery Officer." "In other case, the additional demand of Rs. 51,516 is a fraction of the total demand outstanding against the assessees of the Group, which controls this company. The Group is making payments in instalments. Till January, 1969, the instalments were Rs. 1.50 lakhs per month. In February, and March, they were to pay another amount of Rs. 7.50 lakhs. The position will be reviewed in April, 1969."

3.25. The Ministry have further stated that the assets of both the companies had been attached.

3.26. The Committee note that allowance for entertainment expenditure in certain assessments was made in three different Commissioner's charges without regard to the relevant limits stipulated in the Act. This indicates that the implications of the relevant provision were not clear to the assessing officers.

3.27. The Committee note that Internal Audit have been asked in the course of their work to check deductions on account of entertainment expenditure. Government also propose to strengthen Internal Audit and introduce a Manual of Internal Audit. The Committee trust that these arrangements would guard against such mistakes going undetected.

3.28. The Committee note that the bulk of the tax dues is still to be recovered from the assessees and that their assets have been attached. The Committee would like to have a further report regarding recovery.

Audit Paragraph

3.29. In the case of a company the department completed the regular assessment for the year 1960-61 on 22nd March, 1962 on a loss of Rs. 1,86,658 on the basis of a provisional return supported by accounts not audited by the auditors of the Company. Records revealed that the company did not furnish the final accounts for the assessment year 1960-61 and the Income-tax Officer, also, did not press for the same. The figures shown under the heading, "corresponding figures for the previous year" in the accounts for assessment year 1961-62 did not tally in all cases with the figures indicated in the provisional accounts for the assessment year 1960-61, which was the basis of the assessment for the year 1960-61. The net result of the discrepancies between the two sets of figures was inflation of the loss indicated in the provisional accounts for the assessment year 1960-61 to the extent of Rs. 1,44,109 with a corresponding under-assessment of income to the same extent. The undercharge of tax on this account was Rs. 64,849 for the assessment year 1960-61. The mistake was neither noticed by the department when the accounts for the assessment year 1961-62 were scrutinised by the department at the time of assessment made on 21st March, 1966 nor at the time of revision of the assessment for 1960-61, on 4th April, 1966 to assess the escaped income by way of hundi loans. Report regarding recovery of the tax is awaited.

[Paragraph No. 44(c), Audit Report (Civil) on Revenue Receipts, 1968.]

3.30. During evidence, the Chairman, Central Board of Direct Taxes opined that the Income-tax Officer concerned "should not have acted on the basis of a provisional return." He added: "There is no such thing as provisional return. One could file it informally just to establish the *bona fides*, but no action can be taken on that. It is no return at all."

3.31. The Committee were informed by Audit that the assessee had also filed returns showing a loss of Rs. 47,384 on 19-11-1965 and 8-3-1966, but the Income-tax Officer did not take any action on the receipt of these returns. The Committee enquired whether the as-

sessee had filed the subsequent return under section 22(3). The witness replied in the negative. He stated that the assessee had filed the 'regular return' later in response to a notice under section 148. In this return, he showed a smaller loss. The Committee enquired why the Income-tax Officer had allowed the original loss when the assessee had shown a smaller loss in the subsequent return. The witness stated: "He (the Income-tax Officer) found that there had been certain Hundi Loans........ He got all the evidence to show that they were not real but bogus. He added that amount. He also added so many other commissions and payments which the assessee (was) supposed to have received........ He was trying to make (these) additions. But after doing it, he just saw the earlier order, assuming that it must have been made properly." The witness added: "Such mistakes are very unfortunate. The Income-tax Officer should have looked into it carefully and checked it up...... But, within the time and pressure, it is not always possible to start from the beginning and check up everything."

In reply to a question, he stated: "This is a human error...... We do not doubt the *bona fides* of the officer because he has really been doing very good work." Asked whether it was not a case of gross carelessness, he stated: "We will look into the matter."

3.32. The Committee were informed by Audit that while completing the assessment for the assessment year 1961-62, the Income-tax Officer did not tally the opening balance shown in that year's accounts with the closing balance shown in the previous year's accounts.

3.33. Regarding the latest position regarding rectification and recovery, the Chairman, Central Board of Direct Taxes, stated that they had tried to revise the assessment under section 147 but the assessee had gone to the High Court to obtain an interim stay of the proceedings.

3.34. The Committee are surprised to learn that an assessment should have been made by the Income-tax Officer on the basis of a provisional return which, as the Chairman of the Central Board of Direct Taxes conceded, was "no return at all". The provisional return showed a loss of Rs. 1.44 lakhs for 1960-61 which turned out to be inflated. It is a matter for regret that this mistake could not be detected during the assessment for the subsequent year when the Income-tax Officer was expected to verify and tally the opening balances shown in the accounts accompanying the return with the closing balances shown in the previous year's accounts. Nor did the Department notice the mistake when the assessment was revised by another Income-tax Officer who was investigating some escaped

income of the assessee. The assessee himself filed a final return for the assessment year 1960-61 on 19.11.1965 and 8.3.1966, showing a loss of Rs. 47,384, but the Income-tax Officer failed to take notice of the mistake even at this stage.

3.35. From the foregoing facts, the Committee cannot but conclude that this is a case of gross carelessness at every stage. The Committee would like Government to impress on the Officers concerned the fact that they have been grossly negligent and should be warned to be careful while the Government itself should ensure proper vigilance.

3.36. The Committee note that the Department tried to revise the assessment order, but the assessee went to the High Court to obtain an interim stay of the proceedings. The Committee would like to have a further report regarding rectification recovery.

Audit Paragraph

3.37. For the assessment year 1964-65 a company debited a sum of Rs. 30,515 to the Profit and Loss account in respect of diminution in the value of assets. The under-valuation was carried out by the assessee to bring down the value of assets at par with the written down value computed by the Income Tax Officer under Section 32 of the Income Tax Act, 1961.

Though diminution of a capital asset is not a revenue expenditure and no deduction is admissible on this account from income, the Income-Tax Officer allowed the claim. The income was thus short computed by Rs. 30.515 and there was under-assessment of tax to the extent of Rs. 15,257. Report regarding rectification and recovery of the tax is awaited.

[Paragraph No. 44(e), Audit Report (Civil) on Revenue Receipts, 1968.]

3.38. The Committee enquired under what provisions of the law the assessee had revalued his assets. The Chairman, Central Board of Direct Taxes stated: "What the assessee did was to bring the depreciated value of the assets in his books in line with that admissible under the Income-tax Act." Although there was no provision in law specifically permitting an assessee to revalue his assets for bringing it in line with Income-tax records, the Income-tax Officer had allowed it "in equity". In reply to a question, he stated: "Personally, I feel this is a case where there is a good deal of force with which we can justify the assessee's claim."

3.39. Expressing his views on the Audit paragraph, the witness stated that the depreciation of Rs. 30,515 "was certainly due in equity

to the assessee and had already been given." The Audit objection was that the assessee company "had claimed" it a second time through the Profit and Loss Account. This was a mistake.

3.40. Explaining the circumstances in which the mistake took place, the witness stated that according to the Income-tax Officer "while dictating the assessment order, he added the amount of Rs. 30,515. But the typist did not mention this allowance in the order. He made this mistake because (the) assessment was completed on the last day of the month of March." In extenuation, he added: "You must know the terrific amount of strain on our Income-tax Officer then and their anxiety to complete the work. In fact their duty is to see that all the legal formalities are fulfilled so that the assessee is not able to get them quashed. He dictates an order and I am sure one does not have the time to scrutinise everything." Asked why the assessment order was not made earlier, the witness stated: "There were not enough officers." He further stated: "The amount of revenue has increased several-fold in the last ten years but the staff was not increased correspondingly...... The law has (also) become much more complicated and one has to take a realistic view of these things." In reply to a question whether the case was checked by Internal Audit, the witness stated that the matter was beyond the scope of Internal Audit.

3.41. The Committee enquired whether the case had been looked into. In a note, the Ministry have stated: "The case records were scrutinised further and it has been found that the debit item amounting to Rs. 30,514 was marked for disallowance by the predecessor of the Income-tax Officer, who actually made this assessment overlooking that this item had to be disallowed. The successor was new to the charge and seems to have been tempted to complete the assessment on the basis of the materials already on record in this case. Evidently, he was careless, but no *mala fide* seems to be involved. The Income-tax Officer has already been warned to be careful in future."

3.42. As to the latest position regarding rectification and recovery, the Ministry have stated: "The assessment has been revised under section 154, raising an additional demand of Rs. 12,442 (as against Rs. 15,257 pointed out by Audit). The reduction in the amount is due to reduction in the value of the company on appeal. The amount has not been collected yet."

3.43. The Committee observe that, due to what the Department had admitted to be carelessness, there was in this case short levy

of Rs. 12,442 which has not so far been recovered. The Committee trust that efforts will be made by the Department to recover this amount.

(c) INCORRECT COMPUTATION OF CAPITAL

Audit Paragraph

3.44. Super Profits Tax Act, 1963, provides for the levy of tax on companies making large profits in relation to capital computed under that Act. The assessees are allowed a standard deduction from the profit an amount equal to 6 per cent of the capital of the company or Rs. 50,000 whichever is greater. For the computation of the capital for this purpose, in addition to paid up capital, reserves are also included.

It was noticed that in certain cases, the assessees were allowed to include in the computation of the capital the credit balance of the Profit and Loss Account, the provision for taxation and provision for payment of dividend. On the basis of the criterion laid down in this regard by the Supreme Court in the case of C. I. T. Bombay *Vs.* Century Spinning and Manufacturing Co. Ltd. the credit balance in Profit and Loss Account, provision for taxation and for dividend proposed should not be treated to constitute a reserve for inclusion in the computation of the capital. Accordingly, standard deduction at 6 per cent of the capital was allowed on a larger amount than admissible under the Act resulting in under-assessment of Super Profits Tax, in four cases to the extent of Rs. 1,10,516 for the assessment year 1963-64. Report regarding rectification and recovery of the tax is awaited.

[Paragdaph 54(b) of Audit Report (Civil), on Revenue Receipts, 1968].

3.45. The Committee were informed by Audit that a clarification regarding computation of capital had been given by the Board in their circular dated 28-10-63.

3.46. In para 1.234 of their 46th Report (Third Lok Sabha), the Public Accounts Committee (1965-66) had suggested that the scope of Internal Audit should be extended so as to cover assessments under Super Profits Tax and Sur-tax Assessments. The Committee were informed that suitable instructions had been issued by the Board in their circulars of March, 1966 and June, 1966 to the effect that the check of calculation and computation of capital should be entrusted to Income-tax Officers.

3.47. The Committee enquired whether the assessments in the cases mentioned in the Audit paragraph were checked by Income-tax Officers. In their reply, the Ministry have stated:

"The assessments in question do not seem to have been checked by the Income-tax Officer personally. He has been asked to be more careful in future."

3.48. As to rectification|recovery, the Ministry have stated:

"The assessments in these cases have been revised, raising additional demand of Rs. 52,481.40, Rs. 4,070,50, Rs. 45,592.80 and Rs. 6,328.60, which have since been recovered."

3.49. The Committee regret that despite instructions given by the Board in 1963 as to what should be reckoned as capital for purposes of the levy of Super Profits tax, 'provision' made by certain companies for taxation, dividend etc. was reckoned as part of capital. This resulted in depressing the amount of profits in these cases and a consequential under-assessment of tax, which has since been recovered. The Committee trust that the Board will take adequate steps to safeguard against the recurrence of such under-assessments, by ensuring that innstructions issued by them are strictly complied with by assessing officers.

(d) INCORRECT COMPUTATION OF DEPRICIATION AND DEVELOPMENT REBATE

Audit paragraph

3.50. A company carrying on business in mining of copper and kayanite ores and manufacture of copper and brass incurred an expenditure of Rs. 4,60,944 on prospecting and development of mines in the previous year relevant to the assessment year 1960-61. The expenditure was capitalised by the company and though the item was only an intangible asset, the Income-tax Officer wrongly allowed on it development rebate of Rs. 1,15,236 for the assessment year 1960-61 and depreciation of Rs. 3,02,993 for the assessment years 1960-61 to 1962-63 resulting in an under-assessment of tax of Rs. 2,06,771. The Ministry have intimated that action has been initiated to rectify the mistake. Report regarding rectification and recovery of the tax is awaited.

[Paragraph 45 (a) of Audit Report (Civil), on Revenue Receipts, 1968].

3.51. The Committee desired to know the circumstances in which the Income-tax Officer had allowed depreciation and development rebate on capitalised expenditure. In their reply, the Ministry have stated:

> "The Income-tax Officer did not understand the true nature of the asset. There was an error of judgement. The officer did not allow the depreciation and development rebate on prospecting and development expenses as these were fictitious assets. The cost of mine shafts and "Surface Diamond Drilling" were shown separately and the Income-tax Officer erred in considering both these items as representing "cost of machinery."

(i) In the assessment year 1960-61, the depreciation and development rebate were not allowed by the officer on Rs. 7,56,991 representing prospecting and development expenses. However, he allowed depreciation and development rebate on Diamond Drilling, the cost of which was Rs. 4,60,944. In the two subsequent assessment years 1961-62 and 1962-63, depreciation was allowed on the Written Down Value (WDB) of "Diamond Drilling." In these two subsequent years, there were further additions of Rs. 4,42,765 and Rs. 2,66,779 on "Diamond Drilling". No depreciation and development rebate were allowed on these additions on the ground that these were fictitious assets.

(ii) The mistake occurred as, in the statement of depreciation, expenditure incurred was shown as "cost of Diamond Drilling". As a matter of fact, the amount represents cost of Diamond bits and wages paid to labour. The cost of machines to which the bits are attached was shown separately. From the way the items were shown in the statement of assets, it was not clear whether the amount debited in the account of Diamond Drilling represented the cost of machines also. It is under the above circumstances that the mistake occurred in having allowed depreciation and development rebate in the assessment year 1960-61.

(iii) In the assessment years 1961-62 and 1962-63, the Income-tax Officer did examine carefully the nature of the assets in respect of the additions of Rs. 4,42,765 and Rs. 2,66,779 claimed as "Diamond Drilling", and held that no depreciation could be allowed as the same were fictitious assets. But the Income-tax Officer allowed depreciation on the Written Down Value of the assets, which was brought forward from the previous years. He did this as under the

Law, the Written Down Value having been once determined in the previous years could not be changed without revising the earlier assessments, holding that these were assets on which depreciation and development rebate was not allowable. Moreover, in a case like this, where each assessment is a challenge to the assessing Officer, it was obvious that the Income-tax Officer, was engrossed in the examination of various other claims made."

3.52. As to the particulars furnished by the assessee for the allowance of depreciation and development rebate, the Ministry have stated:

"In the statement of "Plant and Machinery installed" during the period 1-4-1948 to 31-12-1958, cost of Surface Diamond Drilling was included by the assessee company for depreciation purposes."

3.53. The Committee enquired whether any depreciation and development rebate was allowed on the capitalised expenditure in the assessment years subsequent to 1962-63, and if so, whether the relevant assessments had been rectified. In their reply, the Ministry have stated as follows:

"For the assessment year 1963-64, no depreciation and development rebate were allowed in respect of the capitalised expenditure relating to "Surface Diamond Drilling." The assessment for 1964-65 is pending."

3.54. The Committee then desired to know whether any depreciation and development rebate was allowed on the capitalised expenditure in the assessment years prior to 1960-61; and, if so, whether the relevant assessments had been rectified. The Ministry have stated as follows:

"Depreciation and development rebate were allowed on the capitalised expenditure in the assessment years 1957-58 to 1959-60. These assessments have not been rectified as, under the law, no action can be taken under section 154 or 147(b) due to limitation."

3.55. The Committee enquired whether all the three assessments were completed by the same Income-tax Officer or by different Income-tax Officers. The Ministry have stated:

"The assessment for 1960-61 was completed by one officer and the subsequent assessments for 1961-62 and 1962-63 were

completed by another officer (this officer disallowed depreciation and development rebate on the additions shown on Diamond Drilling but inadvertantly allowed depreciation on the Written Down Value of the items claimed as assets, in the earlier years)."

3.56. The Committee then desired to know whether the assessments were checked in internal audit or whether the draft assessment orders for the three years were shown to Inspecting Assistant Commissioner for approval. In their reply, the Ministry have stated:

"The assessments for 1960-61 and 1961-62 were checked by the Internal Audit Party. The assessment for 1962-63 was not checked by the Internal Audit Party. The assessment order for 1960-61 was shown to the Inspecting Assistant Commissioner for approval. The position regarding subsequent assessments for 1961-62 and 1962-63 is being ascertained."

357. During evidence, the Chairman, Central Board of Direct Taxes stated that the case had occurred in a Special Circle. While making assessments for 1961-62 and 1962-63, the Income-tax Officer "disallowed the development rebate" and stated that "the expenses could be claimed as revenue expenditure". But what he did not do was to take the matter to its logical conclusion by disallowing also the depreciation on the previous Written Down Value. The Committee desired to know the date of purchase shown in the return. The Chairman, Central Board of Direct Taxes stated: "Surface Diamond Drilling is there throughout the year."

3.58. As to the measures taken to prevent the recurrence of such mistakes, the witness stated that they had issued a circular for checking up the accounts for 1964-65, 1965-66 and 1966-67 in all cases above Rs. 50,000. They had also asked for a special check-up of depreciation allowance and development rebate.

3.59. As a result of strengthening of internal audit and extension of the scope of their checks, it would be possible to detect such mistakes. Internal Audit Parties would ensure that a continuous check was exercised.

3.60. The following table shows the number of cases in which mistakes in computing depreciation and development rebate admissible were pointed out in Audit and the underassessments of tax resulting therefrom:

Year	No. of cases	Under-assessment in lakhs of Rs.
1963	574	29.13
1964	678	33.83
1965	2084	75.97
1966	979	368.42
1967	892	97.85
1968	630	41.94

3.61. The Committee drew the attention of the Ministry to para 1.68 of their 46th Report (Third Lok Sabha) where, cases of this type had been commented upon and enquired whether a review of the assessments had been made. In reply it has been stated that all assessments subject to the prescribed limits relating to the years 1961-62 to 1963-64 were covered by a review. In regard to review for subsequent years, the Ministry have stated that issues relating to depreciation and development rebate had been covered in the Report on 'Rationalisation and Simplification of Tax Structure' and Government is seized of the matter. A review was, therefore, "supplementary" and was not being taken up immediately.

3.62. The Report on Rationalisation and Simplification of Tax Structure contains the following observations in regard to depreciation and amortisation:

"There can be little doubt that in computing profit all true costs, whether immediately incurred or not, should be allowed for. Otherwise the incidence of taxation will become un-even in unintended ways and will discourage enterprise and growth. It is therefore, necessary that all expenditure legitimately incurred for the purpose of the industry or business should be allowed as a deduction either as revenue expenditure or otherwise, mainly through depreciation. At present a number of elements of real cost fall between two stools. Even now all expenditure is rightly classified under two broad heads, revenue and capital. There is no difficulty about revenue expenditure. But not all capital expenditure qualifies for depreciation only capital expenditure which results in physical assets (other than land) does so. But a number of types of 'capital expenditure', rightly so classified, do not result in such identifiable physical assets. Nevertheless they are in the generality of cases necessary and legitimate. I give below a list as exhaustive as I can make it:

1. Expenses incurred before setting up of a business—

   (i) Preliminary expenses of companies including expenses on processing a foreign collaboration agreement, stamp duty thereon, etc.

   (ii) Pre-operative expenses on Administrative and accounts departments and such other expenses which do not directly relate to the erection of building, plant and machinery, etc.

   (iii) Expenses on issue of capital. For example, expenses incurred on printing of prospectus, payment of underwriting commission and brokerage, etc.

   (iv) Expenses on market surveys before launching a new business.

2. Expenses on shifting of a factory.

3. Expenses on renovation of rented business premises.

4. Payment for goodwill.

5. Expenses for construction of railway sidings.

6. Expenses incurred on construction of roads or for maintenance of roads on land not belonging to the tax-payer (*e.g.* roads constructed in sugar factories for facilitating the movement of sugar-cane).

7. Abortive expenses on drilling holes, developing mines, prospeting for mines, etc.

Any expenditure incurred ostensibly for these purposes but which is not germane to the business and industry (as indeed any other such expenditure) should, of course, be ignored. Once expenditure under any of the above heads is accepted as legitimately incurred for the purpose of the business or industry, provision should be made to deduct them over a period of years in the computation of profits. To distinguish these deductions from depreciation on physical assets, this may be called amortisation over a suitable period. Meticulous examination of each head to determine an appropriate period of amortisation is not really necessary or worthwhile. One of two broad groups, say, five years and ten years, should suffice."

3.63. The Working Group on Direct Taxes Administration set up by the Administrative Reforms Commission also dealt with the subject. Extracts from their Report are reproduced below:

"The calculation of depreciation and the conditions prescribed therefor are so complicated that the Income-tax Officers have been found to have committed the largest number of mistakes in these calculations. The total revenue in under-assessments relating to depreciation alone as reported by Public Accounts Committee and further found on review by the Department amounted to nearly Rs. 240 lakhs during the period 1962 to 1967. That the Government itself is aware of this fact is clear from the Budget for 1966-67: Finance Minister while removing the Budget for 1966-67:

'The rate schedule of depreciation allowable in respect of buildings, furniture, plant, machinery etc., has become highly complicated. It is necessary to review the position in the light of the recent development and to make appropriate changes so that the schedule may be both rational and simple'.

"A step in the direction of rationalisation would be to replace the existing rates by introducing consolidated rates on an industry-wise basis. The existing rates vary from 2½ to 40 per cent."

"The re-grouping on the basis of industry may be done with reference to the groupings given in the Industrial Development and Regulation Act and in consultation with the trade and professional bodies, such as, the Federation of Chambers of Commerce and Industry and Institute of chartered Accountants............The present method of allowing petty depreciation on these items is time consuming and profitless."

"One of the anomalous provisions in the Income-tax Act is that the expression 'plant' is defined to include books so that depreciation is being allowed in the case of books at the general machinery rate. It is high time this anomaly was removed and purchase of books allowed as a revenue expenditure where such purchase is proved to be wholly, exclusively and necessarily for the business or profession."

3.64 The Committee note that due to "an error of judgment", allowance was made for development rebate and depreciation on certain intangible assets of a company, though such allowance was inadmissible in terms of the Act. This resulted in an under-assessment to the tune of Rs. 2.06 lakhs. What is surprising is that this error escaped the notice of Internal Audit who checked two of the three relevant assessments as also of the supervisory officer who had approved one of the assessments.

3.65 Over the years Audit have been repeatedly bringing to notice mistakes in computation of depreciation and development rebate.. The Committee would in this connection like to invite attention to the data at page 68 of this Report. The Committee had also drawn attention to this matter in para 1.68 of their 46th Report (Third Lok Sabha) and in pursuance of the observations in that Report, a special review of the assessments was also made. It is, however, apparent that the position has not been substantially remedied. Basically it would appear that the provisions in the Act in regard to depreciation and development rebate need to be rationalised. The Committee note that in regard to depreciation, the Working Group of the Administrative Reforms Commission had, in the interests of rationalisation, suggested replacement of existing rates by consolidated rates on an industry-wise basis, in consultation with trade, professional bodies etc. The report on 'Rationalisation and Simplification of Tax Structure' also draws attention to the fact that certain items of capital expenditure though "necessary and legitimate" are not being reckoned while determining profits, resulting in the incidence of taxation becoming "uneven in unintended ways" and in the process discouraging "enterprise and growth".

3.66 The Committee would like Government to consider expeditiously these and other suggestions made for the rationalisation of the provisions of the Act bearing on depreciation and development rebate so that a relatively simple and equitable dispensation could be worked out.

Audit Paragraph

3.67 In another case development rebate of Rs. 50,000 was allowed on a new asset installed by a company for the assessment year 1964-65. This asset was sold to a Government undertaking in the previous year relevant to the assessment year 1965-66. The development rebate reserve of Rs. 37,500 was, however, written back by the assessee in the accounts of the company in the previous year relevant to the assessmnet year 1965-66 and utilised for distribu-

tion of dividends. The omission to withdraw the development rebate resulted in under-assessment of tax of Rs. 25,000. Report regarding rectification and recovery of the demand is awaited.

