

**SEVENTY-NINTH REPORT**  
**PUBLIC ACCOUNTS COMMITTEE**  
**(1981-82)**

(SEVENTH LOK SABHA)

**ASSESSMENT OF FOREIGN TECHNICIANS**

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

[Action Taken on the 26th Report of the Public Accounts Committee  
(Seventh Lok Sabha)]

*Presented in Lok Sabha on*  
*Laid in Rajya Sabha on*

**LOK SABHA SECRETARIAT**  
**NEW DELHI**

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2. Shri D. C. Pande—*Chief Financial Committee Officer.*
3. Shri K. C. Rastogi—*Senior Financial Committee Officer.*

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\*Ceased to be a Member of the Committee consequent on his appointment as a Deputy Minister w.e.f. 15 January, 1982.

\*\*Ceased to be a Member of the Committee consequent on his appointment as a Minister of State w.e.f. 15 January, 1982.

## INTRODUCTION

1. I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Seventy-Ninth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their Twenty-Sixth Report (Seventh Lok Sabha) on Assessment of Foreign Technicians.

2. In this Report, the Committee have again impressed upon the Government the need to formulate a policy for employment of foreign technicians keeping in view the growing technical skills within the country. The Committee have also desired that relevant provisions in respect of the tax concessions given to foreign technicians should be rationalised and simplified in the interest of proper administration. The Ministry of Finance must also take upon itself the responsibility of maintaining the detailed record of particulars of contracts of service of foreign technicians so that all relevant information is available at one place.

3. The Committee considered and adopted this report at their sitting held on 3 March 1982. Minutes of the sitting form Part II of the Report.

4. For facility of reference and convenience, the recommendations and observations of the Committee have been printed in thick type in the body of the Report, and have also been reproduced in a consolidated form in the Appendix to the Report.

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

NEW DELHI;  
March 5, 1982.  

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Phalgun 14, 1903 (S).

SATISH AGARWAL,  
Chairman,  
Public Accounts Committee.

## CHAPTER I

### REPORT

1.1 This Report of the Committee deals with the action taken by Government on the recommendations and observations of the Committee contained in their 26th Report (7th Lok Sabha) on the Ministry of Finance (Department of Revenue)—Assessment of Foreign Technicians.

1.2 The Committee's 26th Report was presented to Lok Sabha on 18 December, 1980. The Action Taken notes on all the six recommendations/observations contained in the Report have been received from Government and these have been categorised as follows:

(i) *Recommendations or observations that have been accepted by Government:*

Sl. Nos. 2 and 5.

(ii) *Recommendations or observations which the Committee do not desire to pursue in the light of the replies received from Government:*

NIL

(iii) *Recommendations or observations replies to which have not been accepted by the Committee and which require reiteration:*

Sl. Nos. 1, 3, 4 and 6.

(iv) *Recommendations or observations in respect of which Governments have furnished interim replies:*

NIL

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

*Collection of data in regard to employment of Foreign Technicians:*

Sl. Nos. 1, 3 and 4.

Para Nos. 1.24, 1.26 and 1.27.

1.4 In Para 1.24 of the 26th Report, the Committee had observed:

"The Committee are surprised to note the statement that no set policy seems to have been laid down at any stage in respect of engagement of foreign technicians and in the absence of

any general policy, the question of undertaking a review thereof did not arise. The Committee fail to understand how in the absence of a policy formulated in consultation with the administrative Ministries concerned, the relevant provisions giving tax concessions to certain foreign technicians could be made in the Income-tax Act. In fact, the relevant provisions, and in particular the definition of technicians, were amended in 1970 and again in 1979. Taken to its logical conclusion, the statement now made to the Committee would seem to suggest that these amendments were proposed without formulating a policy in the matter, much less conducting a review thereof. The Committee suggest that Government should find out complete details connected with employment of foreign technicians in India particularly *vis-a-vis* the available Indian expertise and thereafter take appropriate action to formulate a policy about the employment of foreign technicians and the tax concessions to be given to them. Such policy should be reviewed periodically keeping in view the development of technical skills in the country and other relevant factors, and in the fields where sufficient Indian talent is already available, there will be a case for reviewing clauses (i) and (ii) of the Explanation to Section 10(6) (viiia) of the Income-tax Act."

