

9

**STANDING COMMITTEE
ON FINANCE
(1998-99)**

TWELFTH LOK SABHA

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

**WORKING OF CENTRAL BOARD
OF DIRECT TAXES**

*[Action taken by the Government on the recommendations contained
in the Tenth Report of the Standing Committee on Finance on
Working of Central Board of Direct Taxes]*

NINTH REPORT



8.3657R

8.9.6

**LOK SABHA SECRETARIAT
NEW DELHI**

July, 1998/Asadha, 1920 (Saka)

NINTH REPORT
STANDING COMMITTEE ON FINANCE
(1998-99)

(TWELFTH LOK SABHA)

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

WORKING OF CENTRAL BOARD
OF DIRECT TAXES

*[Action taken by the Government on the recommendations
contained in the Tenth Report of the Standing Committee on
Finance on Working of Central Board of Direct Taxes]*

*Presented to Lok Sabha on 27th July, 1998
Laid in Rajya Sabha on 27th July, 1998*



LOK SABHA SECRETARIAT
NEW DELHI

July, 1998/Asadha, 1920 (Saka)

C.O.F. No. 09

Price : Rs. 25.00

PARLIAMENT LIBRARY
Central Govt Publications
Acc. No. HC 29408
Date.....

(7)

LC

8.3657R

N 8.9.6

~~PARLIAMENT LIBRARY
Central Govt Publications
Acc. No. HC 29408
Date.....~~

© 1998 By LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Ninth Edition) and Printed by Shree Enterprises, Delhi.

CORRIGENDA (9th Report)

Page	Line	For	Read
3	bottom line	Rs. 32.26%	32.26%
	7 from below	Rs. 61.85%	61.85%
	15	eight year	eight years
7	22	coming	coming
	24	of cases	on cases
21	20	No. 1750	No. 1570
27	15	not	no
	21	not	note
28	3	undertaken of the Department	undertaken to bring more assesseees under the scheme Coordination of the Deptt.
31	7	No. 1997	No. 1917
33	4	basis	cases
41	23	revenue resources	revenue, resources

CONTENTS

C.O.F. No. 09

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Ninth Edition) and Printed by Shree Enterprises, Delhi.

CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE	(iii)
INTRODUCTION	(v)
CHAPTER I Report	1
CHAPTER II Recommendations/Observations which have been accepted by the Government	15
CHAPTER III Recommendations/Observations which the Committee do not desire to pursue in view of the Government's replies	29
CHAPTER IV Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee	38
CHAPTER V Recommendations/Observations in respect of which final replies of the Government are still awaited	46
Minutes of the sitting of the Committee held on 21 July, 1998	50
ANNEXURE	
Scope of <i>prima facie</i> disallowances under section 143(1) of the Income Tax Act, 1961	52
APPENDIX	
Analysis of action taken by the Government on the recommendations contained in the Tenth Report of the Standing Committee on Finance (Tenth Lok Sabha)	55

COMPOSITION OF THE STANDING COMMITTEE ON FINANCE
(1998-99)

Shri Murli Deora — *Chairman*

MEMBERS

Lok Sabha

2. Shri Dharendra Agarwal
3. Shri Mohanbhai Sanjibhai Delkar
4. Shri Haribhai Parathibhai Chaudhary
5. Shri Uttam Singh Pawar
6. Shri Girdhari Lal Bhargava
7. Shri Chetan Chauhan
8. Shri Bhagwan Shanker Rawat
9. Shri Rayapati Sambasiva Rao
10. Shri T. Subbarami Reddy
11. Shri Kavuru Sambasiva Rao
12. Shri Sandipan Bhagwan Thorat
13. Shri Praful Manoharbai Patel
14. Shri Prithviraj D. Chavan
15. Shri R.L. Jalappa
16. Shri Magunta Sreenivasulu Reddy
17. Shri Rupchand Pal
18. Shri Varkala Radhakrishnan
- *19. Shri Beni Prasad Verma
20. Shri S. Murugesan
21. Shri M. Sahabuddin

*Nominated w.e.f. 25 June, 1998 *vice* Sh. Jang Bahadur Singh Patel, M.P., who was nominated to Standing Committee on Transport and Tourism.