[Paragraph No. 45(d)(ii), Audit Report (Civil) on Revenue Receipts, 1968]

3.68 During evidence, the Chairman, Central Board of Direct Taxes clarified that in terms of the provisions of the Income-tax Act, development rebate granted on an asset was not required to be withdrawn if the asset was sold or transferred to Government. It was, however, required to be withdrawn in case the asset was subsequently sold or transferred to a private party. An assessee getting a development rebate was required to create a reserve of 75 per cent of the rebate by charge on the Profit and Loss Account. This reserve was to be utilised by the assessee for the purpose of business and not for distribution by way of dividend. If, therefore, the development rebate reserve created was credited to the Profit and Loss Account on sale of an asset, the development rebate originally allowed was required to be withdrawn, irrespective of whether the asset had been sold or transferred to Government or a private party. In the present case, the development rebate reserve had been written back to the Profit and Loss Account and utilised for distribution of dividends. The development rebate should have been therefore withdrawn.

3.69 As to the rationale behind the above legal provision, the witness stated: "This is for the retention of the capital in business and to ensure that the benefit given by Government in the form of development rebate is not frittered away." The Committee desired to know whether in a case where the entire plant and machinery were acquired by Government, there was any justification for development rebate reserve being kept intact. The witness stated: "We will review the position....perhaps in a case where the entire plant and machinery have been acquired, what you said would have some force......" The Finance Secretary added: "Where the business has come to an end, whether there is any validity in continuing this reserve has to be gone into."

3.70 The Committee desired to know whether the Board had taken any action to dispel the general impression in the mind of the public that where plant and machinery were sold to Government, the development rebate was not to be withdrawn even if the reserve was transferred to the Profit and Loss Account. The Chairman, Central Board of Direct Tax stated: "We had issued departmental

instructions. I agree that it should be a public circular, We will issue a public circular."

3.71 As to rectification of demand, the Ministry have stated: "The assessment has been revised under section 154 of the Income-tax Act, 1961. As a result of revision of assessment, there is no tax effect, as the business loss originally computed was reduced." The Committee, however, understand from Audit that the assessment will have a tax effect of Rs. 25,000 for the assessment year 1965-66.

3.72 The Committee would like Government to dispel any impression in the minds of the public that a development rebate allowed in respect of an asset sold to Government will not be withdrawn even if the party credits to the Profit and Loss account the reserve which he had originally created in order to qualify for the grant of rebate. Another question that Government should consider is whether the party would forfeit the rebate when his entire assets are sold to Government and the reserve cannot stand as such in his books.

3.73 The Committee note from the information furnished by Audit that the failure to withdraw the demand has resulted in an under-assessment of Rs. 25,000 in 1965-66.

Non-withdrawal of development rebate

Audit Paragraph

3.74 A registered firm to which development rebate of Rs. 1,28,597 was allowed in the assessment years 1958-59 to 1960-61 was dissolved in January, 1960 and a new firm was formed. The assets in respect of which development rebate was allowed were brought into the business of the new firm. The assessments of the old firm for the years 1958-59 to 1960-61 were not, however revised to withdraw the development rebate allowed to it.

The Ministry have replied that the Appellate Assistant Commissioner had held in the case that there was no transfer but was only distribution of assets on the dissolution of the partnership and the provisions of the law relating to withdrawal of development rebate on transfer of assets within the prescribed period are not applicable to this case. If this position is legally correct it would lead to avoidance of tax liablility unless the law is suitably amended.

[Paragraph No. 57, Audit Report (Civil) on Revenue Receipts, 1968].

3.75 One of the conditions for the allowance of development rebate is that the assets in respect of which the rebate is allowed should not be sold or otherwise transferred by the assessee to any person other than Government within a period of eight years from the end of the year in which they were acquired. In the case cited in the Audit paragraph, a registered firm was succeeded by another registered firm to which the assets of the old firm were transferred. Since the assets were transferred with a period of eight years, from the end of the year in which they were acquired the development rebate already allowed should have been withdrawn. The Committee enquired why this was not done. The Chairman, Central Board of Direct Taxes stated that some Income-tax Officers had withdrawn development rebate on a change in the constitution of firms. It was strongly represented by several Chambers of Commerce that withdrawal of development rebate in such a case was wrong.

3.76 The Committee desired to know whether the legal position, as enunciated by the Appellate Assistant Commissioner was correct. The Chairman, Central Board of Direct Taxes stated:

"The law will be examined in the light of the Supreme Court judgement and the observations made by the Supreme Court in the Dewas Cine Corporation (68 ITR 240). There they have pointed out that the expression 'sale' is not defined in the Income-tax act. The adjustment of the rights of the partners is not a transfer. Following from that, when this case came, we examined it and we came to the conclusion that the view taken by the Appellate Assistant Commissioner was right. We have also referred the matter to the Ministry of Law in another case and they have also agreed to it. Therefore, we are thinking of issuing a public circular."

3.77 The Committee have been informed by Audit of the following position:

"(i) Under Section 34(3)(a) of the Income Tax Act, 1961, the reserve created by an assessee should be utilised by him for eight years. In the case under review, the assessee who created the reserve, had ceased to utilise it with the dissolution of the old firm and a new assessee had become the owner of the assets and the reserve. The conditions

stipulated in the Act have not therefore, been complied with."

"(ii) The Act specifically provided for the following circumstances under which the development rebate already allowed, need not be withdrawn, though the business carried on by the assessee is succeeded to by another assessee:

(a) when the firm is succeeded by a company;

(b) when one company is succeeded by another company.

The case of a firm succeeding a firm as in this case is not provided for in the Act."

"(iii) The old firm was dissolved on 31-12-1959 and a new firm with some new partners was formed on 2-1-1960. There was thus no business utilising the assets on which the development rebate was given and the reserve so created on 1-1-1960, thus creating a break in the continuity of business."

"(iv) The Supreme Court decision referred to by Government relates to an entirely different issue *i.e.*, whether distribution of assets to its partners on dissolution of partnership tantamounts to 'Sale' for the purpose of Sec. 10(2) (vii) of the Income Tax Act, 1922.

"(v) Under the law of partnership a firm has no legal existence apart from its partner. Under the Income Tax law, a partnership constitutes a distinct assessable entity apart from its partners. In the case under reference, the assets in respect of which development rebate was allowed on dissolution of partnership on 31-12-1959 was stated to have been taken over as his representing a Hindu undived of the partners who was representing a Hindu undivided family as its 'karta'. Immediately thereafter it appears there was a partition in the Hindu undivided family and the erstwhile karta got as his share of the property the assets and the development rebate reserve created in the old firm and invested it in a new firm created on 2-1-1960. There was thus a transfer in the ordinary sense of the term."

3.78 One of the conditions laid down in the Income-tax Act is that a development rebate allowed to an assessee in respect of his assets will be withdrawn if there is a transfer of assets to parties other than Government. The Committee note that in this case the old firm was dissolved on 31-12-1959 and a new firm with some new partners was formed on 2-1-1960. The view held by the Department is that there was not transfer but only a distribution of assets on the dissolution of the partnership and that, therefore, the provisions of the law relating to withdrawal of development rebate on transfer of assets would not be attracted. The Committee, however, see force in the points raised by Audit in this case as reproduced at pages 74-75 of this Report. They would, therefore, like Government to obtain specific legal opinion on this case with reference to all the relevant facts so as to decide whether there was a transfer of assets calling for the withdrawal of the development rebate.

(e) Incorrect exemptions or excess reliefs

Audit Paragraph

3.79 Under the Income-tax Act, dividend income received by an assessee from a new industrial undertaking is exempt from tax to the extent it is attributable to the exempted profits of the undertaking. In the case of an assessee, rebate which had been allowed initially on 23rd February, 1963 on Rs. 3,61,950 of dividend was not revised even though the Income-tax Officer assessing the new industrial undertaking had intimated on 25th March, 1965, the correct amount qualifying for rebate to be Rs. 2,37,690. This led to the non-withdrawal of excess rebate of Rs. 78,284 for assessment year 1962-63.

[Paragraph 48(a) of Audit Report (Civil) on Revenue Receipts, 1968]

3.80 The Committee were informed by the Ministry that the case was not checked in Internal Audit.

3.81 The Committee enquired whether the Ministry had ordered a review to ensure that the assessments of other share-holders of the company were also suitably revised. In their reply, the Ministry have stated:

"A review was made of the assessments of the other share-holders in Gujarat Charge (Ahmedabad) and revision made in all the cases of this charge. Necessary instructions were sent on 25th March, 1965 to the Income-tax

Officers assessing the shareholders outside Ahmedabad to review and revise the assessments."

3.82 As to the position regarding recovery, the Ministry have stated:

"The demand of Rs. 31,065 is being adjusted against refunds due to the assessee for the assessment years 1964-65 and 1965-66 which are in excess of the figure of Rs. 31,065".

3.83. The Committee observe that there was an omission on the part of an assessing officer to take cognizance of intimation received from another officer who assessed the company's income, as a result of which relief originally allowed to an assessee shareholder on dividend income derived from that company turned out to be excessive. The Committee note that the amount has since been recovered. In the Committee's opinion, the case underlines the need for a coordinated approach to assessments. The Committee would like to be informed whether action has been taken to rectify the excess relief given to other shareholders of the company.

Audit paragraph

3.84. Where a managing agent of a company shares the managing agency commission with third parties under any agreement, such agent and each such party shall be chargeable only on the share to which such agent or party is entitled to under the agreement.

In one case it was noticed, that a company had, under an agreement, agreed to share with third parties the managing agency commission receivable from a managed company which carried on business in Pakistan. Accordingly the assessee company was assessed to tax only in respect of the net commission receivable by it (i.e. gross commission less amount payable to co-sharers). The company. was also entitled to relief under the agreement for avoidance of double taxation with Pakistan in respect of its income taxable in both India and Pakistan. While determining the relief allowable to the company in respect of the managing agency commission, the department, however, calculated the relief with reference to the gross managing agency commission (including the portion payable to co-sharers) instead of the net commission which was assessed to tax in India as its income under the Income-tax Act. This led to excess relief having been allowed to the assessee to the extent of Rs. 2,85,032 for the assessment years 1956-57 to 1962-63, with corresponding under-charge of tax to the same extent.

Paragraph 48(c) of Audit Report (Civil) on Revenue Receipts, 1968).

3.85. During evidence, the Chairman, Central Board of Direct Taxes stated that the managed company was a cotton mill in Pakistan. The head offices of both the managing agents (the assessee company) as also the managed company were in India. The assessee company had entered into agreements between July, 1944 and May, 1946 for sharing the managing agency commission with two groups of companies (described hereinafter as Groups 'A' and 'B'). In terms of the agreements, the assessee company was to receive 13 annas in the rupee less 10 per cent group 'A', 10 per cent of 13 annas in the rupees and group 'B' 3 annas in the rupee. The consideration for the sharing of the managing agency commission with groups 'A' and 'B' was that they would hold shares in the managed company whereby the managing agents would be enabled to retain their managing agency. Upto and inclusive of the assessment year 1955-56, Groups 'A' and 'B' were assessed in Pakistan separately on their share of the managing agency commission. In January, 1956, Groups 'A' and 'B' obtained legal opinion according to which they were not liable to tax in Pakistan inasmuch as (a) the agreement for the sharing of the commission between the parties was entered into in India; (b) the services under the Agreements were rendered in India; and (c) the managing agency commission was also received in India. The Pakistan Income-tax authorities accepted this opinion and ceased to tax Groups 'A' and 'B' on commission from 1956-57 onwards.

3.86. The double income-tax relief in the present case was governed by the Double Taxation Avoidance Agreement with Pakistan read with the decision of the Two-man Committee—comprising a representative each of India and Pakistan. According to Two-man Committee formula, 50 per cent of the managing agency commission was allocable to the country in which the head office of the managing agency was situated and the remaining 50 per cent was to be allocated in proportion to the income of the managed company arising in each country. In the present case, the entire income of the managed company arose in Pakistan. Accordingly, India was entitled to tax only 50 per cent of the managing agency commission and was to grant double income-tax relief in respect of the 50 per cent taxable in Pakistan. Under the Indian assessment of the assessee company, the whole of the managing agency commission was taken into account, but under section 12A of the Indian Income-tax Act, 1922, the assessee company was charged to tax only on the share to which they were entitled under the sharing agreement with Groups 'A' and 'B'. In accordance with the Two-man Committee

formula double income-tax relief was granted in respect of 50 per cent of the managing agency commission allocable to Pakistan. The percentage of 50 per cent had been applied to the whole of the managing agency commission before giving effect to the relief under section 12A of the 1922 Act. Thus, out of the total managing agency commission of Rs. 1,60,000, Rs. 43,000 had been paid to Groups 'A' and 'B'. Out of Rs. 1,17,000, which had been taxed both in India and Pakistan, the Indian Income-tax authorities gave relief to the assessee company in respect of Rs. 80,000 taxed in Pakistan.

3.87. According to the view held by Audit, the income eligible for double income-tax relief should have been calculated by applying the above percentage of 50 per cent to the managing agency commission as reduced by the shares of Groups 'A' and 'B'. The matter came before the Board whose members were found to be evenly split on the question. The matter was then referred to the Ministry of Law who gave the following opinion:

> "The doubly taxed income is Rs. 80,000 and not Rs. 1,17,000 and relief in India has, therefore, to be given in respect of the Pakistan tax on Rs. 80,000 and that relief must be given to the (assessee company) alone."

3.88. The witness further stated that the "additional information" which they had got from Calcutta "rather put an end to the whole" matter. According to the decision given by the Pakistan Supreme Court in the case of Octavious Steel Company, the whole of the managing agency commission in such cases should be viewed as arising in Pakistan and that, to that extent, the decision of the Two-man Committee should be construed as void. The witness added: "It seems that the Pakistan authorities have reopened many of (the) cases which have been taxed only to the extent of 50 per cent and will be demanding tax from these people and in case of non-payment attaching their assets." In the light of this, "it is likely that they (the Pakistan authorities) will hereafter want the entire amount (of Rs. 1,60,000) to be taxed in Pakistan. In such a case, there would be no question of double tax avoidance."

3.89. In reply to a question, the witness added: "I must also submit that while we on our part have been wanting to have a meeting of the Two-man Committee, we have not been able to get Pakistan agree to such a meeting. The last meeting was held in 1963 and

we have not been able to arrange a meeting of this Committee for the last six years. We have nominally got a representative ond they have got a representative; that is all."

3.90. The Committee were informed by Audit that certain facts had not been taken into account by the Ministry of Law. They had, therefore, asked the Ministry of Law to examine the matter further. The matter was again under consideration of the Ministry of Law.

3.91. The Committee enquired whether the Pakistan authorities had not taxed that part of the managing agency commission which had been paid to Group 'A' and 'B'. The Chairman, Central Board of Direct Taxes stated that the Pakistan authorities had taxed indirectly in the sense that they had taxed Rs. 80,000 in the hands of the assessee company. In reply to another question whether the assessee company had borne the brunt of the entire tax attributable to 50 per cent of the total managing agency commission, the witness replied in the affirmative.

3.92. The Committee desired the Ministry to clarify whether in the earlier assessment years, the relief granted to the assessee company was with reference to the total gross managing agency commission (including the portion payable to co-sharers) or the net commission which was assessed to tax in India as its income under the Income-tax Act. In a note, the Ministry have stated: "The assessee company derives income from several sources, including its managing agency of the cotton mill of Pakistan. In its assessments upto that for 1955-56, the assessee company had been allowed, against its managing agency income from Pakistan, 50 per cent of the managing agency commission, as reduced by the remuneration payable, under an agreement, by the assessee company to Groups 'A' and 'B'. For the assessment years 1956-57 to 1962-63, however, the Income-tax Officer allowed 50 per cent of the commission as it stood before deduction of the sums payable to the said two parties."

"Audit does not dispute the principle that under the Double Taxation Avoidance Agreement with Pakistan, read with the relevant decisions of the Two-man Committee, 50 per cent of the income from the managing agency commission had to be deducted in the assessment of the assessee company in India. The only contentious point is whether in determining the income, on which the agreed percentage of 50 per cent is to be applied, the amounts payable by the assessee company to the two Indian parties, *viz.*, Groups 'A' and 'B' should have been excluded. Audit point is that since the income

assessable in India cannot be determined without such exclusions, the percentage also will have to be applied on the income as reduced by the payments to these parties. In other words, they feel that only the double taxed income should have been entitled to the relief at the rate of 50 per cent."

"In the course of the evidence before the P.A.C. in their sitting on January 20 and 21, 1969, the Ministry has already sought to clarify that the relief @ 50 per cent has to be allowed in respect of the net managing agency income assessable in Pakistan and that any deductions allowed under section 12A of the Income-tax Act, 1922 for payments made in India to parties in India will have no bearing on the determination of such net income in Pakistan."

3.93. The Committee note that a managing agent in this case was sharing his income arising in Pakistan with two other parties. Under the double taxation relief formula, he was allowed relief in respect of 50 per cent of the gross commission without deducting the sums payable to the other parties. The Committee note that the Ministry of Law have opined this to be correct but that at the instance of Audit the matter is being re-examined in the light of certain facts which were not taken into account when the Ministry of Law first gave their opinion. The Committee would like to await the revised opinion of the Ministry of Law.

3.94. The Committee would like to observe that the Double Tax Avoidance Agreement as also the Two-Man Committee formula, under which India is entitled to tax 50 per cent of the income of Indian residents arising in Pakistan are in the nature of bilateral international agreements, which are binding on both the countries. The Committee note that the Pakistan Government have since decided to tax the whole of the income derived from managing agency commission. The Committee would like the Government of India to take up the matter with the Government of Pakistan.

(f) Incorrect computation of tax

Audit Paragraph

3.95. Under the provisions of Income-tax Act (prior to its amendment by Finance Act, 1965), a company whose shares to the extent of 50 per cent or more were held by a company in which the public are substantially interested or and by its directors was not to be considered as one in which the public are substantially interested. Consequently the rate of tax payable by such companies was higher than that payable by companies in which the public were interested.

Two companies, were wrongly treated as companies in which the public are substantially interested even though they did not satisfy the above requirement, leading to under-assessment of super-tax to the extent of Rs. 1,42,002 for assessment year 1964-65.

[Paragraph 49(a) of Audit Report (Civil) on Revenue Receipts, 1968].

3.96 During evidence, the Chairman, Central Board of Direct Taxes stated: "Normally it stands to equity that such a company which is treated as a subsidiary of a public company should also be treated as a company in which the public are substantially interested.... But, under an extreme interpretation of the law, some Income-tax Officers felt that they were not companies in which the public were substantially interested and that view was confirmed by the Appellate Tribunal. This position was (However) set right by the Legislature in 1965 explaining in the law itself that the company in which a public company holds 50 per cent of the voting power will be deemed to be a company in which the public are substantially interested." In reply to a question, he stated that though the Board had considered the Audit objection as correct, it could not be said that the law (before its amendment by Finance Act, 1965) was "all that clear". A number of companies had taken the matter to the High Court. The Board were moving along with the assessees to have an early hearing. In reply to a question, the witness stated that besides the two companies referred to in the Audit paragraph, a number of other companies were also affected by the doubtful legal position.

3.97 Asked whether the Department would, after the High Court's decision, take necessary steps to mete out uniform treatment to all assessees, irrespective of the fact whether they had preferred a claim or not, the witness replied in the affirmative.

3.98. As regards rectification recovery of the demands in the two cases mentioned in the Audit Paragraph, the Ministry have stated as follows:

Case 1:

"The assessment has been revised under section 154, raising an additional demand of Rs. 51,982 as against Rs. 90,956 mentioned by the audit. The difference is due to the reduction in total income by the A.A.C in appeal. A sum of Rs. 22,105 has since been adjusted against the refunds due to the assessee. The balance is being recovered. The assessee has been allowed time for payment till the

end of December, 1958 or till the disposal of the appeal before the A.A.C. for the assessment year 1964-65, whichever is earlier."

Case 2:

"The assessment has been revised under section 154, raising an additional demand of Rs. 1,84,571 as against Rs. 51,046 mentioned by audit. The assessee has claimed that certain refunds are due to them. These refunds are being determined by the C.I.T. The amount of Rs. 1,84,571 will be adjusted against the refund, if any due."

3.99. The Committee have been apprised of the following position by Audit:

(i) The assessments in both the cases were completed after issue of instructions by the Board on the Finance Act, 1965 wherein they had clarified the significance regarding amendment of Section 2(18) of Finance Act, 1965, and the position of companies prior to amendment by Finance Act, 1961.

(ii) The Ministry had intimated the Committee in reply to para 45(a) of Audit Report, 1966 that they had issued instructions to all Commissioners to review all cases where companies were wrongly treated as companies in which the public were sub-stantially interested. In one of the cases the mistake occurred after the issue of the above instructions.

(iii) The mistake occurred in Company Circles where the number of assessments expected to be completed is comparatively few and where officers have specialised knowledge of company assessments.

3.100. The Committee note that under the Income-tax Act, 1961 as it stood prior to its amendment in 1965, a company in which 50% or more of the equity capital was held by another company in which the public were substantially interested was not itself to be treated as a company in which the public were substantially interested. In two cases, however, this principle was not applied with the result that there was an under assessment of tax of Rs. 2.37 lakhs. It is regrettable that this mistake should have occurred in both the cases after Government had clearly explained the implications of the old provisions while amending the Act in 1965, and in one case the mistake had occurred even after the Board had issued instrcutions for the review of assessments in the light of para 45(a) of Audit Report on Revenue receipts, 1966. This is yet another instance where the

Committee find the assessing officers had not familiarised themselves with the provisions of the law that they had to apply in the course of their work.

3.101. The Committee observe that against Rs. 2.37 lakhs due for recovery in these two cases, only a sum of Rs. 22,105 has been adjusted so far. They would like to be apprised of the progress in realisation of the balance amount due.

Audit Paragraph

3.102. The Finance Acts, 1956 to 1959 provided for the levy of additional super-tax on companies distributing dividends on ordinary shares in excess of six per cent of its paid-up capital. The additional super-tax was levied by way of reduction of the rebate from super-tax admissible to the companies. If, however, in any year the amount of rebate due was insufficient to absorb the reduction on account of excess distribution of dividends, the unabsorbed portion of rebate should be carried forward for being set-off against the reliefs available for subsequent years.

Cases where the reduction of rebate from super-tax in the circumstances contemplated above was not deducted were pointed out in paragraphs 29, 47 and 44 of Audit Reports (Civil) on revenue receipts, 1963, 1964 and 1966 respectively. Similar mistakes were noticed in three cases accounting for an under-assessment of super-tax of Rs. 7,75,774. In two cases involving a tax effect of Rs. 25,744 necessary rectification has since been carried out. Reply of the Ministry in the ramaining case is awaited.

[Paragraph 49 (b) of Audit Report (Civil) on Revenue Receipts, 1968]

3.103. In a note furnished to the Committee before evidence of official witnesses was taken, the Ministry gave the following information regarding one of the three cases where the tax effect was Rs. 7.5 lakhs:

> "The audit objection has been accepted but there has been no loss of revenue in this case because the unabsorbed super-tax rebate has been withdrawn against the company's assessment for 1963-64".

3.104. During evidence, the Chairman, Central Board of Direct

Taxes gave the following figures of losses/income of the company for the years 1957-58 to 1962-63.

Year	Loss	Income
	Rs.	Rs.
1957-58	12.64 lakhs	..
1958-59	31·48 lakhs	..
1959-60	20.62 lakhs	..
1960-61	13.886	..
1961-62	Nil	Rs. 43 lakhs was carried forward as unabsorbed depreciation'.
1962-63	..	4·43 lakhs.

3.105. According to the witness, the company had a positive income for the assessment year 1963-64 and declared a dividend in excess of 6%. But, as in the earlier years, there was a negative income, "the withdrawal of the rebate in respect of those years should have been deferred to a later year in which there was a positive income."

3.106. Asked whether the company were declaring dividends even though they were suffering losses, the witness stated that the company were declaring dividends out of the past profits.