1.5 In their Action Taken note dated 17 June, 1981 the Ministry of Finance have stated:

"The observations of the Committee have been noted. All the Ministries are being apprised of the observations of the Public Accounts Committee. They are being requested to examine the extent to which the concessions contained in section 10(6) (viiia) of the Income-tax Act, 1961 need to be revised."

1.6 The Committee had in paras 1.26 and 1.27 of the 26th Report further observed:

"The Committee stress that the administrative Ministries approving the agreements must keep full and elaborate records of the same and a copy of the agreement should invariably be sent to the Ministry of Finance as soon as such agreements are finalised. On the basis of information received from the various Ministries, the Finance Ministry should be made fully responsible for maintaining detailed record of particulars of contracts of service of foreign technicians so that all the relevant information is available in one Ministry.

The Committee are also of the opinion that the relevant provisions in respect of the tax concessions given to foreign technicians

are rather complicated and need rationalisation and simplification for their proper administration.”

1.7 The Ministry in their Action Taken Note dated 17th June, 1981 have stated:

“The recommendations/observations of the Committee have been noted by the Ministry.”

*Audit Comments*

1.8 Audit have furnished the following comments on Government's replies to the above paragraphs:

“Para 1.24 : The draft reply does not clarify whether a policy exists or is still to be formulated, nor describes the existing policy, if any, on which the present Section 10(6) (viiia) stands enacted. In this connection, the PAC touched upon review of clauses (i) and (ii) of Explanation below Section 10(6) (viiia). These two clauses deal with the specific fields where the foreign technicians are to have specialised knowledge and experience. P.A.C. desired a review in the context of development of technical skills in the country and India talent available in other fields. The draft reply is silent on this aspect.

In the absence of such a policy, there have been cases of approvals being denied by Ministry to employment of technicians or to such approvals being qualified by the words ‘without any tax concessions’ much after the technician has been employed. The procedures and forms for approval prescribed do not demand that it be made clear as to who will make the payment of Income-tax due without any concessions under Section 10(6) (viiia) ‘viz.’ whether the technician, Indian party or foreign employer, if any, and also the quantum of tax payable. Such a situation also arises when the technician is held to be not a technician under Section 10(6) (viiia) by the Ministry after he has been employed. Action taken to give such policy need based directives to Ministries in regard to generation of data so that they can be collected by D.I. (R.S.) and used by the Ministry (reference to para 1.26 which follows) have not been touched upon in reply.

Para 1.26 : No comments except that the notings in the Ministry's file No. 441/181—FTD do not touch upon content of collection analysis and use of data to be collected for making policy decisions in the Ministry but only on the fact that information



is now proposed to be centralised with the D.I. (D.P.). If copies of sanctions giving exemptions under Section 10(6) (viiia) are proposed to be centralised with D.I. copies of such sanctions may be endorsed to Audit also."

**1.9** The Committee regret the lackadaisical attitude shown by the Ministry in regard to the question of collecting data of employment of foreign technicians to enable formulation of a policy for employment of such technicians keeping in view the growing technical skills within the country. As pointed out by audit, in the absence of such a policy there have been cases of approvals being denied by the Ministry to employment of technicians or to such proposals being qualified by the words 'without any tax concessions' much after the technicians have been employed. It has been further pointed out that the procedures and forms for approval prescribed do not demand that it should be made clear as to who will make the payment of income-tax dues without any concessions under Section 10(6) (viiia) i.e. whether the technician or the Indian Party or the foreign employer, if any, would bear the tax liability and the quantum thereof. . . .

**1.10.** The Committee had also pointed out that the relevant provisions in respect of the tax concessions given to foreign technicians are rather complicated and need to be rationalised and simplified in the interest of proper administration. The reply furnished by the Ministry does not spell out the precise action taken by Government on this recommendation. The Committee would therefore like to be apprised of the results of the study, if any, undertaken by the Ministry in this regard.

**1.11.** As recommended earlier, the Ministry of Finance must also take upon itself the responsibility of maintaining the detailed record of particulars of contracts of service of foreign technicians so that all relevant information is available at one place and any deviation from or violation of policy instructions/guidelines regarding the employment of such technicians can be easily detected.