22. Dr. S. Venugopalachary
23. Shri Tathagata Satpathy
24. Kum. Kim Gangte
25. Dr. Bikram Sarkar
26. Shri S. Jaipal Reddy
27. Shri Joachim Baxla
28. Shri P. Chidambaram
29. Shri Buta Singh
30. Shri Ch. Vidyasagar Rao

Rajya Sabha

31. Dr. Manmohan Singh
32. Shri Krishna Kumar Birla
33. Shri N.K.P. Salve
34. Shri M. Rajsekara Murthy
35. Shri Narendra Mohan
36. Shri O.P. Kohli
37. Shri Raghavji
38. Dr. Biplab Dasgupta
39. Shri C. Ramachandraiah
40. Shri Amar Singh
- *41. Shri Prem Chand Gupta
42. Shri R.K. Kumar
43. Shri Gurudas Das Gupta
- *44. Vacant
45. Shri Suresh A. Keswani

SECRETARIAT

1. Dr. A.K. Pandey — *Additional Secretary*
2. Smt. P.K. Sandhu — *Director*
3. Shri S.B. Arora — *Under Secretary*

INTRODUCTION

I, the Chairman, Standing Committee on Finance (1998-99) having been authorised by the Committee to submit the Report on their behalf, present this Ninth Report on action taken by Government on the recommendations contained in the Tenth Report of the Committee (Tenth Lok Sabha) on Working of Central Board of Direct Taxes (CBDT).

2. The Tenth Report was presented to Lok Sabha/laid in Rajya Sabha on 14 February, 1995. The Government furnished the replies indicating action taken on all the recommendations on 16 August, 1995. The updated replies were furnished by the Government in July, 1996 and again on 11 August, 1997. The Draft Action Taken Report was considered and adopted by the Standing Committee on Finance at their sitting held on 21 July, 1998.

3. An analysis of action taken by Government on recommendations contained in the Tenth Report (Tenth Lok Sabha) of the Committee is given in the Appendix.

4. For facility of reference observations/recommendations of the Committee have been printed in thick type in the body of the Report.

NEW DELHI;
22 July, 1998
31 Asadha, 1920 (Saka)

MURLI DEORA,
Chairman,
Standing Committee on Finance.

CHAPTER I

REPORT

This Report of the Standing Committee on Finance deals with action taken by Government on the recommendations contained in their Tenth Report (Tenth Lok Sabha) on Working of Central Board of Direct Taxes which was presented to Lok Sabha on 14 February, 1995.

2. Action Taken Notes have been received from the Government in respect of all the 40 recommendations contained in the Report. These have been categorised as follows:—

- (i) Recommendations/Observations which have been accepted by the Government:
Sl. Nos. 5, 6, 7, 10, 13, 14, 15, 16, 17, 20, 21, 23, 27, 28, 29, 32, 35, 36 and 37.

(Chapter II Total 19)

- (ii) Recommendations/Observations which the Committee do not desire to pursue in view of the Government's replies:
Sl. Nos. 1, 4, 11, 12, 18, 22, 24, 25 and 26.

(Chapter III Total 9)

- (iii) Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee:
Sl. Nos. 2, 3, 8, 9 and 33.

(Chapter IV Total 5)

- (iv) Recommendations/Observations in respect of which final replies of the Government are still awaited:
Sl. No. 19, 30, 31, 34, 38, 39 and 40.

(Chapter V Total 7)

3. The Committee desire that the final replies in respect of the recommendations for which only interim replies have been given by the Government should be furnished to the Committee expeditiously.

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

A. Arrears of Income and Corporate Taxes

Recommendation (Sl. No. 2, Para No. 1.13)

5. The continuing increase in the outstanding tax demands despite numerous measures to reduce them was a matter of serious concern to the Committee. The Committee had found that the income tax and Corporation tax arrears outstanding as on 1st April of 1991, 1992, 1993 and 1994 were Rs. 6695 crore, Rs. 8461 crore, Rs. 9489 crore and 13360 crore respectively. These statistics which are indices of the Department's performance lead to the conclusions that measures taken by the Deptt. to realise tax dues had not been effective enough and need to be intensified. The Committee had urged the Deptt. to maintain a relentless pressure on all fronts to improve results in collecting revenue demands and reducing arrears.

6. The Government, in their action taken reply stated as under:—

“Revenue collections do depend upon the demands realised by the Department—higher the demand higher the collection. It may be seen that till 1992-93, the growth in arrears has been much less than the growth in collection. Only during 1993-94 it has exceeded the growth in collection. This is primarily because of scam related cases which have given rise to big demands being created. Recovery of demands in such cases would depend upon the decision of the Special Court constituted for these cases. In many other cases also, demands could not be fully collected because of huge pendency of cases at the appellate level. The Department is continuously monitoring to improve the situation.