3.107. In reply to another question, he stated that the Department had accepted the Audit objection and had recovered the "whole amount" in respect of the assessment year 1963-64. The Committee enquired why rebate for the assessment year 1962-63 was not withdrawn The witness stated: "He (the Income-tax Officer) could not do that in the year 1962-63. ..... The company's assessment for an earlier year was set aside by the Appellate Assistant Commissioner and the Income-tax Officer was directed to allow the rebate under the original section of the Income-tax Act. He had, therefore, to calculate the depreciation for the year 1954-55 onwards."

3.108. Mistakes in computing super-tax were also reported in the earlier Audit Reports with the tax effect, as shown below:

Audit Report, 1963	Rs 6.69 lakhs
Audit Report, 1964	Rs. 4.24 lakhs
Audit Report, 1965	Rs. 2.89 lakhs

The three cases referred to in the paragraph occurred in three different Commissioner's charges.

3.109. The Committee referred to para 11 of the 28th Report of the Public Accounts Committee (Third Lok Sabha), wherein they had, *inter alia*, observed as follows:

"In view of the fact that lapses in computing super-tax payable by companies are on the increase, the Committee would suggest that a general review may be undertaken and suitable instructions issued to the assessing officers."

The Committee enquired whether, pursuant to the aforesaid recommendation of the Public Accounts Committee, a general review was conductd. The Chairman, Central Board of Direct Taxes stated: "We issued instructions (9-3-65) drawing particular attention to this kind of lapse and asked them also to check up the cases of all the companies which had more than one lakh of rupees as income for two years. Recently (January, 1969), we have asked them to check up also the earlier years' assessments."

3.110. In a subsequent note, the Ministry have stated:

"Instructions for a review of the cases of all companies which had been assessed for the assessment years 1964-65 to 1967-68 on a total income of Rs. 1 lakh or over, with a view to see whether Income-tax rebate had been withdrawn in all appropriate cases, were to be issued in January, 1969. As this was not possible, instructions were issued on 13th February, 1969. It is regretted that due to some delay in processing, the instructions could not be issued in January, 1969."

3.111. The Ministry have further stated: "The result of the review will be communicated to the Public Accounts Committee when finalised."

3.112. The Committee note that mistakes in computation of super-tax payable by companies have been occurring year after year. The tax effect of the mistakes pointed out in the present cases viz. Rs. 7,75,744) has been higher than that reported in earlier years. The mistakes occurred in three different cases assessed in three different charges. All these suggest that assessing officers need to be specially instructed about the provisions of the law on the subject. In para 11 of their 28th Report (Fourth Lok Sabha) the Committee had drawn attention to this situation. The Committee note that pursuant to these observations, a review of cases of all companies having an income of Rs. 1 lakh or more has been undertaken. Such a review should cover assessments from 1956-57 onwards as the additional super-tax by way of reduction of the rebate from super-tax admissible to the companies was levied in the Finance Acts, 1956 to 1959. The Committee would like to be informed of the outcome of the

review when finalised. They trust that effective action will be taken by Government to ensure that cases of this nature do not recur.

Audit Paragraph

3.113. Under the Income-tax Act, a company is regarded as one in which the public are not substantially interested if the affairs of the company or shares carrying more than 50 per cent of the total voting power were at any time during the previous year controlled or held by less than six persons.

Omission on the part of an Income-tax Officer to correctly classify a company, the bulk of whose shares were held by less than six persons, resulted in a short demand of tax of Rs. 47,247 and in the failure to levy additional super-tax income-tax to the extent of Rs. 94,746 on the undistributed income for the assessment years 1964-65 and 1965-66. The Ministry have stated that the assessments for 1964-65 and 1965-66, have been rectified raising an additional demand of Rs. 47,247. Report of recovery of this amount and completion of action under Section 104 to raise an additional demand of Rs. 94 746 is awaited.

[Paragraph 49(d) of Audit Report (Civil) on Revenue Receipts, 1968].

3.114. During evidence, the Chairman, Central Board of Direct Taxes stated that the company in question was a public limited company more than 50 per cent of voting power in which was held by three groups of persons. He admitted that it was a case of omission but stated in extenuation that the Income-tax Officer was misled by Auditors who stated that the shares of the assessee company were quoted in the Stock Exchange and were freely transferable. This was a peculiar phenomenon, and the Income-tax Officer, instead of ascertaining the number of share-holders holding the controlling interest, treated the company as one in which the public were substantially interested. In reply to a question, the witness agreed that the "indirect reply" given by the Auditors "should not have been accepted" by the Income-tax Officer.

3.115. In reply to another question, he stated that the Inspecting Assistant Commissioner also seemed to have been "under the same impression."

3.116. The Committee enquired whether the earlier assessments of the company had been verified to ascertain that the mistake of the nature referred to in the Audit Paragraph had not occurred in the earlier years also. In a note, the Ministry have stated: "The earlier assessments of the company have been verified. The mistake did not occur in the assessment of the earlier years."

3.117. The Committee desired to know whether there were any standing instructions issued to the assessing officers that at the time of assessment of companies each year, the list of share-holdings should be called and verified to see whether the company was one in which the public were substantially interested or not. The Chairman, Central Board of Direct Taxes stated that standing instructions were already there but these had not been followed by the Officer concerned in this case. He added that suitable instructions would again be issued shortly.

3.118. From a note furnished by the Ministry, the Committee observe that the Ministry have issued the instructions on the 9th February, 1969.

3.119. As to the position regarding rectification recovery, the Ministry had stated as follows:

"The assessments for the years 1964-65 and 1965-66 have been revised under section 147(b), raising an additional demand as under:—

1964-65	..	Rs. 33,356
1965-66	..	Rs. 13,891
Total	..	Rs. 47,247

The Inspecting Assistant Commissioner on scrutiny of the case has held that action under section 104 is not called for the assessment year 1964-65. Action under section 104 has since been completed for 1965-66 raising an additional demand of Rs. 47,156. The total additional demand of tax raised comes to Rs. 94,403 as against Rs. 141,993 mentioned by Audit."

3.120. In a subsequent note, the Ministry have stated that the entire additional demand of Rs. 94,403 has since been recovered.

3.121. In reply to a question, the Ministry have clarified that action under Section 104 was not called for, for the assessment year 1964-65, as dividend distributed was adequate.

3.122. The Committee were informed by Audit that this case occurred in a Companies Circle.

3.123. While the Committee note that the entire amount of short-levy in this case has been recovered, they cannot help observing that the short-levy was caused by negligence on the part of the assessing

officer. There are standing instructions from the Board that the list of share-holdings of a company should be verified before deciding the status of a company for purposes of assessment. These instructions were not followed by the assessing officer who relied on the fact that the shares of the assessee company were quoted on the Stock Exchange. As admitted by the Chairman of the Central Board of Direct Taxes, this was no basis for holding the company as one in which the public were substantially interested. It is regrettable that the Inspecting Assistant Commissioner who checked the assessment order also failed to notice the omission. The Committee note that, to obviate the recurrence of mistakes of this nature, necessary instructions have been issued by the Board. The Committee trust that these will be strictly followed.

3.124. Elsewhere in the Report, the Committee have drawn attention to other mistakes that occurred in Company Circles. This suggests that the Board would have specially to examine the position in regard to these Circles in order to ascertain whether staff posted in these circles need 'in service' training to enable them to discharge their duties effectively.

(g) INCOME ESCAPING ASSESSMENT

Audit Paragraph

3.125. A company used to obtain overdrafts from a bank against the hypothecation of its stocks. Such stocks were shown in the statements submitted to the bank as on the last day of the accounting year of the company.

It was noticed by the Income-tax Officer that the stock shown by the company in the statement submitted to the bank as on 31st December, 1959 was more both in value and quantity than that shown in the Balance-sheet of the company as on that date. Such undisclosed stock was estimated by the Income-tax Officer at Rs. 6,51,735 and this amount was added to the income of the company for the assessment year 1960-61.

For the next assessment year, according to the Income-tax Officer, the undisclosed stock was of the value of Rs. 1,76,756. Holding that the value of the stock added in the preceding assessment year should be allowed as a deduction as opening stock carried forward, the Income-tax Officer allowed a deduction of Rs. 4,74,979 being the difference between Rs. 6,51,735 and Rs. 1,76,756 the suppressed stock of 1961-62. It was, however, found that the value of the undisclosed stock as on 31st December, 1960 was not Rs. 1,76,756 as held by the

Income-tax Officer but it was Rs. 11,30,654. Thus, even after setting off Rs. 6,51,735 brought forward from 1960-61, there would be a net addition to be made for the year 1961-62 amounting to Rs. 4,78,919 and the deduction of Rs. 4,74,979 made by the Income-tax Officer was incorrect.

Again, in the assessment year 1962-63, there was a further undisclosed stock of Rs. 7,61,929. The income of the company was short-computed to the extent of Rs. 17,15,827 due to the omissions pointed out above.

In the case of the same company, a deduction of Rs. 2,73,755 was allowed on account of development rebate during the assessment year 1963-64 though the company was not entitled to this. Thus, the net loss of the company was calculated in excess to the extent of Rs. 19.90 lakhs and was allowed to be carried forward for adjustment against future year's profits.

The Ministry have stated that necessary action to rectify the assessments has been taken.

[Paragraph 53(a) of Audit Report (Civil) on Revenue Receipts, 1968].

3.126. The Committee have been informed by Audit that development rebate amounting to Rs. 2,73,755 had been allowed by the Income-tax Officer even though the necessary reserve to the extent of 75 per cent was not debited to the Profit and Loss Account.

3.127. In a note furnished to the Committee, the Ministry have stated:

"The Audit reported the following amounts of under-assessment in this case:

Asstt. Year	*Amount of under-assessment*	*Reasons for holding that there has been under-assessment.*
(1)	(2)	(3)
1961-62	Rs. 9,53,898	More stocks were pledged with the Bank than shown in the books.
1962-63	Rs. 7,61,929	-do-
1963-64	Rs. 2,73,755	Development rebate reserve was not created and yet development rebate was allowed.

The Ministry have found that the actual under-assessment for the first two years was considerably lower than what Audit reported. Thus, for 1961-62 the actual amount of addition on the ground of discrepancy in stock which could have been made by the Income-tax Officer as found by the Appellate Assistant Commissioner to have been only Rs. 3,99,915 (4,74,979, amount added in the preceding year for which the Income-tax Officer allowed an adjustment in the assessment for 1961-62 plus 1,01,692, the sum which could have been justifiably added by the Income-tax Officer—1,76,756, the addition actually made by the Income-tax Officer in the original assessment.) For 1962-63, the Appellate Assistant Commissioner has not yet heard the appeal on the question of stock discrepancy; but applying the same principles as adopted by the Appellate Assistant Commissioner for 1961-62, the net addition which can be justified for 1962-63 cannot possibly exceed Rs. 1 lakh. However, the figure reported by Audit for 1963-64 will not need any variation. It will thus be found that the aggregate amount of under-assessment for the three years in question would be about Rs. 7.75 lakhs, against Rs. 19.5 lakhs reported by Audit."

3.128. The Ministry have further stated: "The circumstances under which the mistakes had occurred in this case have been looked into, but no suspicious features have been found. The error for the assessment year 1963-64 was due to pure inadvertance. For the other two years the additions are on debateable grounds."

3.129. The Committee desired to know whether the assessments had been checked in Internal Audit. In their reply, the Ministry have stated:

"The assessments were not checked by the Internal Audit Party. This being a company case, it should have been checked by the Internal Audit Party. However, it has been gathered that the major mistakes so detected, were due to difference in the value of stocks as per books of the company and as shown in account of Bank, which is outside the scope of checking by the Internal Audit Party."

3.130. In reply to another question, the Ministry have stated that the assessment for 1961-62 was completed by one Income-Tax Officer and the assessments for 1962-63 and 1963-64 were completed by another Income-tax Officer.

3.131. During evidence, the Chairman, Central Board of Direct Taxes stated that in this case the Income-tax Officer had himself found that the company had shown a much higher figure of stock in the statement submitted to the Bank than shown in the Balance-Sheet of the company. He had also added the difference to the income of the company for the year 1960-61.

3.132. He further stated: "In this particular case,........ the aggregate of the assessed loss upto 1963-64 is Rs. 66 lakhs. For the next four years the assessment has not been made and there has been made and there has been a returned loss to the extent of Rs. 1.73 crores. Therefore, whatever addition (the Income--tax Officer), made is only on paper. I also want to say that in actual practical terms there is no revenue effect. This mill has since changed hands and may be closed down altogether."

3.133. In reply to a question, the witness stated: "The appellate authorities including the Appellate Tribunal have noted in several cases that in order to get over-draft, an assessee usually overstates his stock........For the purpose of Profit and Loss Account, he values it at cost or market rate whichever is lower but for purposes of getting overdraft, he can value it at market rate which could be higher." In case, however, the quantity indicated in the returns submitted to the bank differed from the quantity shown in the Balance-Sheet, the difference was taken into account for the purpose of assessment.

3.134. The Committee note that there was an under-assessment of Rs. 7.75 lakhs in this case for the years 1961-62, 1962-63 and 1963-64. They observe that while the bulk of the under-assessment was due to the failure to make due additions on account of the undisclosed stock of the company, under-assessment to the extent of Rs. 2,73,755 was due to the incorrect allowance of development rebate. It is not clear how the development rebate could be allowed when the company had not created the necessary reserve of 75 per cent that was required to qualify for rebate.

3.135. Another aspect of the case is that even though the assessee was a company, the assessments were not checked by Internal Audit as required. It has been stated that as Internal Audit parties do not check bank statements, the omission that occurred in the course of assessment might not have come to notice even if the Internal Audit had carried out a check. The Committee would like Government to consider the feasibility of suitably extending the scope of functions of Internal Audit so as to make it an effective instrument for checking the accuracy of assessments.

(h) Commission to assess appropriate amount of profit chargeable to tax

Audit Paragraph

3.136. In accordance with the executive instructions issued under Income-tax Rules, the income of British Shipping companies attributable to business carried on within India is to be determined on the basis of ratio certificates obtained from the United Kingdom tax authorities. These certificates indicate the ratio of the company's world profits, wear and tear allowance given in the assessment etc. as a percentage of the world turnover and these percentages are applied to India turnover to find the income assessable to tax in India. In the case of a British Shipping company, ratio certificates were given by the United Kingdom authorities separately for the profits of the company, wear and tear allowance and also for deemed profits arising out of sale of depreciable assets, assessable as income. In the assessments of the company for 1963-64 and 1964-65 the Income-tax Officer considered the first two certificates only and omitted to add to the Indian income, a proportionate amount based on the ratio certificate relating to profits deemed to arise on sale of depreciable assets. The under-assessment of income on this account amounted to Rs. 3,96,886 for the assessment years 1963-64 and 1964-65 with a consequential short-levy of tax of Rs. 2,57,976.

[Paragraph 55(a) of Audit Report (Civil) on Revenue Receipts, 1968.]

3.137 The Committee desired to know the assessment precedure laid down in the executive instructions referred to in the Audit paragraph. In their reply, the Ministry have stated:

"Rule 33 of the Income-tax Rules, 1922 and Rule 10 of the Income-tax Rules, 1962, which substitutes it, provided for three alternative methods of computing the profits in such cases:

(i) As a percentage of the turnover;

(ii) A proportion of the profits, in the ratio of the receipts in India to total receipts;

(iii) "In such other manner as the Income-tax Officer may deem suitable."

The companies electing to be assessed on the basis of the United Kingdom ratio certificates are assessed by applying method (ii) with a slight modification, so that it becomes really method (iii) Under

this arrangement, a proportion of the profits of the company, before determination of profits or losses under section 10(2)(vii)|41, is assessed in India in the ratio of the Indian receipts to world receipts."

3.138. The Committee were informed by Audit that in the instructions, the Board had stated that as regards companies electing to be assessed on the basis of the United Kingdom Ratio Certificate, it will not be possible to apply the provisions of section 10(2)(vii) to such cases and the companies concerned will have to accept the position. The Committee desired to know the circumstances in which these instructions were issued. The Ministry have stated:

"The instructions were issued in the circumstances stated below:

(1) Shipping companies operating in different countries find it extremely difficult to produce detailed accounts and file returns as every port of call. The arrangement would avoid such a situation in India.

(2) Profits as well as losses under section 10(2)(vii) would be ignored when assessees opted for this method. In an era of rapid technological development there is likely to be more losses than profit on the sale of discarded machinery."

3.139. The Committee enquired whether the Board had issued necessary instructions as to what an Income-tax Officer should do if as assessee produced a United Kingdom Ratio Certificate showing the percentage of deemed profits arising out of sale of depreciable assets in the United Kingdom. The Ministry have given the following reply:

"The Board have not issued any such instructions, because the profits as much as losses on sale of depreciable assets would have to be ignored under the existing instructions."

3.140. The Committee were informed by Audit that, according to the view taken by the Ministry, as the assessee had exercised an option, as contemplated in the Board's instructions the deemed profits were not assessable to tax. They desired to know the contents of the option exercised and also whether such an option was contemplated under the Board's instructions when the United Kingdom authorities furnished a separate ratio certificate for the deemed profits. In their reply, the Ministry have stated:

"The contents of the option exercised by the assessees are that they would be producing United Kingdom Tax Ratio Certificates and

would also be agreeable to forego any claim of loss under section 10(2) (vii)|41 in return for the Government have agreed to forego tax on profits under those sections."

3.141. The Committee then wanted to know in what manner the assessments for the earlier two years (i.e., for 1960-61 and 1961-62) were concluded in this case. They also enquired whether these assessments had been accepted by the assessee. The Ministry have stated as follows:

"The assessments for both 1960-61 and 1961-62 were framed overlooking the Board's instructions. For 1960-61, the Income-tax Officer assessed a balancing charge of Rs. 2,48,624 and also allowed terminal allowance of Rs. 142. In the next year's assessment he included a balancing charge of Rs. 422. No appeal was, however, filed by the assessee against either of the assessments."

"Though there is a gain to revenue by the Income-tax Officer's action, which was contrary to the Board's instructions, the Government feel that his action for these years was incorrect. The circular in question had been issued by the Government after due consideration on the following factors:

(1) Shipping companies operating in different countries find it extremely difficult to produce detailed accounts and file returns at every port of call. The arrangement would avoid such a situation in India.

(2) Profits as much as losses under section 10(2)(vii) would be ignored when assessees opted for this method. In an era of rapid technological development there is likely to be more losses than profit on the sale of discarded machinery."

3.142. This case raises an important point bearing on the method of computation of income, profits or gains accruing to British Shipping Companies. The Committee would like the Board to have the matter examined, in consultation with Audit and Ministry of Law, if necessary. The Committee would also like to be apprised of the decision taken.

IV

OVER-ASSESSMENTS OF TAX

Audit paragraph

4.1. The Income-tax Act provides for allowing rebate of tax on donations made by assessees to approved charitable institutions upto a limit of 10 per cent of total income or Rs. 2 lakhs whichever is less. In the case of donations made to the National Defence Fund, the sums qualifying for such rebate are to be excluded in calculating the limits.

An assessee with a total income of Rs. 3,52,834 in each of the assessment years 1963-64 and 1964-65 made donations of Rs. 1,25,000 and Rs. 1,05,001 respectively. The donations in both the years included a sum of Rs. 1 lakh made to the National Defence Fund. The Income-tax Officer wrongly limited the donation eligible for rebate to Rs. 35,283 in each of the two years instead of allowing rebate on the entire donations of Rs. 1,25,000 and Rs. 1,05,001. The mistake has resulted in over-assessment of tax of Rs. 89,187.

[Paragraph 56(a) of Audit Report (Civil) on Revenue Receipts, 1968].

4.2. The Committee have been informed by the Ministry that the assessment had been revised under Section 154 and a refund of Rs. 89,187 made to assessee.

4.3. The Committee were informed by Audit that though this case was checked by the Internal Audit Party for both the assessment years, the over-assessment remained undetected by them.

4.4. The following table shows the number of cases of over-assessments reported in earlier Audit Reports:

Audit Report	No. of cases	Amount (In lakhs of Rs.)
1963	7	0 02
1964	258	3·93
1965	1,283	27·75
1966	1,408	36.88
1967	2,014	65·89
1968	2,392	58·73

4.5. The Committee regret that due to omission to follow the provisions of the law in regard to rebate on donations made to the National Defence Fund, there was an over-assessment in two successive years to the extent of Rs. 89,187. The over-assessment also escaped the notice of Internal Audit which had checked the case. The Committee note that the amount has since been refunded. The Committee trust that the Board will ensure that greater care is shown by the assessing officers in future.

4.6. The data given in this section of the Report shows that over-assessments have over the years substantially increased. The Committee would in this connection like to invite attention to their observations in paragraphs 2.39 and 2.40 of their 29th Report (Fourth Lok Sabha). As these over-assessments result in penalising assessees for no fault of theirs, the Committee would like effective steps to be taken by the Board for their elimination.

Over-assessment of tax

Audit paragraph

4.7. According to the Finance Act, 1960 (which had retrospective effect from assessment year 1958-59) and the subsequent Finance Acts the super-tax (income-tax for the assessment year 1965-66) payable by a company whose income included any profits and gains from life insurance business should be the aggregate of taxes calculated as under:

(i) On the amount of profits and gains from life insurance business so included at the rate applicable to Life Insurance Corporation of India, and

(ii) on the remaining part of its total income at the rate applicable to its total income.

In the case of a non-resident company assessed on its income from insurance business in India, the concessional rate of super-tax (income-tax in 1965-66) provided in the Finance Acts was omitted to be allowed for the assessment years 1958-59 to 1965-66. This has resulted in excess-levy of tax of Rs. 4,21,356.

[Paragraph 56(b) of Audit Report (Civil) on Revenue Receipts, 1968].

4.8. The Committee enquired whether the assessments were checked by the Internal Audit Party for any year. The Ministry have stated:

"The Internal Audit Party checked the case but the question as to whether or not the assessee company was a life

insurance concern was beyond its scope of enquiry. Even the Income-tax Officer was not certain about it, because the assessee was one of the foreign insurance companies which practically ceased to have any life insurance business after the Life Insurance Corporation came into existence."

4.9. The Committee then desired to know how the mistake continued to persist in eight successive assessments. In their reply, the Ministry have stated:

"They were continuing only as "closed portfolio" business. The Board's instructions issued in September, 1962 clarify the legal position with reference to three specific cases. The Inome-tax Officers assessing other cases seem to have missed it."

4.10. Asked whether the Board had issued instructions bringing the important change brought about by the Finance Act, 1960 to the notice of all the assessing officers. The Ministry have stated:

"Yes. Important changes in law or decisions by courts are brought to the notice of assessing officers by the Board."

4.11. In reply to a question regarding rectification/recovery, the Ministry have stated that the assessment had been revised under section 154, resulting in a refund of Rs. 4,21,356, which had since been made to the assessee.

4.12. The Committee note that due to a failure on the part of the assessing officer to follow the correct procedure for determining tax liability in respect of profits and gain from past life insurance business, a non-resident company was over-assessed for eight consecutive assessment years. It is regrettable that this should have occurred, though the provisions of the Finance Act, 1960 were quite explicit on the procedure to be followed in this regard. It is also a matter for concern that the Internal Audit Party which had checked two of the assessments overlooked the mistake. Over-assessments of this nature apart from inconveniencing assessees will detract from the Department's standing in the public eye. The Committee hope that effective action will be taken to put a stop to such over-assessments.

Audit paragraph

4.13. An assessee company paid an advance tax of Rs. 15 lakhs on 14th March, 1962 and also filed its return of income for the

assessment year 1962-63 on 31st August, 1962. However, the Income Tax Officer completed the assessment for the year 1962-63 on 30th March, 1966 and determined a loss of Rs. 17,54,489. The advance tax of Rs. 15 lakhs paid by the assessee was therefore refunded. But, in so refunding the advance tax, interest payable under the Income-tax Act upto the date of regular assessment *viz.* 30th March, 1966 amounting to Rs. 2,70,000 had not been paid. Report regarding rectification and payment of interest to assessee is awaited.

[Paragraph 56(c) of Audit Report (Civil) on Revenue Receipts, 1968].