*Coordination between assessing officers*

(Sl. No. 6 Para No. 1.44)

**1.12** Referring to the lack of coordination between the officers assessing the employers and those assessing the employees, resulting in undue relief to the employers, the Committee in para 1.44 of the 26th Report observed:

"The undue relief allowed to the employers in respect of salaries and emoluments paid to their employees beyond the limits contemplated in Section 40A(5) of the Income-tax Act are

essentially attributable to lack of coordination between the officers assessing the employers and the officers assessing the employees. The quantum involved is substantial. The Committee should like to refer to their earlier Report (186th Report—5th Lok Sabha) where while dealing with Direct Taxes inter alia it is pointed out as under:

“It would thus appear that, apart from the weakness of Internal Audit and the lack of pre-scrutiny of collaboration agreements, there are other more basic factors responsible for income escaping assessment. In the first place, there seems to be a chronic lack of coordination (i) among the assessing officers of the department itself, (ii) among the assessment records pertaining to different direct taxes, particularly income-tax and wealth tax, (iii) among the Income-tax Department and the other tax collecting departments of the Central and State Governments and (iv) among the Central Board of Direct Taxes and the administrative Ministries entering into or approving foreign collaboration agreements.”

It appears that the weakness in the system persists as a result of lack of proper coordination between different assessing officers. This is a serious weakness in the set up of the Direct Taxes administration. The Committee should like to know as to what steps are being contemplated to evolve a foolproof method of the working of the department to ensure better coordination between different officers assessing under different Direct Taxes. The Committee consider that the steps taken so far including the instructions issued on 12 September, 1978 referred to earlier, cannot take care of the situation. The seriousness of that problems needs to be properly appreciated and requires appropriate steps to be expeditiously taken in the matter”.

1.13 In the Action Taken note dated 17 June, 1981, the Ministry of Finance have stated:

“The observations of the Hon’ble Committee have been noted.”

1.14. The Ministry’s reply does not throw any light on the steps taken or contemplated by the Ministry in regard to the suggestion of the Committee that a foolproof system should be devised by the Central Board of Direct Taxes to ensure better coordination between different officers assessing under different direct taxes. As pointed out in the earlier report, the undue relief allowed to employers in respect of salaries and emoluments paid to their employees beyond the limits contemplated in Section 40A(5)

of the Income-tax Act is attributable, also to lack of coordination between the officers assessing the employers and those assessing the employees/ and that the quantum involved is substantial. As this is essentially a management problem, the Committee see no reason why it cannot be rectified by streamlining the system. The Committee would therefore like the matter to be examined without delay and suitable remedial measures taken.

## **CHAPTER II**

### **RECOMMENDATIONS OR OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT**

#### **Recommendation**

The Committee are deeply distressed that concerned Ministries failed to maintain appropriate records of the particulars of the contracts of service of the foreign technicians who came to serve in India. The figures supplied by the Ministry of Industry were not those asked for. The figures gave information which had no bearing whatsoever on the question of tax concessions to foreign technicians. On the basis of the approval given by Ministries under the statute very substantial tax concession has been given to concerned technicians and as such it has been a matter of great importance to the exchequer. The Committee must observe that the Ministries did not give appropriate care and attention to this matter.

[S. No. 2 (Para 1.25) of Appendix 26th Report (Sixth Lok Sabha)]

#### **Action Taken**

The observations of the Committee have been brought to the notice of the administrative Ministries.

(Approved by the Additional Secretary to the Govt. of India)

[Ministry of Finance (Department of Revenue) O.M. No. 241/3/80-A&  
PAC-II dated 17 June, 1981]

#### **Recommendation**

The Committee note that in May, 1968 the Ministry of Finance had written to the administrative Ministries concerned inviting their attention to the requirement in the Income-tax Act of the approval to the contracts of service being obtained within the specified period. The Committee cannot but observe that the administrative Ministries concerned who were required to accord approval to the contracts of service for the purpose of this tax concession should have been aware of the provisions of the law under which the approval was to be given. The negligence shown by the administrative Ministries in according approval to the contracts of service after expiry of the specified period and by the assessing authorities in allowing tax concessions in violation of the statutory provisions must be deprecated.

[S. No. 5 (Para 1.38) of Appendix to 26th Report (Sixth Lok Sabha)]

### Action Taken

The correct position in law had already been brought to the notice of the Ministries as also the assessing authorities. It may be mentioned here that the law was amended with effect from 1-4-71 and the time-limit imposed on the Ministries for approval of the contract of service now applies only if the foreign technician is to continue in service beyond the initial period of 24 months—Section 10(6) (vii) (B). The correct position in law was again reiterated and brought to the notice of the Ministries vide O.M. No. 458/35/78-FTD dated 8-5-79 as well as the assessing authorities in May, 1979 vide Instruction No. 1255 dated 8.5.1979. Copies of the Instructions and the office Memorandum issued in this regard are enclosed (Annexure).

(Approved by the Additional Secretary to the Govt. of India)

[Ministry of Finance (Department of Revenue) O.M. No. 241/3/80-A& PAC-II dated 17 June, 1981]

### ANNEXURE

#### Instruction No. 1255

F. No. 458/35/78-FTD

GOVT. OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 8th May, 1979

To

All Commissioners of Income-tax.

**SUBJECT:** *Exemption under section 10(6)(vii)/(viii) of the Income-tax Act—Foreign technicians instructions regarding—*

Attention is invited to Office Memorandum No. 458/9/72-FTD dated 8th December, 1972 addressed to all Ministries of the Government of India and copy endorsed to all Commissioners of Income-tax outlining the manner in which the provisions of section 10(6)(viii) are to be applied by the various Ministries.

2. It has been observed that in many cases lapses have occurred at the level of both the administrative Ministries and the Income-tax Officers in verifying whether the provisions stipulated in section 10(6)(vii)/(viii) of the Act, had been satisfied in each case or not.

3. Keeping in view the need to ensure that all the conditions laid down in the Act are satisfied before the Income-tax Officer grants exemption to a foreign technician, some of the important specific points that should be kept in mind by the Income-tax Officers are indicated below:—

- (i) Section 10(6)(vii) prescribes a time limit of one year from the commencement of the service of the technician within which

the administrative Ministry should have *approved* the contract of service of the foreign technician concerned if his employment had commenced prior to 1st April, 1971. Section 10(6)(vii) provides that the application for approval by the Central Government of the contract of service of such technician should have been made to the Government before the commencement of such service or within six months of such commencement. There is no provision in the Act for condonation of any delay in the matter of these time limits. It is, therefore, necessary for the Income-tax Officer to verify before granting exemption under these sections that the time limits prescribed have been followed in all cases. In other words, benefit of section 10(6) (vii) (vii) should *not* be granted wherever approvals have been allowed in violation of the statutory time limits. An intimation should, however, be sent to the Board regarding such cases.

- (ii) In cases of continued employment of the technician in India after the expiry of 36 months/24 months, Section 10(6)(vii)(a) (ii)/10(6)(vii)/(B) provides that the approval of the Central Government should be obtained before the 1st day of October of the relevant assessment year. In all cases, where the technicians continue in employment after the initial period of 36 months/24 months, the Income-tax Officer should carefully check up whether the sanction by the administrative Ministry had been issued within the specified time limit. Where the time limit had not been adhered to, exemption will not be admissible. Such cases should also be brought to the notice of Board.
- (iii) Who is a technician for purposes of Section 10(6)(vii)/(vii), is specifically defined in these sections themselves. Instructions already exist as to the course of action to be followed in cases of doubt *vide* Board's Instruction No. 515 (No. 458/19/73-FTD) dated 26-2-73. As stated therein, such cases should be brought to the notice of the Board so that the matter can be taken up further with the concerned Ministry.
- (iv) The Explanation to section 10(6)(vii)/(vii) specifically provides that the technician should be employed in India in a capacity in which "such specialised knowledge and experience are actually utilised". In view of this provision, the Income-tax Officers should satisfy themselves before granting the actual exemption that the technician who came for a particular job was actually employed in that job during the period for which exemption is claimed. Cases where there are any variations should be reported to the Board, so that the administrative

Ministry may be consulted before a final decision is taken in such cases.

- (v) One of the points brought out in the C&AG's Report of 1976-77 is that in one case the employer paid a higher remuneration than what had been approved by the Central Government in its order. The Board have been advised that any such violation of the sanction of the administrative Ministry will disentitle the technician to any exemption under this provision. It is, therefore, necessary for the Income-tax Officers to verify whether the salary, perquisites etc., paid to the technicians are those which have been approved by the Central Government in their order.
- (vi) In the Board's Instruction No. 529 dated 22-3-73, it was reiterated that the term "remuneration" will include also those payments which are payable/were proved by the employer outside India (whether in Rupees or in any foreign currency). It is essential that the Income-tax Officers while scrutinising the income-tax returns of foreign technicians verify whether any part of their salary accrued/arose or was paid to them outside India and take action accordingly.