4.14. The Committee were informed by Audit that the case in question was assessed in a company circle. They, accordingly, wanted to know how the mistake had occurred in a company circle where the number of assessments was comparatively few. In their reply, the Ministry have stated:

"There was no palpable mistake in this case. The position will be clear on considering the following factors:

(i) On 14-3-1962 the assessee paid Rs. 15 lakh on Advance Tax challan without filling any estimate under section 18A(iii)212 of the Income-tax Act, 1922/1961, but the estimate was field only on 21-3-1962 that is, after the last permissible date had already been over.

(ii) When the regular assessment was made it was found that no Advance Tax had been payable by the assessee. The sum paid was accordingly refunded but no interest on excess payment of Advance tax was allowed to the assessee.

The Income-tax Officer's action represents an honest effort to secure the interest of revenue. Of course, the Board decided, on a reference made to them, that interest should be allowed to the assessee in the circumstances of the case."

4.15. The Committee were informed by the Ministry that the assessment for the assessment year 1962-63 had been rectified and a sum of Rs. 2,39,833 (which was the actual amount of interest worked out), had been refunded to the assesee.

4.16. The Committee note that the interest amounting to Rs. 2,39,833 has since been refunded to the assessee company on the advance tax of Rs. 15 lakhs deposited by it. The Committee would have felt happier if the amount due as interest had been ordered to be paid when the original orders for refunding the advance were passed on finalisation of the assessment. The Committee would like Government to impress upon the Income-tax authorities that interest due should be paid to assessees promptly.

4.17. The Committee desired to know the action taken by Government on the following recommendations of the Public Accounts Committee (1967-68) made in paras 2.54-2.55 of their 29th Report (Fourth Lok Sabha):

> "The Committee are perturbed that the amount involved in cases of over-assessment has greatly increased last year and suggest that the Department should make a detailed study to identify the causes of such over-assessments and take effective remedial measures to curb this vaxatious tendency on the part of the Department to overpitch assessments. The Committee would like to be informed of the remedial measures taken by Government in this behalf."

> "The Committee are inclined to consider that in cases of over-assessment it is the moral duty of the Government to refund the excess tax collected erroneously or illegally and not plead limitation. They suggest that Government should consider the feasibility of amending the law suitably so that the Commissioners cannot reject revision petitions for refund in cases of over-assessment due to clear mistakes either of Law or of fact on the ground of limitation."

4.18. During evidence, the Finance Secretary stated: "Government would also very much desire that this tendency towards over-assessment should be heavily curbed, because apart from not giving any gain for revenue, it upsets public relations and causes delay in tax collection The question is by which means do we achieve it. Knowing the temperament of the officials at this level, if we send out a circular, that would straightway be made an excuse for making under-assessments. The officers would say they were acting in the spirit of that instruction and they should not be called upon to explain on that account. The only proper way is by creating a proper atmosphere. In the last two years, I am sure this was also done

earlier—in the Commissioners' Conference, and in other discussions, this matter has been brought up as to how to set these officers on the right course......"

4.19. Referring to para 2.55 *ibid.* the Committee enquired whether instructions had been issued to the effect that technical considerations of time-bar should not stand in the way of refunds being made in cases of over-assessment. The Finance Secretary stated: "Such instructions are already there. Regarding Revision Petitions, we advised the Commissioners of Income-tax to condone the delay even though the petitions are filed beyond the permissible limit of two years. We condone the delay in hundreds of cases...... We have instructed that it should be condoned freely. In some cases if there are mistakes in computation of income and if the assessees have paid the money, these can be rectified even after four years. Actually the Secretary or Additional Secretary can take decisions in this regard either on their own or under orders of Minister."

4.20. Asked whether they would like to have a statutory power in this regard, the witness stated: "It would be welcome." In reply to a question, he stated: "If there is any lacuna in legislation, the matter will be placed before Parliament."

4.21. In a note furnished to the Committee pursuant to para 2.55 of their 29th Report (1967-68), the Ministry have stated as follows:

> "The Government is anxious to discharge its moral obligations, waiving legal impediments. The Commissioners of Income-tax have, by and large, the same attitude. Under the existing administrative instructions, the Commissioners of Income-tax are required to refer to the Government cases of over-assessment occurring due to mistakes of law or facts relating to the computation of total income or tax thereon, which cannot be normally rectified due to the operation of the law of limitation. In all suitable cases, Government does waive the limitation and refunds are invariably allowed."

> "After giving their careful thought to the recommendations of the Public Accounts Committee regarding the amendment of the law, the Government feel that the present practice, which has been working well, may be allowed to continue. A change in the law of limitation cannot possibly operate entirely in favour of assessees; it will certainly expose them to fresh hazards of assessments in closed cases as well."

4.22. The Committee observe that in their evidence before the Working Group of the Administrative Reforms Commission, a number of chartered accountants and other representatives expressed the following views regarding over-assessments and their effect on arrears of demands:

> "It has been seriously argued by many of the Chartered Accountants and other representatives who appeared before us that the main reason for such arrears is not due to any recalcitrant attitude adopted by the assessees but thoughtless huge additions made by the Income-tax Officers to the returned figures. They argue that in order to avoid criticism and with a view to earning good remarks of their official superiors the Income-tax Officers adopt the safe line of rejecting the accounts and making huge additions leaving the assessee to get what redress he could by way of appeal. It has been suggested that this tendency to over-assess has been encouraged by the Department's failure to take cognisance of over-assessments particularly when the fact of such over-assessment becomes evident by huge reductions on appeals."

4.23. The Committee enquired whether any action was taken against the officers having a tendency of over-pitching demands. The Chairman. Central Board of Direct Taxes stated: "For officers who have a tendency to over-assessments we do write in their confidential Reports about that and sometimes we do draw the attention of Commissioners of Income-tax to the cases which have been done in this manner."

4.24. In a note furnished to the Committee, the Ministry have stated as follows:

> "The Ministry is alive to the criticism that a part of the arrears may be due to over-pitched assessments. For examining to what extent this criticism is justified, the Ministry had recently undertaken a study of the Appellate orders passed in six Appellate Assistant Commissioners' Ranges in Uttar Pradesh, Delhi and Punjab. The Study has not indicated any serious malady. On the basis of the findings of the Study Team, instructions have, however, been issued by the Central Board of Direct Taxes urging the assessing officers to exercise restraint in making assessments. Further studies in other charges will be undertaken and suitable steps taken to curb any tendency to over-pitch assessments."

4.25. The Committee disapprove of the tendency to over-pitch demands as a safe line, leaving the assessee to get redress by way of appeal. They need hardly stress that this tendency, apart from not bringing any gain to revenue, adversely affects public relations, leads to unnecessary litigation, adds to the work of the Department and causes delay in collection. The Committee note in this connection that some of the witnesses appearing before the Administrative Reforms Commission Working Group have considered over-assessments as a major reason for Income-tax arrears. The Committee also take note of the impression in the mind of these witnesses that the tendency to over-assess has been encouraged by the Department's failure to take cognisance of over-assessments even after the fact of such over-assessment had become evident by huge reductions on appeal. While the Committee grant that, in view of the complicated nature of the law, genuine mistakes may sometimes occur, they strongly deprecate the tendency of making "thoughtless additions" without proper scrutiny of the accounts. The Committee desire that this tendency should be firmly curbed. They trust that effective steps will be taken by the Board in this behalf.

4.26. In pursuance of the observations of the Public Accounts Committee in their 29th Report, Government had undertaken a review of appellate orders in a few charges to determine the extent to which assessments were over-pitched. The Committee note that this review had "not indicated any serious malady" in this regard. The scope of this study was however limited by Government to orders passed by Appellate Assistant Commissioners. The Committee desire that Government should also review appellate orders passed by the Tribunals and the Courts. In all cases where appellate authorities have allowed substantial relief and harassment of the assessee is manifest, the Committee would like appropriate action to be taken against erring officers.

4.27. In para 2.55 of their 29th Report (Fourth Lok Sabha), the Committee had observed that it is the moral duty of Government to refund the excess tax collected erroneously or illegally without pleading limitation. They have been informed by the Ministry that, under the existing instructions, the Commissioners of Income-tax refer time-barred cases of over-assessment to Government who advise them to waive limitation and allow refunds in all suitable cases. The Committee are glad to note Government's instructions and hope that these would be followed in the letter and the spirit.

Chapter—V

OTHER TOPICS OF INTEREST

(a) SEARCHES AND SEIZURES*.

Audit paragraph

5.1. Out of 556 cases in which searches and seizures were made during the period from 1st April, 1964 to 31st August, 1965, assessments were completed in 246 cases to end of 31st August, 1967. During the period 1st September, 1966 to 31st August, 1967 assessments were completed in 54 cases raising a demand of tax of Rs. 155.79 lakhs and a penalty of Rs. 9.36 lakhs. In 310 cases assessments are pending on 31st August, 1967.

(ii) Out of 221 cases of searches and seizures made during the period 1st September, 1965 to 31st August, 1966, assessments have been completed in 83 cases to the end of August, 1967. During the period 1st September, 1966 to 31st August, 1967 in 71 cases a demand of tax of Rs. 35.61 lakhs and penalty of Rs. 0.77 lakhs were raised. In 138 cases assessments are pending on 31st August, 1967.

(iii) During the period 1st September, 1966 to 31st August 1967, 149 searches and seizures were made and the following table shows the total value of jewellery, cash etc., seized, the number of assessments completed and the amount of concealed income involved:

(1) Total number of cases in which searches and seizures were made	149
(2) Total Value of Jewellery, cash, currency notes, negotiable instruments, valuable articles, etc.,	Rs. 86·39 lakhs
(3) Total number of case in which assessment were completed	18
(4) Amount concealed in cases referred to in item (3)	Rs. 14·44 lakhs
(5) Tax involved in item (4)	Rs. 8·07 lakhs
(6) Penalty levied in cases in which assessment were completed	Pending

*Figures are as furnished by the Minisitry.

(7) Number of cases in which prosecutions were launched out of cases in item (3) . . . .

(8) Results of prosecution . . . .

(Paragraph 63 of Audit Report (Civil) on Revenue Receipts, 1968).

5.2. The Committee were apprised by Audit of the following position in regard to searches made during the period 1st April, 1964 to 31st August, 1967:

Period	No of searches made	No. of cases in which assessments are pending
1st April, 1964 to 31st August, 1965 . .	556	310
1st September, 1965 to 31st August, 1966 . .	221	138
1st September, 1966 to 31st August, 1967 . .	149	131
	926	579

5.3. During evidence, the Chairman, Central Board of Direct Taxes stated: "It is not our intention to (exercise the power of searches and seizures) when the reported amount of concealment is only Rs. 10,000 or of that order. We go in for really large sums." He also stated that the number of searches carried out by the Department was coming down from year to year. As against 556 searches and seizures carried out in 1964-65, the number of searches and seizures carried out during 1966-67 was 149.

5.4. The Finance Secretary added, "We must exercise these powers carefully and cautiously. The effect of search on the assessee's reputation and standing can be disastrous. We have to try to have an arrangement whereby these searches and seizures are applied in deserving cases and not used in an arbitrary manner." Asked as to what precautions were taken by the Department to ensure this, the Chairman, Central Board of Direct Taxes stated that whereas in other Departments, the power of search was exercised relatively at a low level, in the Income-tax Department an authorisation to make a search could only be issued by the Commissioner who was expected to exercise his discretion in a quasi-judicial manner. Before issuing an authorisation, the Commissioner had to record the reasons

in writing. This put the Commissioner on the guard, for he knew that the reasons recorded by him might be subsequently enquired into by some other authority or by the Courts. He also stated that in the Commissioners' Conference, a proposal was made that the Deputy Director of Inspection should be empowered to authorise the search. But the proposal was rejected. The Finance Secretary added that, to ensure that the Department acted on the basis of really reliable information, the information furnished by those informers, whose information had been found to be, by and large, baseless in the past, was rejected. The general reputation and standing of the assessees were also kept in view.

5.5. Referring to the searches and seizures made by the Department during the period 1st September 1966 to 31st August 1967 (numbering 149), the Committee enquired in how many cases the concealed income was suspected to be (i) less than Rs. 10,000, (ii) Rs. 10,001 to Rs. 50,000, (iii) Rs. 50,001 to 1,00,000, and (iv) over Rs. 1 lakh. In a note, the Ministry have stated:

> "Normally searches are not authorised by the Commissioners of Income-tax unless the amount of concealment suspected is Rs. 50,000 or above, or substantial tax evasion has been reported. The Ministry does not, however, have information about the detailed break-up of the 149 cases the Public Accounts Committee have in view. The Commissioners of Income-tax also are not required to maintain any record of how much tax evasion is suspected in each case where search has been authorised by them. If the Public Accounts Committee so desire, they will be asked to maintain such a record."

5.6. Under Section 132(1) of the Income-tax Act, 1961, the Commissioner of Income-tax and the Director of Inspection may authorise any Deputy Director of Inspection, Inspecting Assistant Commissioner, Assistant Director of Inspection or Income-tax Officer to make a search of premises and seize books of accounts, if the Commissioner has reasons to believe in consequence of information in his possession that:

(i) any person to whom summons/notices under the provisions of the Act have been issued requiring production of any books of accounts or documents has failed or omitted to produce such books of accounts or documents, or

(ii) any person to whom summons or notices as aforesaid have been or might have been issued will not or would not

produce any books of accounts or documents which will be useful or relevant to any proceedings under the old Act or new Act, or

(iii) any person who is in possession of any money, bullion, jewellery or other valuable article or thing which has not been disclosed for the purpose of the Act.

5.7. The Committee desired to know whether any instructions had been issued to the Commissioners of Income-tax to exercise their power of search judiciously only in cases of substantial tax evasion. In a note, the Ministry have stated:

"Instructions are being issued shortly. A copy will be furnished to the Public Accounts Committee immediately thereafter."

The Committee enquired whether any remedy was available to victims of an arbitrary search. The Finance Secretary stated: "In the scheme of things, one could not really safeguard against arbitrary searches and seizures." He added: "The question really is, what is the trend. If it is found that the number of such searches and seizures has become disproportionate and has turned out to be arbitrary, then there is a clear case for putting a halt. If, on the other hand, care is being exercised and the process is to undertake them in a selective manner, the approach could well be different."

5.8. The Committee referred to section 34(1) of the old Act which authorised searches and seizures only when the escaped income was suspected to be Rs. 1 lakh or more. They desired to know the views of Government regarding making of a provision in the present Act to the effect that the power of searches and seizures may be exercised by the Commissioner only in cases where the escaped income was suspected to bs Rs. 50,000 or more. The Finance Secretary stated: "If we were to circumscribe the use of these powers by any statutory limitation, the result of that inevitably will be that the Commissioners will be very hesitant and reluctant to exercise them. . . . . . (This) will put (them) so much on the guard that this provision will remain only as a dead etter. . . . . ." In reply to a further question, the witness, however, promised to examine the suggestion.

5.9. According to the Income-tax (Amendment) Act, 1965 where any money, bullion, jewellery etc. has been seized the Income-tax Officer is required to pass an order under section 132(5) within 90 days of the seizure. The order should be passed estimating the un-

disclosed income in a summary manner and only that portion of the assets seized may be retained as is sufficient to meet the aggregate tax liabilities while the balance has to be forthwith released. Section 132A(4) further provides that interest at 6 per cent (9 per cent from 1st October, 1967) per annum should be paid by Government on the excess of:

(i) the amount of money seized or retained and sale proceeds, if any, of assets sold towards discharge of the liabilities of the assessee;

(ii) the total existing liabiltiy over the amount of liability determined on completion of regular assessment or reassessment in respect of concealed income, the interest running from the date following the expiry of six months from the date of summary order to the date of regular assessment or reassessment.

5.10. The Committee enquired in how many of the 926 cases of searches and seizures made during the period 1st April 1964 to 31st August 1967, assessments had been completed by 31st December, 1968.

5.11. In a note, the Ministry have stated:

"The information, as on 31st December 1968, is not available. The number of cases and the amount of tax involved, in which assessments had been completed by 31st August 1968, were 561 and Rs. 560.82 lakhs (including Rs. 34.01 lakhs of penalty)."

5.12. As to the reasons for delay in making assessments in these cases, the Ministry have stated:

"In general, assessments in such cases take considerable time because of the detailed investigations involved and the scrutiny of voluminous materials and documents seized."

5.13. In reply to another question whether any special steps were proposed to be taken to finalise the pending assessment, the Ministry have stated:

"The Board are getting quarterly reports from the Commissioners of Income-tax and, on reviewing them, have been issuing necessary instructions for expeditious disposal of the cases. Time-limits are prescribed by the Board in individual cases requiring special attention."

5.14. The Committee desired to know whether there was any time-limit for the completion of assessments in cases of searches and seizures. The Ministry have stated:

"There is no separate time-limit for completion of assessments in cases of searches and seizures. The normal time-limits for completion of assessments, as prescribed under section 153 of the Income-tax Act, 1961 apply to these cases also."

5.15. The Committee desired to be furnished with information on the following point:

5.16. "Out of 926 cases of searches and seizures made during the period from 1st April 1964 to 31st August 1967, what was the number of cases in which:

(i) penalties were levied;

(ii) prosecutions were launched; and

(iii) convictions were obtained by 31st December, 1968.

5.16. In their reply, the Ministry have stated:

(i) "The information is not available and will have to be called for from the Commissioners of Income-tax. A reply will be sent to the PAC after collating the information from the different charges.

(ii) In 8 cases out of 926 in which searches and seizures had been made during the period 1st April 1964 to 31st August 1967 prosecutions were launched.

(iii) Two cases were compounded and the remaining six cases are pending before Courts."

5.17. The Committee desired to know whether the Board had laid down any principles for the composition of offences under section 279(2). From a note furnished by the Ministry the Committee observe that in their instructions dated 1st March 1969, the Board have indicated the following broad guide lines for the composition of offences:

(i) "Compounding of an offence may be considered only in those cases in which the assessee comes forward with a written request for compounding the offence;

(ii) Cases in which the prospects of a successful prosecution are good, should not ordinarily be compounded;

(iii) Bearing in mind the deterrent effect of a prosecution, it should be considered whether the purpose will be more effectively served by making the assessee pay a deterrent composition fee or by obtaining a conviction;

(iv) In cases where subsequent to the launching of prosecution fresh evidence becomes available which may show that the case for the prosecution is weak and the assessee is agreeable to have the offence compounded it may be advisable to compound the offence and not to proceed with the prosecution."

It has also been stated therein that the previous approval of the Board always be obtained before a decision to compound an offence was taken.

5.18. The Committee desired to know whether the persons giving information regarding concealed income were in the regular employ of the Department. The Chairman, Central Board of Direct Taxes stated that such persons were given rewards when the information was found to be correct after the assessment had been completed and the amount recovered. They were also given interim rewards in case they gave valuable information about concealed incomes. Asked whether any action was taken against informers in case the information furnished by them was found to be wrong, the witness stated: "We cannot take any civil action, because most of these people are penniless. We can perhaps take some criminal action. We are examining it."

5.19. The Committee enquired whether the amount seized in excess of Government dues was returned to the assesses. The Chairman, Central Board of Direct Taxes stated that the excess amount was invariably returned within a period of 90 days.

5.20. The Committee are concerned over the inordinate delay in finalising assessment/reassessment in cases in which searches or seizures have been carried out. As on 31st August, 1968, 365 out of 926 cases in which searches and seizures had been carried out between April, 1964 and August, 1967 were awaiting finalisation. The Committee have already drawn attention to the need to have the assessment expeditiously finalised in cases of this type in para 1.103 of their Seventeenth Report (Fourth Lok Sabha). The Committee would like Government to impress upon the assessing officers the need to be prompt in dealing with these cases. Lack of promptitude might possibly also entail avoidable interest liability to Government under section 132(A) of the Act.

5.21. **The Committee would also like to point out that very wide powers are now available under the Act to make searches and seizures. It is, therefore, imperative that these are exercised very judiciously, as a wrong search or seizure, besides causing harassment to assessees, could do incalculable harm to their prestige and standing. The Committee note that Government are contemplating the issue of suitable instructions on this point. They would like action in this respect to be speedily taken. The Committee would also like Government to examine whether the power to order searches and seizures should be more precisely defined. The authority of search and seizure may be invoked where it may reasonably be expected to lead to the discovery of concealed income of, say, Rs. 1 lakh or more. Such a provision would constitute an automatic safeguard against the utilization of power of search and seizure, where the officer concerned is himself not sure of the necessity of such action but has to yield to the pressure of informers in the nature of blackmail. The Committee would like Government to examine whether some suitable enactment on this line is possible and advisable.**

5.22. The Committee note that out of 926 cases in which searches and seizures were carried out, prosecutions have been launched only in eight cases, of which two have been compounded. The Committee would like Government to take prompt follow-up action in all such cases with a view to their early finalisation.

(b) Pending Appeals

Audit Paragraph ....

Appeals pending on 30th June, 1967*

	Income tax appeals with Appellate Assistant Commissioners	Income-tax revision petitions with Commissioners
5·23 (a) Number of appeals/revision petitions . .	1,67,512	6,544
(b) Out of appeals/revision petitions instituted during 1966-67	90,086	3,100
(c) Out of appeals/revision petitions instituted in earlier years	23,492	2,187

Year-wise break-up of appeal cases and revision petitions pending with the Appellate Assistant Commissioners and Commissioners

of Income-tax respectively for the period ending 30th June, 1966 and 30th June, 1967, respectively with reference to the year of institution are indicated below:—

Year of institution	Appeals with Appellate Assistant Commissioners		Revision petitions with Commissioners of Income-tax	
	30-6-1966	30-6-1967	30-6-1966	30-6-1967
1953-54	1	1	..	..
1954-55	1	1	1	1
1955-56	9	8	5	5
1956-57	21	14	3	3
1957-58	23	17	13	10
1958-59	67	27	43	27
1959-60	127	50	51	34
1960-61	181	60	67	53
1961-62 . . .	431	162	88	37
1962-63	1,632	486	219	127
1963-64	3.986	1.301	513	299
1964-65	17,002	5,621	875	465
1965-66	89,155	16,744	2,686	1,126
1966-67	43,526	90,086	1,035	3,100
1967-68	—	53,934	..	1,257
TOTAL . . .	1,56,162	1,67,512	5,599	6,544

[Paragraph 59(b) of Audit Report (Civil), Revenue Receipts, 1968.]

5.24. The total number of cases, pending with Appellate Assistant Commissioners as to the end of June every year for the last five years was as follows:

(Total number of cases)

As on 30th June, 1964	..	84,736
As on 30th June, 1965	..	1,20,736
As on 30th June, 1966	..	1,56.162
As on 30th June, 1967	..	1,67,512
As on 30th June, 1968	..	2,00,928

5.25. The Chairman, Central Board of Direct Taxes stated that all the additional posts. sanctioned for appeliate work, could not be filled in because the question of relative seniority of direct recruits *vis-a-vis* promotee officers was in dispute before the Supreme Court. The Supreme Court gave their judgement in February, 1967 and the Department were able to implement the mandamus only in October, 1968. The number of Appellate Assistant Commissioners at present was 174—46 more than last year. Certain other changes in staff had also been made. Formerly, an Appellate Assistant Commissioner had only one stenographer. But now he had also been provided with a steno-typist. in lieu of a Lower Division Clerk. This small additional stenographic assistance did not involve much expenditure, but with this, many of the Appellate Assistant Commissioners had been able to increase their disposals by about 25 per cent. The Appellate Assistant Commissioners had also been asked to send their programme of disposals so that the Board could ensure that the appeals of earlier years were given due priority. As a result of these measures, the current monthly disposal exceeded the current filing by about 10,000. whereas previously, the disposals were not able to cope with even fresh filings. He expected the Department to be fairly current in the matter of appeals by February, or March, 1970.

5.26. The number of revision petitions pending with the Commissioners of Income-tax as on 30th June, 1965. 30th June, 1966, 30th June, 1967 and 30th September. 1968 was as follows:

Date		No. of cases pending
30-6-1965	..	4,760
30-6-1966	..	5,599
30-6-1967	..	6,544
30-9-1968	..	7,234

5.27. According to the Chairman, Central Board of Direct Taxes, "the increase (in the number of pending revision petitions) was ascribable to larger institution of revision petitions (7,492 petitions were filed during 1967-68) and not to lower disposals." He thought that the position was "satisfactory". The number of pending cases which had arisen to 8,083 by 31st March, 1968 from 7,304 on 31st March, 1967, had been brought down to 7,234 on 30th September, 1968. Whenever the Members of the Board happened to go on tour, they looked into this aspect. D.O. Letters were also addressed to the Commissioners in this regard. The matter was also discussed during the Commissioners' Conference.