4. The correct import of the words "in the employment of" and "in any business carried on in India" in section 10(6)(vii) has already been clarified in the Board's Instruction No. 1168(F.No. 458/14/76-FTD) dated 3-5-1978. The Income-tax Officers dealing with the cases of foreign technicians should carefully check up whether the technician is employed in a business carried on in India as clarified in the above Instruction.

Sd/-

(V. P. MITTAL)

Secretary, Central Board of Direct Taxes.

F. No. 458/35/78-FTD

GOVT. OF INDIA

MINISTRY OF FINANCE

(Department of Revenue)

Foreign Tax Division

New Delhi, the 8th May, 1979

**OFFICE MEMORANDUM**

**SUBJECT:** Exemption under section 10(6)(vii)/(vii-a) of the Income-tax Act, 1961—to foreign technicians—

The undersigned is directed to refer to this Ministry's Office Memoranda on the above subject clarifying the various provisions of

section 10(6)(vii)/(viia) of the Income-tax Act, 1961. As the Ministries are aware that power of approval of the contracts of service of foreign technicians was delegated to the administrative Ministries *vide* this Ministry's O.M. dated 16-11-66.

2. The important points which the Ministries were requested to note while according approvals under the above mentioned Sections related to (i) the time limits specified in Section 10(6)(vii)/(viia), for approving/ extending the contract of the technician, (ii) the foreign employee must qualify as a 'technician' within the meaning of the Explanations given below these Sections and (iii) relaxing the condition of non-residence in the preceding four years in certain cases for purposes of section 10(6)(viia).

3. The administrative Ministries are again requested to kindly ensure that the statutory time-limits specified in section 10(6)(vii) for grant of approval and under section 10(6)(viia) for receipt of applications for approval are adhered to, rigidly. These time-limits are summarised below:—

- (i) approval for purposes of Section 10(6)(vii) can be granted only within one year of the commencement of service. Similarly extension of approval beyond the initial period of 36 months can in such cases be allowed only within the specified period mentioned in 10(6)(vii)(a)(ii).
- (ii) as regards an application under section 10(6)(viia) which is applicable to cases where employment commences after the 31st March 1971, the application for approval of the contract of service of the technician should be made to the Central Government before the commencement of such service or within six months of such commencement; and
- (iii) where the technician referred to in (ii) above continued to remain employment after the expiry of the period of 24 months, the approval of the Central Government should be granted before the first day of October of the relevant assessment year.

4. The power for waiving the condition of non-residence in the preceding four years granted under the proviso to section 10(6)(viia), is limited to foreign technicians who are employed in India for designing, erection or commissioning of machinery or plant or supervising activities connected with such designing, erection or commissioning. This has been clarified in this Ministry's Office Memorandum dated 8/12-8.75. All the Ministries are requested to please note that waiver of this condition should not be made in any other case.



5. The Explanation to section 10(6)(viiia) defines who can be treated as a technician for the purposes of this section. The Ministries are requested to note this provision carefully and to ensure that only those technicians who are covered by this definition, are granted approval for the purposes of section 10(6)(viiia). In cases of doubt, this Ministry may be consulted.

6. The undersigned is also directed to request that before approval is granted by the Ministry concerned, they should ascertain the full particulars of all the prerequisites allowed to the technician and also about all the payments made or to be made to him as remuneration either in India or abroad and also either by the Indian employer or the foreign enterprise who might have loaned his services during the period of his service in India. This is necessary since the word "remuneration" will cover all remunerations received by him, both in India and abroad during the period of his service in India. The Ministries may further ensure that there is no variation in the terms and conditions of service without their knowledge and approval as otherwise the variation would have the effect of disqualifying the technician for exemption under this provision.

7. As will be seen from the enclosed instructions to the Commissioners of Income-tax, the Income-tax Officers have also been asked not to grant exemption unless all the conditions prescribed in the Income-tax Act are satisfied. In view of this, it is all the more necessary for the Ministries concerned to exercise the utmost vigilance before approving the contracts of service of foreign technicians as otherwise a situation may arise in which the Income-tax Officer disregards the approval granted by the Ministry leading to embarrassment on both sides.

Sd/-

(V. P. MITTAL)

Deputy Secretary to the Government of India

To

All the Ministries of the Government of India.

*O.M.No.	Date
22/26/66-ITAI	16.11.66
22/2/67-ITAI	1.5.67
22/26/66-ITAI	25.11.67
182/3/71-ITAI	1.3.72
182/3/71 ITAI	5.4.72
458/9/72-FTDI	8.12.72
458/38/73.FTD	14.6.73
458/4/73-FTD	5.12.73
458/18/75-FTD	28.5.75
458/35/75FTD	8/12.8.75
458/14/73.FTD	4.3.73

### **CHAPTER III**

**RECOMMENDATIONS OR OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES RECEIVED FROM GOVERNMENT**

NIL

## CHAPTER IV

### RECOMMENDATIONS OR OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

#### Recommendation

The Committee are surprised to note the statement that no set policy seems to have been laid down at any stage in respect of engagement of foreign technicians and in the absence of any general policy the question of undertaking a review thereof did not arise. The Committee fail to understand how in the absence of a policy formulated in consultation with the administrative Ministries concerned, the relevant provisions giving tax concessions to certain foreign technicians could be made in the Income-tax Act. In fact, the relevant provisions, and in particular the definition of technicians, were amended in 1970 and again in 1979. Taken to its logical conclusion, the statement now made to the Committee would seem to suggest that these amendments were proposed without formulating a policy in the matter, much less conducting a review thereof. The Committee suggest that Government should find out complete details connected with employment of foreign technicians in India particularly *vis-a-vis* the available Indian expertise and thereafter take appropriate action to formulate a policy about the employment of foreign technicians and the tax concessions to be given to them. Such policy should be reviewed periodically keeping in view the development of technical skills in the country and other relevant factors, and in the fields where sufficient Indian talent is already available, there will be a case for reviewing clauses (i) and (ii) of the Explanation to Section 10(6)(viii) of the Income-tax Act.

(S. No. 1 (Para 1.24) of Appendix to 26th Report (Sixth Lok Sabha)

#### Action Taken

The observations of the Committee have been noted. All the Ministries are being apprised of the observations of the Public Accounts Committee.

They are being requested to examine the extent to which the concessions contained in section 10(6)(vii) of the Income-tax Act, 1961 need to be revised.

(Approved by the Additional Secretary to the Govt. of India)

[Ministry of Finance (Department of Revenue) O.M. No. 241|3|80—  
A&PAC-II dated 17 June, 1981]

#### **Recommendation**

The Committee stress that the administrative Ministries approving the agreements must keep full and elaborate records of the same and a copy of the agreement should invariably be sent to the Ministry of Finance as soon as such agreements are finalised. On the basis of information received from the various Ministries, the Finance Ministry should be made fully responsible for maintaining detailed record of particulars of contracts of service of foreign technicians so that all the relevant information is available in one Ministry.

The Committee are also of the opinion that the relevant provisions in respect of the tax concessions given to foreign technicians are rather complicated and needs rationalisation and simplification for their proper administration.

[S. Nos. 3-4 (Paras 1.26 and 1.27) of Appendix to 26th report (Sixth Lok Sabha)]

#### **Action Taken**

The recommendations/observations of the Committee have been noted by the Ministry.

(Approved by the Additional Secretary to the Government of India)

[Ministry of Finance (Department of Revenue) O.M. No. 241|3|80—  
A& PAC-II dated 17 June, 1981]

#### **Audit Comments**

Audit have furnished the following comments on Government's replies to the above paragraphs:

“Para 1.24: The draft reply does not clarify whether a policy exists or is still to be formulated, nor describes the existing policy if any on which the present Section 10(6) (vii) stands enacted. In this connection, the PAC touched upon review of clauses (i) & (ii) of Explanation below Section 10(6) (vii). These two clauses deal with the specific fields where the foreign technicians are to have specialised knowledge and experience.

P.A.C. desired a review in the context of development of technical skills in the country and Indian talent available in other fields. The draft reply is silent on this aspect.