5.28. In a written note, the Ministry have stated:

"The increase in pendency of revision petitions is due to more institution of such petitions because of much larger number of assessments than in the past. The number of assessments completed in the different financial years is given below:

Financial Year		No. of assessments completed
1965-66	..	23,39,027
1966-67	..	24,18,094
1967-68	..	25,56,554
1968-69 (upto 31-1-1969)	..	25,29,860"

5.29. "Apart from the increase in the number of assessments, another factor also is responsible for increase in pendency. The Commissioners of Income-tax are now required to give personal hearing to assessees before deciding the revision petitions. In the past they were disposing of such petitions on the basis of records only."

5.30. "The Commissioners have been asked to give priority to the disposal of revision petitions and to bring down pendency. In recent months the pendency has been declining. The Board is keeping a watch."

5.31. The report on 'Rationalisation and Simplification of tax Structure' contains the following observations about pending appeals:

"Alarming is not too strong a word to describe the present position. The number of appeals pending before Appellate Assistant Commissioners at the end of 1962-63 was 89,349; this has nearly doubled to 1,70,914 at the end of 1965-66. The number of appeals filed each year is steadily increas-

ing—from 1,14,035 in 1962-63 to 1,84,004 in 1965-66. The rate of increase is obviously not unreasonably high in the light of the increase in the number of assessments over this period. The rate of disposal, however, has remained nearly constant. As against 1,23,215 in 1962-63, it rose to only 1,38,108 in 1965-66. On these figures it would appear that on an average an appeal should take about one year. But a large number do take much longer, particularly those which remain 'blocked'."

"Unless some really effective measures are taken, this state of affairs will, if anything get worse. Delay in this field is almost assuming the proportions of denial of justice."

5.32. The Committee are greatly concerned over the heavy pendency of cases with Appellate Assistant Commissioners. The number of such cases which at the end of June, 1964 was 84,736 increased to 2,00,928 as at the end of June, 1968. The Committee would like to point out that delay in the disposal of appeals "is almost assuming the proportion of denial of justice." The Committee note that certain additional posts were sanctioned in the Department to cope with increasing work in this respect, but due to various reasons the posts could not be filled up till recently. The Committee also note that steps are being taken by the Department to clear the backlog of pending appeals. They hope that as a result work will be "fairly current" by March, 1970 as expected by Government. The Committee expect that Government will keep the matter under constant and continuous watch.

5.33. The Committee would also like to point out that the number of revision petitions pending with Commissioners increased from 4,760 as at the end of June, 1965 to 7,234 as at the end of September, 1968. The Committee would like steps to be taken to bring down the number of outstanding revision petitions.

(c) ARREARS OF PENALTY PROCEEDINGS*

Audit Paragraph

5.34. Under the Income-tax Act, penalties are leviable for failure:

(a) to furnish the return without sufficient reasons;

(b) to comply with the requisition to produce books and documents;

(c) to disclose fully correctly the particulars of income; and

(d) in regard to payment of advance tax.

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*Figures are as furnished by the Ministry.

Unlike the provisions of the Income-tax Act, 1961, according to which all penalty proceedings should be completed within a period of two years from the date of the completion of the proceedings in the course of which the penalty proceedings have been initiated, the Income-tax Act, 1922 did not prescribe any time-limit for the completion of proceedings regarding levy of penalty. The following table shows the number of cases in which penalty proceedings have been initiated under the Income-tax Act, 1922 but pending as on 31st March, 1967 and the approximate amount of penalty involved.

Year of assessment	No of cases				Approximate amount of penalty involved
	(a)	(b)	(c)	(d)	Rs.
1951-52 and earlier years	151	112	668	44	88,07,547
1952-53	70	32	153	42	68,49,837
1953-54	85	36	159	42	19,71,465
1954-55	93	29	154	63	38,22,963
1955-56	83	31	157	80	14,38,428
1956-57	153	51	227	120	24,39,669
1957-58	266	88	339	206	32,42,405
1958-59	238	76	228	152	21,19,309
1959-60	251	77	229	209	16,34,380
1960-61	295	112	222	183	21,21,043
1961-62	463	125	457	265	21,38,630
	2,148	759	2,993	1,406	3,63,85,676

[Paragraph 61 of Audit Report (Civil) on Revenue Recipts, 1968].

5.35. The Committee desired to know the reasons for the heavy pendency of penalty proceedings under the old Act. The Chairman, Central Board of Direct Taxes state: "A good number of penalty appeals are pending before the Appellate Tribunal. If the Appellate Tribunal takes an adverse view on the additions made in the assessment, there is no point in having penalty proceedings. One has (therefore) to await the decision of the Appellate Tribunal on the additions made in the assessment...... Sometimes, the assessees themselves request that penalty proceedings be kept pending and we also try to avoid infructuous work by agreeing to such requests." He also stated: "There have been some High Court decisions against the view taken by the Department and we have gone in appeal to the Supreme Court."

5.36. The Committee enquired whether inordinate delay in the completion of penalty proceedings was not likely to prejudice recoveries. The Chairman, Central Board of Direct Taxes stated: "Penalty is resorted to more because of the deterrent effect it has than the demand aspect of it, but still one can argue that the demand aspect is also equally important."

5.37. The Committee enquired what safeguards were taken by the Department to ensure that by the time the penalty proceedings were finalised the assets were not frittered away by the assessee concerned. The Chairman, Central Board of Direct Taxes stated: "Income-tax Officers and Assistant Commissioners enquire into the financial condition of the assessee. They themselves watch it...." In reply to a question, he, however, added: "We can't attach the assessee's assets or take security in view of pending penalty proceedings."

5.38. The Committee desired to know whether any special steps had been taken by the Department to finalise penalty proceedings pending for a long time. In a note, the Ministry have stated:

> "In February, 1968 the attention of all Commissioners of Income-tax was drawn to the large number of penalty proceedings initiated under the Income-tax, 1922 which were pending for disposal. They were asked to personally look into all these cases and issue, where necessary, instructions to the Income-tax Officers concerned for early finalisation of the proceedings. That the instruction had the desired effect will be evident from the fact that the number of penalty proceedings under the old Act pending as on 31st March, 1967 was 36,583,* but on 31st March, 1968 it came down to 12,410. The amount of tax involved also got reduced from Rs. 3·66 crores to Rs. 1·24 crores."
>
> "The Board have reviewed the position in January, 1969 and issued further instructions for a continued follow-up action."

5.39. From the instructions issued by the Board in January, 1969, the Committee observe that the Commissioners of Income-tax had been asked to prescribe a time limit for the disposal of pending cases and watch their progress through a monthly statement. They had also been asked to keep the Board informed of the progress through half-yearly reports. The first report covering the period upto 31st March, 1969 is to be sent to the Board by 15th April, 1969.

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*According to Audit, the number of Penalty proceedings pending as on 31-3-67 was 7,316.

5.40. The Committee referred to the State *Vs.* Offset Works case wherein the assessment had been declared *ultra vires* by the High Court and desired to know what action the Department proposed to take in the light of the above decision of the High Court. The Chairman, Central Board of Direct Taxes stated: "We (have) filed an appeal before the Supreme Court. But, supposing in the Supreme Court we fail and if the penalty proceedings are quashed, the matter will have to be considered again in the light of the observations of the Supreme Court."

5.41. From a note furnished by the Ministry, the Committee observe that in another case relating to a penalty proceeding under the old Act (Ramkishan Vs. Commissioner of Income-tax U.P.) Case (I.T.R. 65, p. 491), the Allahabad High Court have observed as follows:

> "As penalty in respect of the assessment year 1945-46 as a matter of strict law could have been imposed in August, 1957, even though the assessment was completed in March, 1950, but propriety required the changed circumstances to be taken into consideration and the responsibility for the inordinate delay to be fastened before levying the penalty and upholding it..........".

5.42. Referring to the new Act, the Committee enquired whether any cases had come to notice where penalty could not be levied because of the operation of time-bar under section 275. The Chairman, Central Board of Direct Taxes stated: "No case has come to my notice. The Income-tax Officers and the Assistant Commissioners are fully aware of the provisions and we have drawn attention to this repeatedly. There may be some isolated cases, but, by and large, I think......they finalise the proceedings before (the) date of time-bar."

5.43. The Committee are concerned over the inordinate delay in the disposal of cases of penalty proceedings pending under the Income-tax Act, 1922. As on 31st March, 1967, 7316 cases relating to 1961-62 or even earlier years were pending, the penalty involved being Rs. 3.66 crores; 975 of these cases related to the assessment year 1951-52 or earlier years.

5.44. The Committee note that the number of pending penalty proceedings as on 31st March, 1968 is 12,410. These cases involved a penalty of Rs. 1.24 crores. The Committee, however, consider the position to be still unsatisfactory. Apparently, the [illegible] of any

time-limit for finalisation of penalty proceedings has created a feeling of complacency in the Department in this regard. The Committee would like to point out that, notwithstanding the absence of a time-limit, the Courts have been of the view that there should be no delay in the finalisation of the proceedings. The ruling given by the Allahabad High Court in Ramkrishan Vs. Commissioner of Income-tax, U.P.* is an instance in point. The Committee note that Government have recently taken steps to fix time-limits for the disposal of pending cases and asked for reports of progress made in disposal. The Committee hope that as a result the situation will improve and that, in the process of disposal, the older cases will get priority.

(d) DEDUCTION OF TAX AT SOURCE BY COMPANIES

Audit Paragraph

5·45

(1) No. of company assessees as on 1st April, 1966	25565
No. of company assessees on 1st April, 1967	26395
(2) No. of companies which had made the prescribed arrangements for declaration and payment of dividends within India.	
As on 1st April 1966	18623
As on 1st April 1967	19783
(3) No. of companies which have distributed dividend during 1966-67	7294
(4) Amount involved in (3) above.	Rs. [illegible]18 lakhs
(5) No. of cases out of (3) in which the statement prescribed in Rule 37(2) was received.	5479
(6) Amount of deduction shown in the statements in (5) above.	Rs. 2923 lakhs
(7) No. of cases out of (5) in which the tax deducted was remitted into banks.	4964
(8) Amount involved in (7) above	Rs. 2782 lakhs
(9) No. of cases out of (7) above in which the tax deducted was remitted after one week of date of deduction or receipt of challan.	1189

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* In the Ramkrishan Vs. Commissioner of Income-tax, U.P. (I.T.R. 65, p.495) the Allahabad High Court, *Inter-alia* observed as follows :

"......where the assessee is not to blame for the inordinate delay in completing penalty proceedings and the sword of Damocles has been kept hanging over his head for many a year without any rhyme or reason, it will certainly be a factor, one way or other, for the Tribunal to consider whether the order passed by the Income-tax Officer was a proper one."

(10) No. of cases out of (5) above where the returns prescribed in section 286 were not received, when the dividend paid in the case of a company exceeds Re. 1 and in the case of others Rs. 5,000. — 93

(11) No. of companies out of (3) above which have neither deducted tax at source nor furnished the statement prescribed in Rule 37(2). — 254

[Paragraph 64 of Audit Report on (civil) on Revenue Receipts, 1968]

5.46. If a company fails to deduct tax or after deduction fails to remit it into Government account it is liable for penalty upto a maximum of the tax in arrears. The company is also liable to pay simple interest at 6 per cent (9 per cent from 1st October, 1967) per annum on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid. (*vide* section 201 of Income-tax Act 1961). With effect from 1st April, 1968, under section 276B, the principal officer of the company is also punishable with rigourous imprisonment for a term which may extend to six months and is also liable to fine at a sum not less than 15 per cent per annum on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid.

5.47. During evidence, the Chairman, Central Board of Direct Taxes stated: "A majority of these companies had not declared dividends or declared very low dividends, with the result that the matter has not been pursued. Probably most of them have not declared dividends. We have a list of about 35 companies which did declare dividends of sums varying from Rs. 1,000 to about Rs. 2 lakhs or 3 lakhs and even higher and they did not furnish the returns. In that case, the default is more serious, particularly in the case of larger companies......In (these cases), certainly prosecution would be justified. We had issued several reminders, but they have not produced the response. We have, therefore, taken a decision that we should prosecute them."

5.48. According to a note furnished by the Ministry, the number of companies which had deducted tax at source on dividend distribute during 1966-67 but did not remit to Government the tax so deducted, was 254. The corresponding number in respect of the dividend distributed during 1967-68 came down to only 13.

5.49. As regards the steps taken to recover the balance of Rs. 141 lakhs which had not been remitted, the Ministry have stated:

> "Show cause notices were issued to the companies asking them to file the returns and statements immediately. The cases are being pursued."

5.50. The Committee desired to know whether any penal action had been taken against the companies which had failed to remit the tax deducted as also the companies which had neither deducted tax at source nor furnished the statement prescribed in Rule 37(2). In their reply, the Ministry have stated:

"Penal action under section 276 and 276A (with effect from 1st April, 1968 under this latter section) has been taken in 57 cases involving 268 complaints, the details of which are given below:

Financial year	65-66	66-67	67-68	68-69	Total
No. of complaints filed	8	..	26	234	268
Convictions	8	..	19	116	143
Acquittals	..	..	..	12	12
Withdrawals	..	..	..	4	4
Compositions	..	..	..	1	1
Pending before courts	..	..	7	101	108

5.51. As to 1189 cases in which the tax deducted at source was remitted to Government after the expiry of one week, the Committee enquired whether interest at the prescribed rate had been recovered from the companies for belated payments. The Ministry have stated that the requisite information was not readily available.

5.52. The Committee desired to know whether the Ministry had issued any instructions to the Commissioners regarding deduction by companies of tax from dividends, remittance thereof to Government and filing of prescribed returns by the companies:

"After the introduction of Section 276B with effect from 1st April, 1968 the Commissioners of Income-tax have been instructed to make use of this new power for enforcing prompt remittance of the tax deducted by companies as also securing the timely filing of the prescribed returns by them."

5.53. The Committee note that during the year under review, 254 companies had neither deducted tax at source nor furnished the statement under Section 37(2). The number of companies which deducted the tax at source but did not remit the tax deducted was 254. 1815 companies did not file the prescribed statement under Section 37(2). All this indicates that the position regarding deduction of tax

from dividends, their remittance into treasury and filing of prescribed returns need to be kept under continuous watch. The Committee have been informed that the Board had issued necessary instructions to Commissioners after the introduction of Section 276B with effect from 1st April, 1968. The Committee trust that the Department will keep a constant watch and make use of their powers under Section 276B to enforce prompt remittance of the tax deducted by companies and to secure timely submission of the prescribed returns.

5.54. The Committee also observe that tax amounting to Rs. 141 lakhs deducted at source was not remitted. The Committee would like to be informed of the position regarding recovery of the tax and penalties levied.

(e) NON LEVY OF PENAL SUPER-TAX

Outstanding cases in which penal Super-tax Income-tax under section 23A/104 of Income Tax Act 1922/1961 is to be levied for failure to distribute the statutory percentage of dividends.

Audit Paragraph

5.55. (a) No. of cases pending on 1st April, 1966--2,454;

(b) No. of cases disposed of during 1966-67—2,217;

(c) No. of cases added during 1966-67—849;

(d) No. of cases pending on 31st March, 1967—1086;

(e) Approximate amount of additional tax involved Rs. 156,16,252.

Assessment year-wise details of the cases pending on 31st March, 1967 [*vide* item (d) above], together with the amount of tax involved are shown below:

Assessment Year	No. of cases	Amount of tax involved Rs.
1	2	3
1953-54	2	5,000
1954-55	2	15,000
1955-56	74	8,83,461
1956-57	79	8,99,000

1	2	3
1957-58	87	20,45,990
1958-59	112	21,15,800
1959-60	153	27,00,000
1960-61	148	12,32,300
1961-62	220	34,65,835
1962-63	59	14,25,187
1963-64	48	3,29,200
1964-65	36	2,53,100
1965-66	32	1,33,323
1966-67	34	1,07,000
	1085	1,56,16,252

[Paragraph 65 of Audit Report (Civil) on Revenue Receipts, 1968].

5.56 According to a note furnished by the Ministry, the number of outstanding cases, in which penal super-tax/income-tax under section 23A/104 of the Income-tax Act, 1922/1961 was to be levied for failure to distribute the statutory percentage of dividends was 2477 as on 31st March, 1968 involving an approximate amount of additional tax of Rs. 302 lakhs. 295 cases were pending under section 23A of Income-tax Act, 1922.

The Ministry have also stated:

"The 1922 Act did not prescribe any time-limit for the levy of penal tax for failure to distribute the statutory percentage of dividends under section 23A. However, under the 1961 Act, the following time-limits have been prescribed for making an order under section 104, namely:

(a) 4 years from the end of the assessment year relevant to the previous year in question;

or

(b) one year from the end of the financial year in which the assessment or re-assessment has been made, whichever is later."

5.57. In reply to a question whether any special steps were contemplated to finalise the cases outstanding under the old Act, the Ministry have stated:

"Instructions were issued in the Board's Circular F. No. 15-D of 1963 dated 13th June, 1968 that even though no time-limit had been prescribed under the 1922 Act, the proceedings under section 23A for and up to the assessment year 1961-62 which would be governed by that Act, should be completed as if the time-limits prescribed under the Income-tax Act, 1961 applied even to these assessments."

"Instructions are once again being issued to the various Commissioners of Income-tax impressing upon them the urgency and the need for an expeditious completion of all such cases by 30th September, 1969 at the latest."

5.58. The Committee are concerned to observe that the number of outstanding cases in which penal Super-tax/Income-tax under Section 23A/104 of Income-tax Act, 1922/1961 is leviable has risen from 1086 as on 31st March, 1967 to 2,477 as on 31st March, 1968, the latter figure including 295 cases pending under the old Act. The amount of tax involved in the cases pending as at the end of March, 1968 was Rs. 3.02 crores. The Committee note that instructions are proposed to be issued impressing upon the Commissioners of Income-tax the need to complete all the cases pending under the old Act by 30th September, 1969 at the latest. The Committee hope that the cases pending under the old Act will be finalised by this target date and substantial progress also made with the clearance of other pending cases coming under the 1961 Act. As the 1961 Act stipulates a definite time-limit for the completion of these cases, it is essential that they should also be expeditiously finalised.

5.59. In their Report on the Central Direct Taxes Administration, the Working Group of the Administrative Reforms Commission have observed as follows:

"Under the Companies Act, companies are classified into—public companies, private companies, holding companies and subsidiary companies."

"These definitions are well known and well understood and have been judicially interpreted. However, for the purpose of the Income-tax Act, besides public and private companies, a third category falling in between the two

has been introduced *viz.*, 'the companies in which public **are not substantially interested'** These companies **may be either private companies** or public companies, as defined in the Companies Act. The criteria to determine whether a company is one in which the public are not substantially interested are laid down in section 2(18) of the Income-tax Act. The tests laid down are complicated and incapable of correct application unless the Income-tax Officer goes through the process of examining the shareholding of the company during everyday of the previous year. For example, the very first test to find out whether a company is one in which the public are substantially interested is to see whether shares carrying not less than 50 per cent of the voting power have been allotted unconditionally to or acquired unconditionally by and were throughout the relevant previous year beneficially held by. . . . .the public. The expression 'throughout the relevant previous year' clearly stipulates that the shareholding must be construed with reference to the position, everyday, of the previous year. We are certain that no Income-tax Officer can undertake this exercise and hence the test laid down had become more or less academic. Secondly, a good deal of litigation* has been generated on the meaning of the word 'public' as used in this clause. The substance of the definition is that a few persons should not be in a position to influence the decisions relating to the distribution of dividends by virtue of a controlling interest in the company but in this process, even genuine public companies can be classified as controlled companies."

"....Section 23A was introduced in 1930 not only for assessing the shareholders of companies on undistributed profits but also for assessing other entities, such as, firm or other association of persons carrying on business and the sole aim of that section was to see that super-tax was not avoided by the individual members of such associations whether incorporated or not. By a series of amendments this concept of company in which the public are not substantially interested was made to serve purposes other than for which it was invented. Thus, for example, if a company in which the public are not substantially interested makes

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*Raghuvanshi Mills Vs. C.I.T. 41 ITR 613.

2. Tatas' Steam Navigation Co. Vs. C.I.T. 24 T.O. 57.

an advance or a loan to a shareholder having a substantial interest in that company, that loan or advance is treated as a dividend. If a company is one in which the public are not substantially interested, Section 79 of the Income-tax Act, 1961 imposes restrictions regarding the carry forward of its losses. A major differentiation made between public companies and the companies in which the public are not substantially interested is in regard to the levy of income-tax. The companies in which the public are not substantially interested bear generally 10 per cent more tax than public companies."

"These provisions would suggest that the companies in which the public are not substantially interested are equated to private companies. If so, it would avoid a lot of complication if instead of driving the Income-tax Officer to find out whether every company is one in which public are not substantially interested the straightforward distinction between a private company and a public company is introduced in the Income-tax Act. These two expressions are well understood in legal and commercial circles and a certain uniformity of interpretation can also be gained as between the provisions of the Companies Act and the Income-tax Act."

"Adoption of this suggestion may lead to a question as to whether the Government has to give up its right to take extra tax from controlled public companies when such companies do not distribute dividends among the share-holders thereby helping them to avoid super-tax. A short answer to this question is that the Legislature itself has given up to a large extent the extra revenue realisable from the application of sections 107 to 109 of the Income-tax Act, 1961, corresponding to section 23A of the Act of 1922. As the provisions stand today, manufacturing companies and such other companies as are notified by the Central Government are completely exempt from the provisions of this section. The section has limited application only to trading companies. Even there, thanks to a recent Supreme Court judgement* the provisions of section 107 have

*C.I.T. West Bengal Vs. Gangadhar Banarjee & Co. (57|TR 126).

been rendered inapplicable if the trading results in which even capital losses should be computed show that it would not be possible to apply this section. In spite of this if it is applied, the company has a right to approach the Board for getting a lower percentage than what is prescribed. The distributable income itself has been so defined as to exclude many slices of income so that ultimately very little revenue comes from the application of this section as it stands today."

"Further at the time when Section 23A was introduced, there was a marked difference between the tax payable by the individual (because of graded super-tax) and the tax payable by a company. Now the maximum tax payable by a private company and by an individual is the same, *viz.*, 65 per cent. Though the maximum is 65 per cent in the case of individuals, the effective average rate is less than this, so that even if the element of surcharge is taken, the net difference between the tax payable by a private company and by an individual will not be significant. The result is that the original purpose for which this section was introduced no longer justifies the continuance of this category of companies. In this connection, it may be relevant to point out that out of 26,000 companies in India, a little over 20,000 companies are private companies and only about 2500 are those in which the public are not substantially interested. Therefore, by abolishing this category and retaining the distinction between a private and a public company for all the purposes for which a distinction is required to be made between public companies and companies in which public are not substantially interested, may not result in any appreciable loss of revenue. On the other hand, it may save administrative cost to Government in the time and the labour an Income-tax officer spends for conducting investigation in every case whether it fulfils the tests laid down in section 2(18). If in spite of this it is still thought necessary to have a distinction between controlled companies and non-controlled companies, this can be achieved by substituting a much simpler distinction for the existing one in section 2(18). This can be done by retaining section 2(18)(b)(i) and deleting the other sub-clauses. Essence of control is in this sub-section."

5.60. Expressing his views regarding the retention of the distinction between the companies in which the public are not substantially interested and other companies, the Chairman, Central Board of Direct Taxes stated during evidence: "There is a small number of companies—trading companies—which have got some kind of exclusive right to distribute certain products; they are getting very high profits now. We want (these) companies, which according to the Legislature, probably do not serve any important national purpose as industrial companies, to be taxed at this high rate........After all, the shareholders of a private limited company controlled by less than six shareholders could so arrange their affairs that they keep the profits in the company without distributing them and....get benefits of that amount of money which is in the private limited company. We want to see that the profits (in such a company) are distributed and taxed."

He further stated: "......A private company pays 65 per cent tax on its profits. On the dividend distributed by it, which is taxed in the hands of shareholders, the shareholders will be paying a further tax. Even if it is 30 per cent., it is certainly a gain to the exchequer ....." Asked whether this did not tantamount to double taxation, the witness stated: "I do not see how double taxation is involved in it more than in the case of public limited company."

5.61. In reply to a question regarding the principles underlying section 23A of the old Act, the witness stated: "When section 23A was introduced, there was the question of Income-tax deemed to be paid on dividends and giving credit for the same. But now as things have developed, this income-tax is no longer deemed to be paid by the shareholder. I think the principle has also changed. With the section, as it stands, we do not see anything wrong."

5.62. The Committee note that in the Report on Rationalisation and Simplification of Tax Structure, the following views on the subject have been expressed.

> "A distinction, for the purpose of rates of taxation, between closely held and other companies has *prima facie* little economic justification. In fact, the original reason for differential treatment was the desire to deter certain forms of tax avoidance. It is only later that a substantive distinction in the rate of taxation crept in........I would only emphasize that it would be highly desirable to do away with this distinction altogether for any kind of purpose for the simple reason that it not only creates innumerable and ticklish problems for the ad-

ministration but leads to prolonged periods of uncertainty in the case of many companies. I understand, for example, that for nearly ten years it had not been possible for anyone to determine whether a particular company was closely held or not. The shareholdings in companies undergo changes and under the present involved definition, the tax authorities have to determine each year whether a company is closely held or not. It would, therefore, be well worthwhile to dispense with this arduous process."

5.63. The Committee observe that the category of companies known as 'companies in which the public are not substantially interested' was introduced in the tax statute in 1930 to prevent avoidance of super-tax payable by an individual by forming 'controlled companies'. At that time there was a marked difference between the tax payable by an individual and that payable by a company and the statute sought to cover cases of individuals attempting to avoid super-tax through the constitution of controlled companies by bringing in the concept of 'companies in which public are not substantially interested'. The disparity between the tax payable by an individual and that payable by a company does not now exist in that measure, with private companies having been progressively subjected to higher rates of taxation. Besides, the number of 'companies in which the public are not substantially interested' is rather small. Moreover, it would appear that the criteria laid down in the Act for determination of this category of companies "are complicated and incapable of correct application." It, therefore, requires consideration whether, in the changed context, this category of companies can be dispensed with under the Act. If revenue considerations require its retention, the Committee would like Government to consider whether the statute could be simplified to retain the essence of control on the lines suggested by the Working Group of the Administrative Reforms Commission.

(f) REFUNDS

Refunds under Section 243

Audit Paragraph

5.64

	No. of applications	Amount in Rs. (000)
(1) Number and amount of refund applications pending on 1st April, 1966	5731	94.93
(2) Number and amount for which refund applications were received during the year 1966-67 .	88622	2,97.63

	No. of applications	Amount in Rs. (000)
(3) Number and amount of refunds made during 1966-1967 :		
Out of (1)	5696	54,56
Out of (2)	83140	2,44,65
(4) Number of cases and amount of interest paid on refunds made during 1966-67 :		
Out of (1)	..	..
Out of (2)	..	..
(5) Number of cases and amount of refund made on which no interest was paid	88836	2,99,21
(6) Number and amount of applications pending on 31st March, 1967	5517	92,45
(7) Break-up of cases mentioned at (6) above :		
(*i*) Refunds outstanding for less than a year as on 31st March, 1967	4995	68,54
(*ii*) Refunds outstanding between 1 year and 2 years as on 31st March, 1967 . .	429	16,29
(*iii*) Refunds outstanding for 2 years and more as on 31st March, 1967 . . .	93	7,62

[Paragraph 66(a) of Audit Report (Civil) on Revenue Receipts, 1968]

5.65. Under section 243 of the Income-tax Act, 1961 where any claim for refund is made, the Income-tax Officer is required to grant the refund within six months from the date of the claim. If, however, the refund arises consequent on an assessment on account of there being income from salary, Income from property, income from business etc. the Income-tax Officer should give the refund within a period of three months from the date of completion of assessment. Failure to make refund within this period would result in the payment of interest at 6 per cent per annum upto 30th September, 1967 and at 9 per cent with effect from 1st October, 1967 by the Government to the assessee.

5.66. Taking note of the fact that interest, as stipulated in the Act, had not been paid in any of the 88,836 refund cases settled during the period 1st April, 1966 to 31st March, 1967, the Committee enquired whether it had been examined in how many cases, interest was payable to the assessees in terms of the provisions of the law. In a note, the Ministry have stated:

"It has not been possible to examine all the cases."

5.67. Giving the general reasons for the non-payment of interest, the Chairman, Central Board of Direct Taxes stated during evidence: "I am told that some of these refunds did not fall under Chapter XIX of the Income-tax Act and that in some other cases, legal points were involved and appeals were pending. In a few other cases, information was asked for from the assessees and delay in refund was attributable to the assessees." He, however, added: "I am not myself happy with this state of affairs........I myself would be very doubtful whether all these reasons are there. We will go into it."

5.68. The Finance Secretary added: "The question is whether any interest due is being irregularly denied...... Let us make a review. We will undertake it and furnish a report to the Committee." In reply to a question, the Chairman, Central Board of Direct Taxes stated that they would be able to furnish the report by May, 1969.

5.69. The Committee referred to para 1.120 of the 17th Report of the Public Accounts Committee (Fourth Lok Sabha), wherein the Public Accounts Committee (1967-68) had, *inter alia*, observed as follows:

> "The Committee desire that old cases pending, for more than two years, which numbered 93 involving an amount of Rs. 7,62,145 as on 31st March, 1967 should be disposed of early and efforts should continue to be made to prevent this accumulation of arrears which involve liability of Government to pay interest on refund claims. The Board should look into the reasons for delay in the disposal of old cases one of which dates as far back as 1957-58."

5.70. In a note furnished by the Ministry pursuant to the above recommendation, it was stated as follows:

> "Instructions have been issued and steps taken for expeditious disposal of refunds. The reasons for the delay in disposal of old cases are being ascertained and necessary action will be taken."

5.71. During evidence, the Finance Secretary stated that the question of refunds was discussed in the last Conference of Income-tax Commissioners. As a result of measures initiated, there had been a "distinct improvement." The Chairman, Central Board of Direct Taxes stated in this regard that the number of refund claims outstanding between 1 and 2 years as on 31st March, 1968 had been brought down to 103 from 429 as on 31st March, 1967.

5.72. In reply to a question as to what other remedial measures were proposed to be taken, the witness stated: "........We are considering that the interest amount in some cases should be recovered from the salaries of the individuals as a measure of punishment."

5.73. In para 1.120 of their 17th Report (Fourth Lok Sabha), the Committee had stressed the need for ensuring that refunds are made by the Income-tax Department expeditiously in all pending cases. The Committee note that the number of refund claims outstanding between one and two years has come down from 429 as on 31st March, 1967 to 103 as on 31st March, 1968. The Committee trust that efforts will continue to be made by Government not only to liquidate old pending claims but to ensure the settlement of new claims within the time-limits prescribed in the Act.

5.74. The Committee note that, though refunds amounting to Rs. 2.99 crores were made in 88,836 cases during the period 1st April, 1966 to 31st March, 1967, no interest was paid to the assessees in any of these cases. The Committee would like Government to examine whether interest due in terms of the Act was denied in any of these cases where refunds were made after expiry of the time-limits laid down in the Act. During evidence, the Government representatives promised to conduct a review in this regard and furnish a report to the Committee by May, 1969. The Committee would like to await this report. The Committee would in this connection like to reiterate their recommendation in para 1.121 of their 17th Report (Fourth Lok Sabha) that Government should ensure payment of interest on refunds to assessees in all cases where it is payable, whether the assessees have claimed interest or not.

Refunds under Section 244

Audit Paragraph.

5.75.

1.	Number of cases in which revision of assessments were pending as on 1st April, 1966	10,635
2.	Number of cases in which assessments were revised during 1966-67 in respect of cases :	
	(i) pending as on 1st April, 1966	9,415
	(ii) that arose during 1st April, 1966 to 31st March, 1967	46,655
3.	Number of cases and amount of refund made in respect of cases at serial number 2 (i) and 2(ii) above :	
	2(i) Number of cases	5,972
	Amount in Rs. (000)	1,40,21
	2(ii) Number of cases	30,649
	Amount in Rs. (000)	7,95,38

4. Number of cases and amount of interest paid in respect of cases at serial number 2(i) and 2(ii) above :

2(i) Number of cases	40
Amount in Rs. (000)	32,48
2(ii) Number of cases	1
Amount in Rs. (000)	2

5. Number of cases pending revision as on 1st April, 1967 :

(*i*) Out of cases pending as on 1st April, 1966	1,220
(*ii*) Out of cases that arose during 1st April, 1966 to 31st March, 1967	3,831

6. Yearwise particulars of item (5) :

1960—61	1
1961—62	7
1962—63	28
1963—64	42
1964—65	146
1965—66	699
1966—67	3,830

[Paragraph No. 66(b), Audit Report (Civil) on Revenue Receipts, 1968].

5.76. Under section 244 of Income-tax Act, 1961 where a refund is due to an assessee as a result of appellate decision and the Income-tax Officer does not grant the refund within a period of six months from the date of such order, the Government have to pay the assessee interest at 6 per cent per annum upto 30th September, 1967 and at 9 per cent per annum thereafter on the amount of refund due from the date immediately following the expiry of the period of six months from the date of the order to the date on which the refund is granted.

5.77. The Committee desired to know the approximate amount of interest payable in 5,050 cases of refunds arising out of appellate decisions which were pending action as on 31st March, 1967. In a note, the Ministry have stated: "The information is not available with the Ministry. If the Public Accounts Committee so desire, it will be called for from the Commissioners of Income-tax."

5.78. The Committee desired to know the reasons for not refunding the tax excess collected in 8 cases relating to the assessment years 1960-61 and 1961-62. The Ministry have stated as follows:

"The one case relating to the assessment year 1960-61 has since been disposed of. In the remaining seven cases relating to the assessment year 1961-62 the present position is being ascertained from the respective Commissioners of In-

come-tax. The necessary information will be supplied to the Public Accounts Committee as soon as the Ministry hears from them."

5.79. The Committee are not happy over the delay in refunding moneys due to assessees as a result of appellate decisions. As on 31st March, 1967, there were 5,050 such cases, 1,220 of them pending for more than one year. As a result of the delay in making the refunds, Government had to pay interest amounting to Rs. 15,000 in five cases. The Committee would urge Government to take effective measures to ensure settlement of refund claims under Section 244 within the prescribed time-limit.

(g) NON-LEVY|INCORRECT LEVY OF PENAL INTEREST

Audit Paragraph

5.80. Omission to levy or incorrect levy of penal interest was noticed in 2,064 cases and the amount involved is Rs. 40.48 lakhs.

[Paragraph 51 of Audit Report (Civil) on Revenue Receipts, 1968]

5.81. The number of cases of non-levy/incorrect levy of penal interest, as mentioned in the Audit Reports, 1963 to 1967, was as follows:

Audit Repot	No. of Cases	Amount (in lakhs of rupees).
1963	327	5·00
1964	632	6·64
1965	523	9·08
1966	1,297	17·72
1967	1,834	32·60

5.82. The Committee desired to know the reasons for the heavy increase in the number of cases of non-levy/incorrect levy of penal interest. The Chairman, Central Board of Direct Taxes stated: "The Audit coverage is also more. Apart from that, I am aware of the deficiencies." He also stated that there were 'so many' types of penal interest under the Income-tax law, with varying rates. The

Committee enquired whether it was not possible to consolidate the various types of penal interest. The witness stated: "Except that there are certain lapses for which we do not want to impose the same rate of penal interest as for some others." The Committee desired to know whether the provision relating to penal interest could not be simplified. The Finance Secretary stated: "We will see to what extent rationalisation of the rates and of laws would help in simplification."

5.83. As to other remedial measures, the Chairman, Central Board of Direct Taxes stated: "I have an idea to make some kind of a table available to each of the clerks to work on this so that they will have ready reckoners instead of leaving it to them to calculate or refer to the Act........ I am also exploring the possibility of purchasing some machines costing Rs. 7,000 to 8,000 for instant interest calculations. We have purchased one in Bombay and we want to have more in other charges. We will strengthen the internal Audit parties. They will look into these mistakes immediately. Some more clerical assistance in the functional distribtuion charges will (also) reduce these mistakes in future."

5.84. While dealing with simplification of procedures, the Working Group of the Administrative Reforms Commission, in their Report on the Central Direct Taxes Administration have observed as follows:

> "Difficulties are experienced in the matter of calculation of interest under the various provisions of the Income-tax Act which at present are to be calculated for every day of the penalty and calculated to the nearest rupee. Such calculations become complicated and much time of the Department may be saved without any risk to loss of revenue if such interest calculation are made not with reference to the day of penalty but with reference to the complete months. The interest should also be calculated on the nearest Rs. 100—if the amount is less than Rs. 50, it should be omitted and if it is more than Rs. 50, interest should be calculated rounding it off to the nearest Rs. 100."

5.85. The Committee are concerned over the heavy increase in the number of cases of non-levy/incorrect levy of penal interest. As against 327 cases of non-levy/incorrect levy reported in the Audit Report, 1963, the number of cases of non-levy/incorrect levy reported in the Audit Report, 1968 was 2064. The amounts involved in the two years were Rs. 5 lakhs and Rs. 40.48 lakhs respectively. The

Committee had drawn attention to this position in paragraph 2,129 of their Twenty-Ninth Report (Fourth Lok Sabha). The recurrence of such cases suggests the need to streamline the existing procedure. The Committee would in this connection like the Ministry to examine the suggestion made by the Working Group of the Administrative Reforms Commission in their Report on the Central Direct Taxes Administration for interest calculations to be made with reference to complete months rather than days and for rounding off calculations. This would help considerably to simplify the work.

5.86. Work would also be simplified if the varying rates of interest now in existence for different kinds of default could be rationalised and tabulators used for purposes of calculation.

Audit Paragraph

5.87. Under the Income-tax Act, 1961, when return of income is not filed on or before the prescribed date interest is leviable at 6 per cent per annum on the net amount of tax payable on final assessment irrespective of the fact whether the delay has been permitted or not. It was noticed that in 5 cases when the returns were filed after the stipulated date, the statutory interest remained to be levied resulting in short-realisation of interest of Rs. 74,285.

[Paragraph No. 51(c)(i), Audit Report (Civil) on Revenue Receipts, 1968].

5.88. From a note furnished by the Ministry, the Committee observe that the Department had not accepted Audit objection in one case, with a tax-effect of Rs. 11,625. The position in the remaining four cases was indicated as follows:

Assessee	Tax-effect	Additional demand raised and recovered.
	Rs.	
No. 1	12,275	Rs. 13,091 (entire demand recovered)
No. 2	17,195	Order had been passed *ex-parte*. Assessment was being revised giving effect to this order, which would give rise to the additional demand.
No. 3	19,197	Rs. 1,633. As a result of the reduction of the assessee's share of income from any other firm, the amount was reduced to Rs. 1,633. This was recovered on 20-11-1968.
No. 4	13,993	Rs. 15,000. Not yet recovered. Recovery certificate had been issued to the collector.

Total amount recovered so far : Rs. 14,724.

The Committee desired to know whether the Board had issued instructions to Income-tax Officers pointing out the omission to apply the provisions of the law. In a note, the Ministry have stated: "The Board issued instructions in January 1968 urging the Income-tax Officers to take particular care to see that interest for delayed submission of return, chargeable under section 139 is not omitted to be charged at the time of the original assessment. For preventing possible failures to levy such interest, some further instructions are proposed to be issued by the Board shortly. Copies of the same will be sent to the Public Accounts Committee soon after the instructions have been finalised."

5.89. During evidence, the Committee were informed that in respect of a particular accounting year, the prescribed date for the submission of all the returns was the same. To ensure that in case of a return received after the prescribed date, levy of penal interest did not escape notice, the Committee enquired whether an indication could not be given on the return itself to the effect that it had been received after the prescribed date and that penal interest had to be charged. The witness stated: "It is quite a valuable suggestion. If it is beyond the prescribed date, some label or stamp can be put upon it .... we will consider it."

5.90. The Committee note that the Board have instructed Income-tax Officers to ensure that interest for delayed submission of return, chargeable under Section 139 of the Income Tax Act, 1961 is invariably charged at the time of original assessment. They also note that some further instructions are proposed to be issued by the Board. The Committee trust that these will be issued at an early date. To ensure that levy of interest in such cases does not escape notice, the Committee would suggest that a prominent indication should be given by means of a label or rubber stamp to the effect that the return had been received after the prescribed date and that penal interest is chargeable.

The Committee note that penal interest amounting to over Rs. 31,000 in two of the four cases has not yet been recovered. They would like efforts to be made by the Department to recover this amount at an early date.

Audit Paragraph

5.91. In the case of a registered firm interest for belated submission of the return is to be calculated on the amount of tax which would have been payable if the firm had been assessed as an unregistered firm. This provision of the law was overlooked while levying

interest on a registered firm for the assessment year 1962-63 resulting in under-charge of interest of Rs. 1,11,595. A demand for the amount has since been created and report regarding recovery of the same is awaited.

[Paragraph No. 51(c)(ii), Audit Report (Civil) on Revenue Receipts, 1968].

5.92. During evidence, the Chairman, Central Board of Direct Taxes stated that it was a clear case of oversight', but added in extenuation that the Income-tax Officer had to complete 33 assessments in the month of March, 1967. The mistake was caused by rush of work in the last week of March, 1967, when this particular assessment was completed. The particular assessee had come forward with a disclosure petition which would not have been possible but for the 'excellent work' done by the Officer. He also added: "....The Income-tax Officers in Central Circles are doing quite an impossible task. Interest calculations are supposed to be done by clerks, but they do not do it properly."

5.93. As to rectification/recovery of the short-levy, the Ministry have stated that the assessment had been revised under Section 154, raising an additional demand of Rs. 1,11,595. There had been no recovery of the additional demand as recovery proceedings had been stayed pending finalisation of settlement proposals.

5.94. In reply to a question, the Ministry have stated that the assessee had first offered a lower sum, but after discussions with the Commissioner, it was likely to be of the order of Rs. 140 lakhs.

5.95. The Committee note that the omission to levy interest according to the provisions of the law had led to an under-charge of over Rs. one lakh in the present case. It was urged in extenuation that the Income-tax Officer had to complete 33 assessments in the month of March. This is indicative of the fact that spacing of work in the Department needs to be improved.

5.96. The Committee note that a disclosure petition of the assessee in this case for Rs. 1.40 crores is pending before the Board. They would like to be informed of the Board's decision on the petition as also the position regarding recovery of short-levy of interest of Rs. 1,11,595.

MISTAKES IN GIVING EFFECT TO APPELLATE ORDERS

Audit Paragraph

5.97. In the case of an assessee the Appellate Assistant Commissioner of Income-tax enhanced the assessment for the year 1952-53 in appeal by adding a sum of Rs. 4,05,000. On further appeal by the assessee, the Income-tax Appellate Tribunal reduced the addition made by the Appellate Assistant Commissioner to the extent of Rs. 2,50,000. The department revised the assessment for the year 1952-53 accordingly on 22nd March, 1961. Subsequently, when the High Court held on 26th March, 1964 in this case that the Appellate Assistant Commissioner had no power to enhance the assessment in appeal, the Department again revised the assessment on 6th March, 1965 by reducing the total income by Rs. 4,05,000 ignoring the fact that the assessee had already been allowed relief to the extent of Rs. 2,50,000 on 22nd March, 1961. Thus, due to a mistake in giving effect to the orders of the High Court the income of the assessee was under-stated by Rs. 2,50,000 and the under-charge of tax on this account was Rs. 2,40,291 for the assessment year 1952-53, including interest payable under section 18A(6) to the extent of Rs. 35,213. The Ministry while accepting the mistake informed that an additional demand of Rs. 2,40,291 has been created. Information regarding recovery of the tax is awaited.

[Paragraph No. 52, Audit Report (Civil) on Revenue Receipts, 1968].

5.98. During evidence, the Chairman, Central Board of Direct Taxes stated that although the High Court had passed the order on 26th March, 1964, actual relief was given on the basis of the Income-tax Appellate Tribunal's order which was passed on 12th November, 1964. The Income-tax Officer who gave effect to the order of the Tribunal was not the one who had made the original assessment. While passing the rectification order, he over-looked the fact that a sum of Rs. 2,50,000 had already been withdrawn on 22nd March, 1961. He admitted that it was a mistake on the part of the Income-tax officer but added in extenuation that at the time of rectification he did not have the High Court's Judgement before him. He got a copy of the judgement 7 or 8 months after he had passed the rectification order. As the Board had impressed upon the Income-tax Officers to give prompt refunds resulting from appellate orders, the Income-tax Officer, in his eagerness to carry out the Board's instructions in this regard did not wait for the receipt of High Court's order. The Tribunal's order, on the basis of which he made the rectification, clearly stated that the whole amount of Rs. 4,05,000, by which the

original assessment had been enhanced by the Appellate Assistant Commissioner should be deleted. In this connection, he read out the following extracts from the Tribunal's order:

"As required by section 66(5) of the Indian Income-tax Act, 1922 and in conformity with the judgement of the High Court of judicature at Calcutta, delivered on 26th March, 1964 in I.T. Ref. No. 29 of 1961, we hold that the Appellate Assistant Commissioner of Income-tax was not justified in enhancing the income of the appellant by the sum of Rs. 40,05,000 and we direct that the whole amount namely, Rs. 4,05,000 be deleted."

5.99. Another factor responsible for the mistake was the heavy pressure of work. According to the witness, "if he (the Income-tax Officer) had to go through all the records and then give effect to the Tribunal's order, it would have taken quite a lot of time." The witness stated: "This mistake has crept in because of the pressure of work, the fact that the Tribunal's order was misleading and his having had to give effect to it in a hurry. If he had been the same officer who passed the earlier order, then he would have remembered it. Also, if the High Court's judgement was there or the Tribunal's order was not misleading, this would not have happened. It was really a combination of circumstances."

5.100. The Committee enquired on what grounds the Appellate Assistant Commissioner had enhanced the original assessment. The Chairman, Central Board of Direct Taxes stated: "While examining (the original assessment), it came to his notice that there was some undisclosed income and, therefore, he increased it."

5.101. In para 61 of their 21st Report (Third Lok Sabha), the Public Accounts Committee (1963-64) had suggested that revision of assessments done as a result of orders of an appellate authority involving large sums should be scrutinised by a high authority to avoid possibility of such mistakes occurring. In July, 1964, the Board issued instructions to the Commissioners of Income-tax that all cases where the tax-effect as a result of revision of assessments, consequent on Appellate orders, exceeds Rs. 1 lakh, the Income-tax Officer should take prior approval of the Inspecting Assistant Commissioner before giving effect to Appellate orders. The Committee enquired whether the revised assessment had been submitted for the prior scrutiny of the Inspecting Assistant Commissioner, in this case. In their reply, the Ministry have stated that the revised assessment was not made with the prior approval of the Inspecting Assistant Commissioner.

5.102. As to rectification/recovery of the under-charge, the Ministry stated as follows:

"The assessment has been revised under section 154, raising an additional demand of Rs. 2,40,290.80 which has not been recovered so far. The assessee expired in June, 1967 and it will take time to collect the amount as the executors of his estate have not yet obtained probate of his will."

5.103. In a subsequent note, the Ministry have stated: "The additional demand of Rs. 2,40,290.80 has not been recovered yet. Attempts are being made to realise the arrears of tax due from the deceased assessee through the Tax Recovery Officer."

5.104. The Committee understand that this case also occurred in a Central Circle.

5.105. The Committee note that, due to a mistake on the part of the Income-tax Officer in giving effect to the High Court's order, there was an under-charge of tax to the tune of Rs. 2,40,291. It was obviously not correct to have made the rectification order without having gone through the relevant records.