In the absence of such a policy, there have been cases of approvals being denied by Ministry to employment of technicians or to such approvals being qualified by the words 'without any tax concessions' much after the technician has been employed. The procedures and forms for approval prescribed do not demand that it be made clear as to who will make the payment of Income-tax due without any concessions under Section 10(6) (viiia) viz whether the technician, Indian party or foreign employer if any and also the quantum of tax payable. Such a situation also arises when the technician is held to be not a technician under Section 10(6) (viiia) by the Ministry after he has been employed. Action taken to give such policy need based directives to Ministries in regard to generation of data so that they can be collected by D.I. (R.S.) and used by the Ministry (reference to para 1.26 which follows) have not been touched upon in reply.

Para 1.26: No comments except that the noting in the Ministry's file No. 441/1/81-FTD do not touch upon content of collection analysis and use of data to be collected for making policy decisions in the Ministry but only on the fact that information is now proposed to be centralised with the D.I. (D. R.). If copies of sanction giving exemptions under Section 10(6) (viiia) are proposed to be centralised with D.I. copies of such sanctions may be endorsed to Audit also."

### **Recommendation**

The undue relief allowed to the employers in respect of salaries and emoluments paid to their employees beyond the limits contemplated in Section 40A(5) of the Income-tax Act are essentially attributable to lack of coordination between the officers assessing the employers and the officers assessing the employees. The quantum involved is substantial. The Committee should like to refer to their earlier Report (186th Report-5th Lok Sabha) where while dealing with Direct Taxes *inter alia* it is pointed out as under:

'It would thus appear that, apart from the weakness of Internal Audit and the lack of pre-scrutiny of collaboration agreements, there are other more basic factors responsible for income escaping assessment. In the first place, there seems to be a chronic lack of coordination (i) among the assessing offi-

cers of the department itself, (ii) among the assessment records pertaining to different direct taxes, particularly income-tax and wealth tax, (iii) among the Income-tax Department and the other tax collecting departments of the Central and State Governments and (iv) among the Central Board of Direct Taxes and the administrative Ministries entering into or approving foreign collaboration agreements".

It appears that the weakness in the system persists as a result of lack of proper coordination between different assessing officers. This is a serious weakness in the set up of the Direct Taxes administration. The Committee should like to know as to what steps are being contemplated to evolve a foolproof method of the working of the department to ensure better coordination between different officers assessing under different Direct Taxes. The Committee consider that the steps taken so far including the instructions issued on 12 September, 1978, referred to earlier, cannot take care of the situation. The seriousness of that problem needs to be properly appreciated and requires appropriate steps to be expeditiously taken in the matter.

[S. No. 6 (Para 1.44) of Appendix to 26th Report (Sixth Lok Sabha)]

#### **Action Taken**

The observations of the Hon'ble Committee have been noted.

(Approved by the Addl. Secretary to the Government of India).

[Ministry of Finance, (Department of Revenue O.M. No. 241/3/80—A& PAC—II dated 17 June, 1981)]

## CHAPTER V

### Recommendations or Observations in respect of which Government have furnished interim replies

NIL

NEW DELHI:  
March 5, 1982  
Phalguna 14, 1903 (S)

SATISH AGARWAL  
Chairman  
Public Accounts Committee

## PART-II

### MINUTES OF THE SITTING OF PUBLIC ACCOUNTS COMMITTEE (1981-82) HELD ON 3-3-1982.

The Committee sat from 1600 hrs to 1800 hrs.

#### PRESENT

1. Shri Satish Agarwal		Chairman
2. Shri K. P. Unnikrishnan	}	Members
3. Shri N.K.P. Salve		
4. Shri Patitpaban Pradhan		
5. Shri Ashok Gehlot		
6. Shri M. V. Chandrashekara Murthy		
7. Prof. Rasheeduddin Khan	}	

#### REPRESENTATIVES OF THE OFFICE OF C&AG

1. Shri R. C. Suri	ADAI
2. Shri R. S. Gupta	Director of Receipt Audit I
3. Shri N. Sivasubramanian	Director of Receipt Audit II
4. Shri G. N. Pathak	DADS
5. Shri G. R. Sood	Joint Director (Reports)
6. Shri R. S. Gupta	Joint Director (Defence)

## SECRETARIAT

1. Shri D. C. Pande Chief Financial Committee Officer  
 2. Shri K. C. Rastogi Senior Financial Committee Officer

The Committee considered the following draft Reports and approved the same with modifications/amendments is shown in \*Annexures I to IV. The Committee also approved some minor modifications arising out of the factual verifications of the draft Reports by Audit:

(i) \* \* \* \*

(ii) \* \* \* \*

(iii) Draft Seventy-ninth Report on action taken on 26th Report of the Public Accounts Committee (7th Lok Sabha) relating to Assessments of foreign technicians.