5.106. The Committee also observe that, though in terms of instructions issued by the Board, pursuant to the recommendation of the Public Accounts Committee (1963-64), the Income-tax Officer should have taken the prior approval of the Inspecting Assistant Commissioner in this case before giving effect to the Appellate order, the revised assessment was made without such approval. The Committee take a serious view of this. They desire that the Board should ensure that the instructions issued by them pursuant to the Committee's recommendations are strictly complied with.

5.107. Another feature of the case is that though the High Court had passed the order on the case on 26th March, 1964, the Income-tax Officer got a copy of the Judgement after a lapse of about 19 to 20 months. It is not clear to the Committee why a copy of the judgement was not made available to the Income-tax Officer earlier. The Committee desire that copies of decisions of the relevant appellate authorities should be procured by the assessing officers without delay in order to finalise assessments correctly.

5.108. The Committee note that the additional demand of Rs. 2,49,290 raised on rectification of the mistake in this case has not yet been recovered, as the assessee expired in June, 1967. The Committee would like to be informed of progress with recovery.

VI

GENERAL

6.1. The Committee have not made recommendations/observations in respect of some of the paragraphs of the Audit Report (Civil) on Revenue Receipts, 1968. They expect that the Department will none-the-less take note of the discussions in the Committee and take such action as is found necessary.

NEW DELHI;
April 18, 1969.
Chaitra 28, 1891 (*S*).

M. R. MASANI,
Chairman,
Public Accounts Committee.

APPENDIX I

Note regarding major problems confronting the Income-tax Department and how they are being tackled

(*See* paras 1.25 and 1.79 of the Report)

1. *Arrears of assessments*:

(a) Audit Para. 58 has correctly drawn attention to increase in arrears of assessments. However, on 31-3-1968, arrears were brought down to 23.30 lakhs—a reduction of 18,000 as compared with end of preceding year. In addition, as there were 23 lakhs of assessees (other than 4 lakhs of salary assessees), we had to do 23 lakhs new assessments this year. This problem has been engaging the continual attention to the Board who have discussed it with the Commissioners. As a result, various administrative and technical measures, including strengthening of staff were taken. Target has been fixed to complete 800,000 more assessments this year. This target will not only be reached but improved. Up to the end of December, 1968 the Department has done 578,000 more assessments (21.32 lakhs against 15.51 lakh last year). At this rate, we should exceed the figure of 800,000 targetted.

(b) Though a high percentage of the cases disposed of represent cases in the 'small income' group, the procedures for which were streamlined, there has been an increase, ranging from 35 to 40 per cent. in the disposal of higher category cases. For instance, in cases falling under Category I (business incomes above Rs. 25,000), 116,941 assessments were disposed of till December, 1968, as compared with 87,140—an increase of 34 per cent.

(c) Small income cases assessment scheme—under this scheme, incomes returned by the assessees are accepted subject to a small test-check and with certain safeguards. The scheme applies to cases with incomes of Rs. 15,000 or less in Bombay and Calcutta and Rs. 10,000 or less in other places. In the case of registered firms with 4 or more partners, the scheme applies to all cases with total income up to Rs. 20,000. The important feature in this scheme is that he assessees are put on trust. This summary method of assessment saves the time of the assessees and of the officers and the labour and expense involved in attending Income tax

Offices is eliminated. If the scheme is a success, it would be extended to other income groups.

2. *Arrears of tax collections:*

(a) Collection position is also kept under constant review. The extension of the Functional Scheme to 80 out of 122 Ranges has itself resulted in greater attention being paid to collections. Further, recovery work has been taken over from the State Governments in 9 States (6 fully and 3 partly).

(b) Other steps taken to improve collections are—

(i) maintenance of arrears sheets and ledger cards;

(ii) constant and systematic review by senior officers;

(iii) strict enforcement of recovery measures including levy of penalties;

(iv) attachment of assets and credit balances;

(v) sale of attached assets etc., and

(vi) publication of names and defaulters in the news papers (Rs. 1 lakh in Bombay and Calcutta and Rs. 25,000 in other charges).

A systematic review of old arrears and a drive for write-off of irrecoverable amounts by various authorities is under way. Up to 31-12-1968, collections were better by Rs. 33.17 crores than in the corresponding period last year (Rs. 397.74 crores against 364.57 crores).

3. *Tightening of measures against tax evasion:*

(a) *Increased use of prosecution.*—17 prosecutions were launched in the first 9 months of this year (1968)—compared with 8 during the whole of last year. Of these, four persons have already been convicted for tax evasion and in one of these cases, the Court awarded six months' rigorous imprisonment. It was the first such case and imprisonment for tax evasion in India. In the past several years, there had been very few prosecutions and convictions were fewer still. Prior to 1968, there were only convictions in two cases—one in 1963-64 and another in 1966-67. Even in these two cases the assessees were merely fined.

(b) Prosecution is also resorted to for failure to deduct tax at source and credit to Government. Complaints in 150 cases have been filed this year against 26 during the whole of last year. On these, in 96 cases

convictions involving imposition of fines have been obtained. The figure for last year was only 9.

(c) on the administrative side, the following steps have been taken to streamline the departmental machinery to enable it to launch successful prosecutions in tax evasion cases:—

(i) Preparation of a Prosecution Manual and Prosecution Handbook.

(ii) Strengthening of Central Circles by posting 4 Assistant Commissioners and 40 more I.T.Os.

(iii) Extension of Intelligence Wing to new areas—Kanpur, Amritsar, Bangalore and Hyderabad.

(iv) Appointment of a Committee of Senior Officers appointed to study tax evasion and suggest ways and means to check evasion (the Committee has just submitted a report).

(v) Effect of the deterrent changes in the Act making minimum penalty equal to income or wealth concealed.

(vi) Publication of names of tax evaders on whom penalties above Rs. 5000 have been imposed.

(vii) External survey, on a limited basis, to rope in new assessees.

4. *Improvement in the Public Relations*:

As the success of a tax system depends upon the degree of voluntary compliance by assessees and as this, in turn, depends upon successful maintenance of proper public relations by the Department, special efforts have been directed towards achieving it by taking the following steps:—

(a) Simplification and rationalisation of the tax structure (providing for straight deduction instead of calculating average rate, etc.)

(b) Simplification of the forms of Return and making them available through Post Offices.

(c) Publication of Tax Guidance Notes in all the important English and Hindi newspapers and issue of the pamphlets at a nominal cost.

(d) Having consultations with Central Direct Taxes Advisory Committee and with the Chambers of Commerce.

(e) Publication of pamphlets in laymen's language on various points relating to Direct Taxes.

(f) Imporvement of amenities for visitors in Income tax Offices.

(g) Advertisements in newspapers, cinemas, etc., reminding tax payers of their obligations and their rights,

(h) Conducting of Refund Weeks, emphasising the need for a special drive for quick disposal of refund cases.

(i) Maintenance of registers of complaints and grievances with Public Relations Officers and Commissioners of Income tax.

In addition, the following further steps are also proposed:—

(i) Publication of a monthly Journal on Direct Taxes by the Board.

(ii) Issuing public circulars on such technical matters as are of interest to assessees.

(iii) Preparation of a documentary film on Direct Taxes.

(iv) Opening of Tax payment counters by the State Bank of India in major cities.

5. *Disposal of Appeals*:

Along with the drive for disposal of assessments, a drive has been instituted for the clearance of appeals. There are 174 Appellate Assistant Commissioners functioning now, as against 138 AACs functioning a year ago. The current disposal of appeals exceeds fresh filings at the rate of 3,000 a month and we expect to be fairly current by March, 1970. Increase in the number of AACs as well as changes in staff and closer supervision over the rate of disposals have resulted in significantly higher output. Four new Benches of the Income-tax Appellate Tribunal have also been added.

Attempts are also being made, through informal approaches to Chief Justices of High Courts for the appointment of special Tax Benches for dealing with the large number of reference applications and writ petitions pending in the High Courts. So far as the Supreme Court is concerned, the appeals are practically current. Of interest to note is that out of 21 departmental appeals decided by the Supreme Court in 1968, the decision was in favour of the Department in 13 cases; of the 24 appeals filed by assessees, decided by the Supreme Court, in 1968, the decision in favour of the Department was in 12.

6. *Strengthening of Internal Audit Machinery*:

The Public Accounts Committee has been emphasing the need for strengthening the Internal Audit machinery. Accordingly, the following steps are proposed to be taken:—

(a) Placing the internal audit parties under the charge of an I.A.C. as recommended by the Administrative Reforms Commission.

(b) Expansion of the scope of audit by internal audit parties so as to include most of the points commented on in the Audit Report.

(c) Preparation of an Internal Audit Manual containing clear and specific instructions. The Internal Audit parties will exercise special check on all cases of income over Rs. 1 lakh in major charges and over Rs. 50,000/25,000 in others.

(d) Circulation of the Audit Report and drawing the attention of the Commissioners specially to the points therein.

7. *Improvements in Administration during* 1968-69:

The following are the improvements effected in the matter of staff strength, accommodation and facilities to officers and assessees:—

(a) Additional posts of 2 Commissioners of Income tax, 47 Asstt. Commissioners, 312 Income tax Officers, 212 Inspectors and 2853 other non-gazetted staff, have been sanctioned.

(b) An additional area of 2,25,000 sq. ft. (app.) has been rented for office accommodation in various cities.

(c) Expenditure on books, stationery and essential furniture including furniture for visitors, has been increased from Rs. 9.5 lakhs to 19.5 lakhs as compared to last year.

APPENDIX II

Summary of Main Conclusions/Recommendations

Sl. No.	Para No. of Report	Ministry/Department concerned	Conclusions/Recommendations
1	2	3	4
1	1.19	Department of Revenue	The Committee observe that the number of assessees on record increased from 12,00,367 as on 31-3-1962 to 27,01,733 on 31-3-1967. This sharp increase in the number of assessees without a corresponding increase in the man-power resources of the Income-tax Department has resulted in substantial accumulation of assessments, apart from "perfunctory assessments leading to endless litigation, Audit criticisms and irritation to assessees."
2	1.20	-Do-	As pointed out by the Working Group of the Administrative Reforms Commission, it is "neither possible nor desirable" to tackle the problem of mounting assessments just by augmenting the strength of assessing officers and ministerial staff. A better course would be "to rationalise the procedures relating to completion of assessments and fix proper priorities in regard to the disposal of existing and arrears cases and the extent of scrutiny to be exercised before accepting the returns of income for the various categories of assessees." The Small Income Cases Assessment Scheme introduced by Government is from this point of view a step in the right direction. The Committee would like Government closely to watch

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			the working of the Scheme, with a view to considering to what extent its scope could be extended, consistently with the need to stop tax evasion.
3	1.21	Deptt. of Revenue	The Committee would like to commend the following other suggestions to Government to tackle the problem of mounting assessments: (i) There would not be "much justification", as conceded by the representative of the Ministry of Finance, "for continuing with the assessment of small incomes if one finds that the taxation of this group results in minus revenue." Government should therefore arrange for reliable data being collected about the cost of collection in respect of various income brackets *vis-a-vis* revenue realised. This would help to determine which of the present categories of tax-payers should continue to be borne on the tax register and how assessment procedures shoduld be simplified, if the taxation of these categories is not to become a drag on Government revenues. (ii) To enable assessing officers to devote their time effectively to assessment work, Government may examine how far they can be divested of routine jobs, by alternative arrangements on the lines suggested by the Study Group of Administrative Reforms Commission. (iii) All cases which have been closed 'N.A.' (non-assessment cases) for the past three years may be struck off the tax registe

			"unless there is information on record that they are likely tc have taxable revenue or unless there are any proceedings pending in respect of these cases."
4	1.29	-Do-	The Committee note that the number of pending Income-tax assessments as at the end of 1967-68 was 23.30 lakhs, or nearly double the number of pending assessments as at the end of 1963-64. Earlier in the Report, the Committee have drawn attention to the need for the rationalisation of procedures relating to assessments and for a proper scheme of priorities for the disposal of cases, so that the time now devoted to the assessment of small income cases, from which the Exchequer gets very little gain, could be profitably diverted to the examination of business cases which are likely to yield substantial revenue. The data about pendency of assessments involving business income of over Rs. 25,000 given in this Report would show that the number of pending cases in this category has been going up. The Committee would like this tendency to be arrested through proper programming of the work of assessing officers. The Committee note that the Working Group of the Administrative Reforms Commission have made a number of useful suggestions for bringing down the number of pending assessments. The Committee would like particularly to draw attention to the following suggestions: (i) Fixing of time-limits for assessments which have been re-opened, for posting cases for hearing and for the issue of assessment orders.

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			(ii) Dispensing with provisional assessments. The Committee would like to be apprised of the action taken by Government pursuant to the foregoing suggestions.
5	1.34	Deptt. of Revenue	The Committee note that 516 Super Profits Tax and 3,438 Sur-tax assessments were pending as on 31st March, 1968. The disposal of these cases is obviously linked with the disposal of the relevant income-tax assessments and the Committee would like concerted steps to be taken for their clearance. The Committee note that the Board expects all the pending Super-Profits Tax and Sur-Tax assessments to be cleared within the next twelve months, except for those which have to be kept pending for compelling reasons. They would like to watch the position in this regard.
6	1.35	-Do-	From the i nformation furnished by the Department, the Committee note that of demands aggregating Rs. 13.2 crores raised in 1,507 super-profits tax and sur-tax cases finalised in 1967-68, a sum of Rs. 5.35 crores remains to be realised. The Committee would like to be informed of the progrss made in the realisation of the balance due.
7	1.41	Do.	While the Committee recognise that some progress has been made in the clearance of pending Excess Profits and Business Profits Tax cases, they would like the Department to take steps to ensure that the remaining 71 cases are speedily cleared. According to the target fixed, these cases were to have been cleared by 1st February, 1969. The Committee would like to know whether this has been done.

9	1.50	Do.	The Committee find the position in regard to pending Wealth Tax assessments rather unsatisfactory as, at the end of March, 1967, 74,232 cases involving Rs. 5.26 crores were pending, over a fifth of these for more than two years. The Committee feel that concerted action for the clearance of these cases is called for. There is also need to link these cases with the corresponding income-tax assessments so that "the quality of administration of income-tax" could be improved and it could be ensured that tax evasion is curbed. The Committee would, in this connection, like Government to examine the suggestion made by the Working Group of the Administrative Reforms Commission for an integrated return.
10	1.56	Do.	The Committee would like Government to examine how the existing system for determination of income from property can be streamlined and improved to ensure that properties are carefully and correctly valued and income therefrom properly determined and assessed. In this connection, they would like to invite attention to the suggestion of the Administrative Reforms Commission for the amendment of the Income-tax Act to provide for determination of the annual value of house property on the basis of the annual rentals received or receivable or the municipal valuation, whichever is greater.
10	1.57	Do.	From the information furnished by Government, the Committee observe that the number of assessments relating to property income in Delhi has not shown a very perceptible rise over the period 1962-63 to 1964-65. It is well known that there has been a substantial increase in

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			real estate investment in Delhi and other metropolitan cities in the last few years. The Committee would therefore like Government to review the position in all the major cities to ensure that the owners of these properties have not escaped tax either on income channelised into these investments or on income accruing from the properties.
11	1.80	Deptt. of Revenue	The Committee cannot help expressing their concern over the increase in "effective arrears" of income-tax from Rs. 244.67 crores as on 31st March, 1966 to Rs. 320.87 crores as on 31st March, 1967. The provisions of the Act contain built-in safeguards against accumulation of arrears which the Committee feel should be purposefully enforced, so that the problem of arrears could be effectively tackled. In this connection the Committee would like Government to consider the adoption of the following preventive steps to avoid accumulation of arrears: (i) Tax on dividends and salaries statutorily deductible at source constitute a major portion of the total tax realisation. Elsewhere in this Report, the Committee have drawn attention to instances of failure to remit taxes deducted at source. The departmental machinery should be geared to check compliance with the provisions of law in this regard. (ii) Advance Tax which is collected also accounts for a major portion of the tax realisations. The Department should work

			out an arrangement to ensure that advance tax notices are duly issued and collections watched. (iii) "The real and...serious reason for heavy arrears", as pointed out by the working Group of Administrative Reforms Commission, "is the tendency on the part of many Income-tax Officers to delay assessments till the end of the financial year and make cumulative assessments for more than one year, particularly big assessment cases, resulting in piling up huge demands which naturally the assessee is unable to discharge." This tendency should be firmly checked and the assessment work spaced but evenly over the year. (iv) The Department should also firmly curb any tendency on the part of assessing officers to over-pitch assessment, as these result in needless inflation of demands and arrears. The Committee had already drawn attention to this problem in para 1.27 of their 17th Report (Fourth Lok Sabha) and they hope that the matter will be kept under constant study.
12	1.81	Deptt. of Revenue	The Committee note that some part of the arrears is due to pending court cases. The Committee are glad that Government have, in consultation with the judiciary, taken steps to expedite disposal of these cases. The hope this would bring about some improvement in the arrears position. The Committee would in this connection like Government to consider the suggestion made by the Working Group of the Adminis-

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			trative Reforms Commission to the effect that the Act should be amended to "provide that where an appeal is preferred against an assessment, such an appeal will not be admitted unless tax is paid on the undisputed amount involved in the assessment." An allied suggestion made by the Working Group to reduce arrears is to fix "a time limit for giving effect to appellate orders", so that tax demands disallowed are promptly refunded to assessees. This, apart from creating a better public image of the Department, would also tend to make the picture of arrears more realistic.
13	1.82	Deptt. of Revenue	Amongst other suggestions for amending the law to tackle the problem of arrears is the one relating to demands against assessees who have become untraceable. The Working Group of the Administrative Reforms Commission have pointed out that there is a tendency for assessees to "go" underground till the period of limitation of 8 years is over" to evade demands made against them. The Committee would like it to be considered whether amendment of the law to make it permissible to re-open assessments in such cases without any time-limit would help to meet this situation.
14	1.83	Do.	Finally, the Committee would also like Government to gear up their recovery mechanism. The Committee note in this respect that the Commissioners are progressively taking over the work hitherto done by the State Governments. The Committee hope that the recovery squads

			would function effectively and energetically to realise all recoverable tax dues.
15	2·5	Do.	The Committee note that a test audit disclosed under-assessment of tax amounting to Rs. 1101.16 lakhs in 9,161 cases during the period 1st September, 1966 to 31st August, 1967. Corrective action is still to be taken in 967 of these cases, involving Rs. 167.71 lakhs, while in respect of 84 cases involving Rs. 4.99 lakhs action has become time-barred. The Committee would like corrective action to be speedily finalised. In those cases where action is now precluded by time-bar, the Committee would like Government to examine whether there was any default on the part of the officials concerned, warranting action against them.
16	2·6	Do.	The Committee also note that in 48 cases involving Rs. 437.63 lakhs, where Audit are of the view that there has been under-assessment, the matter is still "under correspondence." The Committee would like these cases to be examined expeditiously and corrective action to be initiated promptly in all cases where it is called for.
17	2·7	Do.	The Committee take a serious view of the over-assessments disclosed in test-audit. In 2,154 such cases involving Rs. 52.77 lakhs, corrective action has been completed but action is still to be taken in 223 cases involving Rs. 5.57 lakhs.
18	2·8	Do.	The Committee trust that action will be finalised quickly. The Committee have in the past and elsewhere in this report stressed the need to curb the tendency of assessing officers to over-pitch assessments.

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			The Committee trust that this question will receive the continuous attention of the Board.
19	2.9	Deptt. of Revenue	The Committee observe that a large number of these cases of under-assessments and over-assessments escaped the notice of Internal Audit parties in the Department. This suggests the need for toning up their performance. The Committee note that a number of steps have been taken in this regard. They hope that as a result, the work of these parties will show qualitative improvement.
20	3.7	Do.	The Committee observe that the Income-tax Officer, instead of disallowing the inadmissible deduction of £ 12,123 on account of interest on tax dues and adding it back to the book profits, deducted it from the book profits, thereby reducing the assessable income by £ 24,246. Another mistake made by the Income-tax Officer was to assess the amount of £ 12,123 which was actually an expenditure item as income under 'other sources of income.' The cumulative result of the two mistakes was under-assessment of tax to the tune of Rs. 1,05,066 and excess payment of interest to the tune of Rs. 5,078. While the Committee note that the short levy of Rs. 1.05 lakhs has since been recovered, they cannot help observing that the short levy was caused by negligence on the part of the officials concerned. It is regrettable that the mistake should have occurred in a Central Circle where the number of assessments expected to be completed is comparatively less than in other Circles. The Committee

			would like the Board to take these matters and the enquiries more seriously. The Board should issue detailed instructions as to the checks it wants its officers to exercise to avoid such mistakes in assessment.
21	3·13	Deptt. of Revenue	The Committee note that though the amount of super-tax payable by the assessee was correctly computed at Rs. 1,99,267, the figure was erroneously taken at Rs. 1,19,267 at the time of calculation of the total tax demand in the assessment form. This shows that before issuing the demand notice, the Income-Tax authorities had not subjected the tax calculation in the assessment order to a proper check.
22	3·14	Do	The Committee regret that though the mistake was pointed out by Internal Audit in October, 1966, notice for its rectification was issued only in April, 1967—i.e., after a lapse of nearly six months. With a view to avoiding unnecessary delay in the recovery of tax dues, the Committee desire that corrective action should be initiated by the Department soon after the errors in assessment come to notice.
23	3·15	Do.	The Committee note that out of the short levy of Rs. 80,000, a sum of Rs. 5,400 has so far been recovered, the recovery of the balance (Rs. 74,600) having been stayed pending disposal of an appeal before the Income-tax Appellate Tribunal. The Committee would like to be informed of the position regarding recovery after the disposal of the appeal by the Tribunal.
24	3·19	Deptt. of Revenue	In the Committee's opinion, this case raises an important question of law, i.e., whether, in terms of the Act, an assessee who derives taxable profits in a year subsequent to the year in which his business ceased to

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			exist can adjust against the profits, for purposes of tax, the carried-forward unabsorbed depreciation of earlier years. As the Law Ministry have held the audit objection to be correct, the Committee would await report regarding rectification and recovery of the tax involved.
25	3·26	Deptt. of Revenue	The Committee note that allowance for entertainment expenditure in certain assessments was made in three different Commissioner's charges without regard to the relevant limits stipulated in the Act. This indicates that the implications of the relevant provision were not clear to the assessing officers.
26	3·27	Do.	The Committee note that Internal Audit have been asked in the course of their work to check deductions on account of entertainment expenditure. Government also propose to strengthen Internal Audit and introduce a Manual of Internal Audit. The Committee trust that these arrangements would guard against such mistakes going undetected.
27	3·28	Do.	The Committee note that the bulk of the tax dues is still to be recovered from the assessees and that their assets have been attached. The Committee would like to have a further report regarding recovery.
28	3·34	Do	The Committee are surprised to learn that an assessment should have been made by the Income-tax Officer on the basis of a provisional return which, as the Chairman of the Central Board of Direct Taxes conceded,

			was "no return at all". The provisional return showed a loss of Rs. 1.44 lakhs for 1960-61 which turned out to be inflated. It is a matter for regret that this mistake could not be detected during the assessment for the subsequent year when the Income-tax Officer was expected to verify and tally the opening balances shown in the accounts accompanying the return with the closing balances shown in the previous year's accounts. Nor did the Department notice the mistake when the assessment was revised by another Income-tax Officer who was investigating some escaped income of the assessee. The assessee himself filed a final return for the assessment year 1960-61 on 19-11-1945 and 8-3-1966, showing a loss of Rs. 17,381, but the Income-tax Officer failed to take notice of the mistake even at this stage.
29	3·35	Do.	The Committee cannot but conclude that this is a case of gross carelessness at every stage. The Committee would like Government to impress on the Officers concerned the fact that they have been grossly negligent and should be warned to be careful while the Government itself should ensure proper vigilance.
30	3·36	Do.	The Committee note that the Department tried to revise the assessment order, but the assessee went to the High Court to obtain an interim stay of the proceedings. The Committee would like to have a further report regarding rectification|recovery.
31	3·43	Do.	The Committee observe that, due to what the Department had admitted to be carelessness, there was in this case short levy of Rs. 12,442

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			which has not so far been recovered. The Committee trust that efforts will be made by the Department to recover this amount.
32	3·49	Deptt. of Revenue	The Committee regret that despite instructions given by the Board in 1963 as to what should be recknoned as capital for purposes of the levy of Super Profits tax 'provision' made by certain companies for taxation, dividend etc. was recknoned as part of capital. This resulted in depressing the amount of profits in these cases and a consequential under-assesment of tax, which has since been recovered. The Committee trust that the Board will take adequate steps to safeguard against the recurrence of such under-assessments, by ensuring that instructions issued by them are strictly complied with by assessing officers.
33	3·64	Do.	The Committee note that due to "an error of judgment", allowance was made for development rebate and depreciation on certain intangible assets of a company, though such allowance was inadmissible in terms of the Act. This resulted in an under-assessment to the tune of Rs. 2.06 lakhs. What is surprising is that this error escaped the notice of Internal Audit who checked two of the three relevant assessments as also of the supervisory officer who had approved one of the assessments.
34	3·65	Do.	Over the years Audit have been repeatedly bringing to notice mistakes in computation of depreciation and development rebate. The Committee would in this connection like to invite attention to the data at page 162 of this Report. The Committee had also drawn attention to this

			matter in para 1.68 of their 46th Report (Third Lok Sabha) and in pursuance of the observations in that Report, a special review of the assessments was also made. It is, however, apparent that the position has not been substantially remedied. Basically it would appear that the provisions in the Act in regard to depreciation and development rebate need to be rationalised. The Committee note that in regard to depreciation, the Working Group of the Administrative Reforms Commission had, in the interests of rationalisation, suggested replacement of existing rates by consolidated rates on an industry-wise basis, in consultation with trade, professional bodies etc. The report on 'Rationalisation and Simplification of Tax Structure' also draws attention to the fact that certain items of capital expenditure though "necessary and legitimate" are not being reckoned while determining profits, resulting in the incidence of taxation becoming "uneven in unintended ways" and in the process discouraging "enterprise and growth".
35	3.66	Do.	The Committee would like Government to consider expeditiously these and other suggestions made for the rationalisation of the provisions of the Act bearing on depreciation and development rebate so that a relatively simple and equitable dispensation could be worked out.
36	3.72	Do.	The Committee would like Government to dispel any impression in the minds of the public that a development rebate allowed in respect of an asset sold to Government will not be withdrawn even if the party credits to the Profit and Loss account the reserve which he had originally created in order to qualify for the grant of rebate. Another question that Government should consider is whether the party would forfeit the rebate when his entire assets are sold to Government and the reserve cannot stand as such in his books.