(iv) \* \* \* \*

*The Committee then adjourned.*

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\*Annexures I, II and IV not appended.



### ANNEXURE III

List of modifications/amendments made by the Public Accounts Committee in the Draft 79th Report on action taken by Government on the 26th Report of Public Accounts Committee (Seventh Lok Sabha).

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Page	Para	Line(s)	Modifications/Amendments
9	1.14	11	<i>For "attributable" read "attributable also"</i>

## APPENDIX

### Conclusions/Recommendations

Sl. No.	Para No.	Ministry/Deptt. concerned	Conclusions/Recommendations
1	2	3	4
1	1.9	Finance (Deptt. of Revenue)	<p>The Committee regret the lackadaisical attitude shown by the Ministry in regard to the question of collecting data of employment of foreign technicians to enable formulation of a policy for employment of such technicians keeping in view the growing technical skills within the country. As pointed out by audit, in the absence of such a policy there have been cases of approvals being denied by the Ministry to employment of technicians or to such proposals being qualified by the words 'without any tax concessions' much after the technicians have been employed. It has been further pointed out that the procedures and forms for approval prescribed do not demand that it should be made clear as to who will make the payment of income-tax dues without any concessions under Section 10(6) (viii) <i>i.e.</i> whether the technician or the Indian Party or the foreign employer, if any, would bear the tax liability and the quantum thereof.</p>
2	1.10	-do-	<p>The Committee had also pointed out that the relevant provisions in respect of the tax concessions given to foreign technicians are rather complicated and need to be rationalised and simplified in the interest of proper administration. The reply furnished by the Ministry does not spell out the</p>

precise action taken by Government on this recommendation. The Committee would therefore like to be apprised of the results of the study, if any, undertaken by the Ministry in this regard.

3            1.11            -do-

As recommended earlier, the Ministry of Finance must also take upon itself the responsibility of maintaining the detailed record of particulars of contracts of service of foreign technicians so that all relevant information is available at one place and any deviation from or violation of policy instructions/guidelines regarding the employment of such technicians can be easily detected.

4            1.14            -do-

The Ministry's reply does not throw any light on the steps taken re-contemplated by the Ministry in regard to the suggestion of the Committee that a foolproof system should be devised by the Central Board of Direct Taxes to ensure better coordination between different officers assessing under different direct taxes. As pointed out in the earlier report, the undue relief allowed to employers in respect of salaries and emoluments paid to their employees beyond the limits contemplated in Section 40A(5) of the Income-tax Act is attributable also to lack of coordination between the officers assessing the employers and those assessing the employees and that the quantum involved is substantial. As this is essentially a management problem, the Committee see no reason why it cannot be rectified by streamlining the system. The Committee would therefore like the matter to be examined without delay and suitable remedial measures taken.

20. Atma Ram & Sons,  
Kashmere Gate,  
Delhi-6.
21. J. M. Jaina & Brothers,  
Mori Gate, Delhi.
22. The English Book Store,  
7-L, Connaught Circus,  
New Delhi.
23. Bahree Brothers,  
188, Lajpatrai Market,  
Delhi-6.
24. Oxford Book & Stationery  
Company, Scindia House,  
Connaught Place,  
New Delhi-1.
25. Bookwell,  
4, Sant Narankari Colony,  
Kingsway Camp,  
Delhi-9.
26. The Central News Agency,  
23/90, Connaught Place,  
New Delhi.
27. M/s. D. K. Book Organisations,  
74-D, Anand Nagar (Inder Lok),  
P.B. No. 2141,  
Delhi-110035.
28. M/s. Rajendra Book Agency,  
IV-D/50, Lajpat Nagar,  
Old Double Storey,  
Delhi-110024.
29. M/s. Ashoka Book Agency,  
2/27, Roop Nagar,  
Delhi.
30. Books India Corporation,  
B-967, Shastri Nagar,  
New Delhi.

**P A C No 86o**

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