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37	3·73	Deptt. of Revenue	The Committee note from the information furnished by Audit that the failure to withdraw the demand has resulted in an under-assessment of Rs. 25,000 in 1965-66.
38	3·78	Do.	One of the conditions laid down in the Income-tax Act is that a development rebate allowed to an assessee in respect of his assets will be withdrawn if there is a transfer of assets to parties other than Government. The Committee note that in this case the old firm was dissolved on 31-12-59 and a new firm with some new partners was formed on 2-1-1960. The view held by the Department is that there was no transfer but only a distribution of assets on the dissolution of the partnership and that, therefore, the provisions of the law relating to withdrawal of development rebate on transfer of assets would not be attracted. The Committee, however, see force in the points raised by Audit in this case as reproduced at pages 164 of this Report. They would, therefore, like Government to obtain specific legal opinion on this case with reference to all the relevant facts so as to decide whether there was a transfer of assets calling for the withdrawal of the development rebate.
39	3·83	Do.	The Committee observe that there was an omission on the part of an assessing officer to take cognizance of intimation received from another officer who assessed the company's income, as a result of which relief originally allowed to an assessee share-holder on dividend income

			derived from that company turned out to be excessive. The Committee note that the amount has since been recovered. In the Committee's opinion, the case underlines the need for a coordinated approach to assessments. The Committee would like to be informed whether action has been taken to rectify the excess relief given to other share-holders of the company.
40	3·93	Deptt. of Revenue	The Committee note that a managing agent in this case was sharing his income arising in Pakistan with two other parties. Under the double taxation relief formula, he was allowed relief in respect of 50 per cent of the gross commission without deducting the sums payable to the other parties. The Committee note that the Ministry of Law have opined this to be correct but that at the instance of Audit the matter is being re-examined in the light of certain facts which were not taken into account when the Ministry of Law first gave their opinion. The Committee would like to await the revised opinion of the Ministry of Law.
41	3·94	Do.	The Committee would like to observe that the Double Tax Avoidance Agreement as also the Two-Man Committee formula, under which India is entitled to tax 50 per cent of the income of Indian residents arising in Pakistan are in the nature of bilateral international agreements, which are binding on both the countries. The Committee note that the Pakistan Government have since decided to tax the whole of the income derived from managing agency commission. The Committee would like the Government of India to take up the matter with the Government of Pakistan.

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42	3·100	Deptt. of Revenue	The Committee note that under the Income-tax Act, 1961, as it stood prior to its amendment in 1965, a company in which 50 per cent or more of the equity capital was held by another company in which the public were substantialy interested was not itself to be treated as a company in which the public were substantially interested. In two cases, however, this principle was not applied with the result that there was an under assessment of tax of Rs. 2.37 lakhs. It is regrettable that this mistake should have occurred in both the cases after Government had clearly explained the implications of the old provisions while amending the Act in 1965, and in one case the mistake had occurred even after the Board had issued instructions for the review of assessments in the light of para 45(a) of Audit Report on Revenue Receipts, 1966. This is yet another instance where the assessing officers had not familiarised themselves with the provisions of the law that they had to apply in the course of their work.
43	3·101	Do.	The Committee observe that against Rs. 2.37 lakhs due for recovery in these two cases, only a sum of Rs. 22,105 has been adjusted so far. They would like to be apprised of the progress in realisation of the balance amount due.
44	3·112	Do.	The Committee note that mistakes in computation of super-tax payable by companies have been occurring year after year. The tax-effect of the mistakes pointed out in the present cases (*viz.* Rs. 7,75,744) has been

			higher than that reported in earlier years. The mistakes occurred in three different cases assessed in three different charges. All these suggest that assessing officers need to be specifically instructed about the provisions of the law on the subject. In para 11 of their 28th Report (Fourth Lok Sabha) the Committee had drawn attention to this situation. The Committee note that pursuant to these observations, a review of cases of all companies having an income of Rs. 1 lakh or more has been undertaken. Such a review should cover assessments from 1956-57 onwards as the additional super tax by way of reduction of the rebate from super tax admissible to the companies was levied in the Finance Acts, 1956 to 1959. The Committee would like to be informed of the outcome of the review when finalised. They trust that effective action will be taken by Government to ensure that cases of this nature do not recur.
45	3·123	Do.	While the Committee note that the entire amount of short-levy in this case has been recovered, they cannot help observing that the short-levy was caused by negligence on the part of the assessing officer. There are standing instructions from the Board that the list of share-holdings of a company should be verified before deciding the status of a company for purposes of assessment. These instructions were not followed by the assessing officer who relied on the fact that the shares of the assesseee company were quoted on the Stock Exchange. As admitted by the Chairman of the Central Board of Direct Taxes, this was no basis for holding the company as one in which the public were substantially interested. It is regrettable that the Inspecting Assistant Commissioner who checked the assessment order also failed to notice the omission. The Committee

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			note that, to obviate the recurrence of mistakes of this nature, necessary instructions have been issued by the Board. The Committee trust that these will be strictly followed.
46	3·124	Do.	Elsewhere in the Report, the Committee have drawn attention to other mistakes that occurred in Company Circles. This suggests that the Board would have specially to examine the position in regard to these Circles in order to ascertain whether staff posted in these circles need 'in service' training to enable them to discharge their duties effectively.
47	3·134	Do.	The Committee note that there was an under-assessment of Rs. 7.75 lakhs in this case for the years 1961-62, 1962-63 and 1963-64. They observe that while the bulk of the under-assessment was due to the failure to make the additions on account of the undisclosed stock of the company, under-assessment to the extent of Rs. 2,73,755 was due to the incorrect allowance of development rebate. It is not clear how the development rebate could be allowed when the company had not created the necessary reserve of 75 per cent that was required to qualify for rebate.
48	3·135	Do.	Another aspect of the case is that even though the assessee was a company, the assessments were not checked by Internal Audit as required. It has been stated that as Internal Audit parties do not check bank statements, the omission that occurred in the course of assessment might not

			have come to notice even if the Internal Audit had carried out a check. The Committee would like Government to consider the feasibility of suitably extending the scope of functions of Internal Audit so as to make it an effective instrument for checking the accuracy of assessments
49	3·142	Deptt. of Revenue	This case raises an important point bearing on the method of computation of income, profits or gains accruing to British Shipping Companies. The Committee would like the Board to have the matter examined, in consultation with Audit and Ministry of Law if necessary. The Committee would also like to be apprised of the decision taken.
50	4·5	Do.	The Committee regret that due to omission to follow the provisions of the law in regard to rebate on donations made to the National Defence Fund, there was an over-assessment in two successive years to the extent of Rs. 89,187. The over-assessment also escaped the notice of Internal Audit which had checked the case. The Committee note that the amount has since been refunded. The Committee trust that the Board will ensure that greater care is shown by the assessing officers in future.
51	4·6	Do.	The dtata given in this section of the Report shows that over-assessments have over the years substantially increased. The Committee would in this connection like to invite attention to their observations in paragraphs 2.39 and 2.40 of their 29th Report (Fourth Lok Sabha). As these over-assessments result in penalising assessees for no fault of theirs, the Committee would like effective steps to be taken by the Board for their elimination.

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52	4.12	Do.	The Committee note that due to a failure on the part of the assessing officer to follow the correct procedure for determining tax liability in respect of profits and gain from past life insurance business, a non-resident company was over-assessed for eight consecutive assessment years. It is regrettable that this should have occurred, though the provisions of the Finance Act, 1960 were quite explicit on the procedure to be followed in this regard. It is also a matter for concern that the Internal Audit Party which had checked two of the assessments overlooked the mistake. Over-assessments of this nature, apart from inconveniencing assessees, will detract from the Department's standing in the public eye. The Committee hope that effective action will be taken to put a stop to such over-assessments.
53	4.16	Do.	The Committee note that the interest amounting to Rs. 2,39,833/- has since been refunded to the assessee company on the advance tax of Rs. 15 lakhs deposited by it. The Committee would have felt happier if the amount due as interest had been ordered to be paid when the original orders for refunding the advance were passed on finalisation of the assessment. The Committee would like Government to impress upon the Income-tax authorities that interest due should be paid to assessees promptly.
54	4.25	Do.	The Committee disapprove of the tendency to over-pitch demands as a safe line, leaving the assessee to get redress by way of appeal. They

			need hardly stress that this tendency, apart from not bringing any gain to revenue, adversely affects public relations, leads to unnecessary litigation, adds to the work of the Department and causes delay in collection. The Committee note in this connection that some of the witnesses appearing before the Administrative Reforms Commission Working Group have considered over-assessments as a major reason for Income-tax arrears. The Committee also take note of the impression in the mind of these witnesses that the tendency to over-assess has been encouraged by the Department's failure to take cognisance of over-assessments even after the fact of such over-assessment had become evident by huge reductions on appeal. While the Committee grant that, in view of the complicated nature of the law, genuine mistakes may sometimes occur, they strongly deprecate the tendency of making "thoughtless additions" without proper scrutiny of the accounts. The Committee desire that this tendency should be firmly curbed. They trust that effective steps will be taken by the Board in this behalf.
55	4·26	Deptt. of Revenue	In pursuance of the observations of the Public Accounts Committee in their 29th Report, Government had undertaken a review of appellate orders to determine the extent to which assessments were over-pitched. The Committee note that this review had "not indicated any serious malady" in this regard. The scope of this study was however limited by Government to orders passed by Appellate Assistant Commissioners. The Committee desire that Government should also review appellate orders passed by the Tribunals and the Courts. In all cases where appel-

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			late authorities have allowed substantial relief and harassment of the assessee is manifest, the Committee would like appropriate action to be taken against erring officers.
56	4·27	Deptt. of Revenue	In para 2.55 of their 29th Report (Fourth Lok Sabha), the Committee had observed that it is the moral duty of Government to refund the excess tax collected erroneously or illegally without pleading limitation. They have been informed by the Ministry that, under the existing instructions, the Commissioners of Income-tax refer time-barred cases of over-assessment to Government who advise them to waive limitation and allow refunds in all suitable cases. The Committee are glad to note Government's instructions and hope that these would be followed in the letter and the spirit.
57	5·80	Do.	The Committee are concerned over the inordinate delay in finalising assessment/reassessment in cases in which searches or seizures have been carried out. As on 31st August, 1968, 365 out of 926 cases in which searches and seizures had been carried out between April, 1964 and August, 1967 were awaiting finalisation. The Committee have already drawn attention to the need to have the assessment expeditiously finalised in cases of this type in para 1.103 of their Seventeenth Report (Fourth Lok Sabha). The Committee would like Government to impress upon the assessing officers the need to be prompt in dealing with these cases.

			Lack of promptitude might possibly also entail avoidable interest liability to Government under section 132(A) of the Act.
58	5·21	Do.	The Committee would also like to point out that very wide powers are now available under the Act to make searches and seizures. It is, therefore, imperative that these are exercised very judiciously, as a wrong search or seizure, besides causing harassment to assessees, could do incalculable harm to their prestige and standing. The Committee note that Government are contemplating the issue of suitable instructions on this point. They would like action in this respect to be speedily taken. The Committee would also like Government to examine whether the power to order searches and seizures should be more precisely defined. The authority of search and seizure may be invoked where it may reasonably be expected to lead to the discovery of concealed income of, say, Rs. 1 lakh or more. Such a provision would constitute an automatic safeguard against utilization of powers of search and seizure, where the officer concerned is himself not sure of the necessity of such action but has to yield to the pressure of informers in the nature of black-mail. The Committee would like Government to examine whether some suitable enactment on this line is possible and advisable.
59	5·22	Do.	The Committee note that out of 926 cases in which searches and seizures were carried out, prosecutions have been launched only in 8 cases, of which two have been compounded. The Committee would like Government to take prompt follow-up action in all such cases with a view to their early finalisation.

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60	5·32	Deptt. of Revenue	The Committee are greatly concerned over the heavy pendency of cases with Appellate Assistant Commissioners. The number of such cases which at the end of June, 1964 was 84,736 increased to 2,00,928 as at the end of June, 1968. The Committee would like to point out that delay in the disposal of appeal "is almost assuming the proportion of denial of justice.". The Committee note that certain additional posts were sanctioned in the Department to cope with increasing work in this respect, but due to various reasons the posts could not be filled up till recently. The Committee also note that steps are being taken by the Department to clear the backlog of pending appeals. They hope that as a result work will be "fairly current" by March, 1970 as expected by Government. The Committee expect that Government will keep the matter under constant and continuous watch.
61	5·33	Do.	The Committee would also like to point out that the number of revision petitions pending with Commissioners increased from 4,760 as at the end of June, 1965 to 7,234 as at the end of September, 1968. The Committee would like steps to be taken to bring down the number of outstanding revision petitions.
62	5·43	Do.	The Committee are concerned over the inordinate delay in the disposal of cases of penalty proceedings pending under the Income-tax Act, 1922. As on 31-3-1967, 73-16 cases relating to 1961-62 or even earlier years

			were pending, the penalty involved being Rs. 3.66 crores; 975 of these cases related to the assessment year 1951-52 or earlier years.
63	5·44	Do.	The Committee note that the number of pending penalty proceedings as on 31-3-1968 is 12,410. These cases involved a penalty of Rs. 1.24 crores. The Committee, however, consider the position to be still unsatisfactory. Apparently, the absence of any time-limit for finalisation of penalty proceedings has created a feeling of complacency in the Department in this regard. The Committee would like to point out that, notwithstanding the absence of a time-limit, the Courts have been of the view that there should be no delay in the finalisation of the proceedings. The ruling given by the Allahabad High Court in Ramkishan Vs. Commissioner of Income-tax, U.P. is an instance in point. The Committee note that Government have recently taken steps to fix time-limits for the disposal of pending cases and asked for reports of progress made in disposal. The Committee hope that as a result the situation will improve and that, in the process of disposal, the older cases will get priority.
64	5·53	Do.	The Committee note that during the year under review, 254 companies had neither deducted tax at sources nor furnished the statement under Section 37 (2). The number of companies which deducted the tax at source but did not remit the tax deducted was 254. 1815 companies did not file the prescribed statement under Section 37 (2). All this indicates that the position regarding deduction of tax from dividends, their remittance into treasury and filing of prescribed returns need to be kept under continuous watch. The Committee have been informed that the Board had issued necessary instructions to Commis-

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			sioners after the introduction of Section 276B with effect from 1-4-1968. The Committee trust that the Department will keep a constant watch and make use of their powers under Section 276B to enforce prompt remittance of the tax deducted by companies and to secure timely submission of the prescribed returns.
65	5·54	Deptt. of Revenue	The Committee also observe that tax amounting to Rs. 141 lakhs deducted at source was not remitted. The Committee would like to be informed of the position regarding recovery of the tax and penalties levied.
66	5·58	Do.	The Committee are concerned to observe that the number of outstanding cases in which penal Super-tax/Income-tax under section 23A/104 of Income tax Act, 1922/1961 is leviable has risen from 1086 as on 31-3-1967 to 2,477 as on 31-3-1968, the latter figure including 295 cases pending under the old Act. The amount of tax involved in the cases pending as at the end of March, 1968 was Rs. 3.02 crores. The Committee note that instruction are proposed to be issued impressing upon the Commissioners of Income-tax the need to complete al lthe cases pending under the old Act by 30-9-1969 at the latest. The Committee hope that the cases pending under the old Act will be finalised by this target date and substantial progress also made with the clearance of other pending cases coming under the 1961 Act. As the 1961 Act stipulates a definite time-limit for the completion of these cases, it is essential that they should also be expeditiously finalised.

67	5·63	Do.	The Committee observe that the category of companies known as 'companies in which the public are not substantially interested' was introduced in the tax statute in 1930 to prevent avoidance of super-tax payable by an individual by forming 'controlled companies'. At that time there was a marked difference between the tax payable by an individual and that payable by a company and the statute sought to cover cases of individuals attempting to avoid super-tax through the constitution of controlled companies by bringing in the concept of 'companies in which public are not substantially intrested'. The disparity between the tax payable by an individual and that payable by a company does not not now exist in that measure, with private companies having been progressively subjected to higher rates of taxation. Besides, the number of 'companies in which the public are not substantially interested' is rather small. Moreover, it would appear that the criteria laid down in the Act determination of this category of companies "are complicated and incapable of correct application." It, therefore, requires consideration whether, in the changed context, this category of companies can be dispensed with under the Act. If revenue considerations require its retention, the Committee would like Government to consider whether the statute could be simplified to retain the essence of control on the lines suggested by the Working Group of the Administrative Reforms Commission.
68	5·73	Do	The para 1.120 of their 17th Report (Fourth Lok Sabha), the Committee had stressed the need for ensuring that refunds are made by the Income-tax Department expeditiously in all pending cases. The

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			Committee note that the number of refund claims outstanding between one and two years has come down from 429 as on 31-3-1967 to 103 as on 31-3-1968. The Committee trust that efforts will continue to be made by Government not only to liquidate old pending claims but to ensure the settlement of new claims within the time-limits prescribed in the Act.
69	5·74	Deptt. of Revenue	The Committee note that, though refunds amounting to Rs. 2.99 crores were made in 88,836 cases during the period 1-4-1966 to 31-3-1967, no interest was paid to the assessees in any of these cases. The Committee would like Government to examine whether interest due in terms of the Act was denied in any of these cases where refunds were made after expiry of the time-limits laid down in the Act. During evidence, the Government representatives promised to conduct a review in this regard and furnish a report to the Committee by May, 1969. The Committee would like to await this report. The Committee would in this connection like to reiterate their recommendation in para 1.121 of their 17th Report (Fourth Lok Sabha) that Government should ensure payment of interest on refunds to assessees in all cases where it is payable whether the assessessees have claimed interest or not.
70	5·79	Do.	The Committee are not happy over the delay in refunding moneys due to assessees as a result of appellate decisions. As on 31-3-1967, there were 5,050 such cases, 1,220 of them pending for more than one year. As a result of the delay in making the refunds, Government had to pay

			interest amounting to Rs. 15,000 in five cases. The Committee would urge Government to take effective measures to ensure settlement of refund claims under Section 244 within the prescribed time-limit.
71	5.8;	Do.	The Committee are concerned over the heavy increase in the number of cases of non-levy/incorrect levy of penal interest. As against 327 cases of non-levy|incorrect levy reported in the Audit Report, 1963, the number of cases of non-levy|incorrect levy reported in the Audit Report, 1968 was 2064. The amounts involved in the two years were Rs. 5 lakhs and Rs. 40.48 lakhs respectively. The Committee had drawn attention to this position in paragraph 2.129 of their Twenty-Ninth Report (Fourth Lok Sabha). The recurrence of such cases suggests the need to streamline the existing procedure. The Committee would in this connection like the Ministry to examine the suggestion made by the Working Group of the Administrative Reforms Commission their Report on the Central Direct Taxes Administration for interest calculations to be made with reference to complete months rather than days and for rounding off calculations. This would help considerably to simplify the work.
72	5.86	Do.	Work would also be simplified if the varying rates of interest now in existence for different kinds of default could be rationalised and tabulators used for purposes of calculation.
73	5.90	Do.	(i) The Committe note that the Board have instructed Income-tax Officers to ensure that interest for delayed submission of return, chargeable under Section 139 of the Income Tax Act, 1961 is invariably charged at the time of original assesment. They also note that some further

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			instructions are proposed to be issued by the Board. The Committee trust that these will be issued at an early date. To ensure that levy of interest in such cases does not escape notice, the Committee would suggest that a prominent indication should be given by means of a label or rubber stamp to the effect that the return had been received after the prescribed date and that penal interest is chargeable. (ii) The Committee note that penal interest amounting to over Rs. 31,000 in two of the four cases has not yet been recovered. They would like efforts to be made by the Department to recover this amount at an early date.
74	5·95	Deptt. of Revenue	The Committee note that the omission to levy interest according to the provisions of the law had led to an under-charge of over Rs. one lakh in the present case. It was urged in extenuation that the Income-tax Officer had to complete 33 assessments in the month of March. This is indicative of the fact that spacing of work in the Department needs to be improved.
75	5·96	Do.	The Committee note that a disclosure petition of the assessee in this case for Rs. 1.40 crores is pending before the Board. They would like to be informed of the Board's decision on the petition as also the position regarding recovery of short-levy of interest of Rs. 1,11,595.

76	5·105	Do.	The Committee note that, due to a mistake on the part of the Income-tax Officer in giving effect to the High Court's order, there was an under-charge of tax to the tune of Rs. 2,40,291. It was obviously not correct to have made the rectification order without having gone through the relevant records.
77	5·106	Do.	The Committee also observe that, though in terms of instructions issued by the Board, pursuant to the recommendation of the Public Accounts Comittee (1963-64), the Income-tax Officer should have taken the prior approval of the Inspecting Assistant Commissioner in this case before giving effect to the Appellate order, the revised assessment was made without such approval. The Committee take a serious view of this. They desire that the Board should ensure that the instructions issued by them pursuant to the Committee's recommendations are.. strictly complied with.
78	5.107	Do	Another feature of the case is that though the High Court had passed the order on the case on 26-3-1964, the Income-tax Officer got a copy of the Judgement after a lapse of about 19 to 20 months. It is not clear to the Committee why a copy of the judgement was not made available to the Income-tax Officer earlier. The Committee desire that copies of decisions of the relevant appellate authorities should be procured by the assessing officers without delay in order to finalise assessments correctly.
79	5·108	D.	The Committee note that the additional demand of Rs. 2,40,290 raised on rectification of the mistake in this case has not yet been

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			recovered, as the assessee expired in June, 1967. The Committee would like to be informed of the progress with recovery.
80	6·1	Deptt. of Revenue	The Committee have not made recommendations/observations in respect of some of the paragraphs of the Audit Report (Civil) on Revenue Receipts, 1968. They expect that the Department will none-the-less take note of the discussions in the Committee and take such action as is found necessary.

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