The measures taken in the year 1994-95 for collecting revenue demands and reducing arrears include requesting Commissioner (Appeals) to dispose off early the high demand appeals, giving expeditious effect to appellate orders, disposing off rectification applications in High Demand Cases. After taking these steps, the Departmental Officers were directed to take coercive measures

of recovery like attachment and sale of movable and immovable properties of tax-defaulters. All these efforts have contributed to the Revenue Collections exceeding Rs. 26,500 crores, the Corporation tax collection reaching Rs. 13,611 crores, Income tax collection reaching Rs. 12,161 crores and interest tax Rs. 755 crores.

7. In their subsequent reply, the Government have stated as under:—

“The Total outstanding Demands of Corporation Tax and Income Tax at the end of financial year 1996-97 is Rs. 33978.99 crores (Provisional). In a Tax Department, the phenomenon of tax arrears is a continuing one. Though, the tax demand outstanding at the beginning of the financial year is substantially collected/reduced, the arrears again go up because a part of the fresh tax demand raised during the year is not fully collected by the end of the financial year.

The position of collection out of current demand raised during 1996-97 and the arrear demand is given below:

	(in crores) (Provisional)
(A) Current demand raised during 1996-97	= Rs. 42227.34
Reduction by way of prepaid taxes and Collection	= Rs. 26119.45
% age of Reduction/Collection out of Current demand	= Rs. 61.85%
(B) Arrear Demand as adjusted upto the month of March, 97	= Rs. 29260.66
Reduction/Collection out of Arrear Demand	= Rs. 9438.53
% age of Reduction/Collection out of Arrear	= Rs. 32.26%

The analysis of the Total Outstanding Demand is given below to illustrate the main reasons for the demand being outstanding:

	(Provisional) (Rs. in crores)	%age
(a) Demand not fallen due	10089.24	29.69
(b) Demand paid but pending verification	1546.89	4.55
(c) Demands stayed by Courts Settlement Commission & ITAT	4510.36	13.27
(d) Demand stayed by Income Tax Authorities	5644.74	16.61
(e) Demands covered by Instalments	323.81	0.95
(f) Demands where recovery is difficult	6177.70	18.18
(g) Net collectible demand	5686.25	16.74
TOTAL	33978.99	100.00

8. While the Committee concede that higher demands leads to high collections, but at the same time ever increasing gap between demand and collections leading ultimately to higher growth in arrears can hardly be considered a healthy proposition in their view. The very fact that arrears which stood at Rs. 6695 crores at the end of 1990-91 increased to Rs. 13,360 crores in 1993-94 and again touched a galloping figure of Rs. 33,979 crores (provisional at the end of 1996-97) speak volumes about the working of the tax machinery. The Committee are also dismayed to note that not only the Department failed to collect 39.15% of the demand raised during 1996-97 but the percentage of collection out of the arrears as at the end of March, 1997 was also merely 32.26. The Committee are not inclined to accept the contention put forward by the Ministry that the phenomenon of tax arrears is a continuing one in a Tax Department and though the tax demand outstanding at the beginning

of the financial year is substantially collected/reduced, the arrears again go up because a part of the fresh tax demand raised during the year is not fully collected by the end of the financial year.

They are of the considered view that either the steps taken so far to reduce the arrears have not been sufficient or no serious efforts have been made towards improving the situation. The Committee, therefore, while reiterating their earlier recommendations desire that concerted efforts be made at all levels with a view to strengthening the tax recovery machinery so that the outstanding demands can be realised expeditiously.

The Committee also understand that the substantial amount of the arrears demand as adjusted upto the month of March, 1997 pertains to the period prior to 1996-97.

The Committee would like the Ministry of Finance to furnish details of the arrears which remained pending together with the reasons as well as the steps taken to realise the same and the results achieved in this regard.

B. Demand not fallen due and demands in respect of which verification of payment was pending

Recommendation (Sl. No. 3, Para No. 1.14)

9. The Committee had noted that a substantial portion of the total outstanding demand consisted of the demands not fallen due and the demands in respect of which verification of payment was pending. During the course of evidence, a representative of the Ministry admitted that almost 50 per cent of the current demand was raised in the month of March itself and, therefore, that demand had to be shown as not fallen due. This clearly showed that a big portion of the demand was raised only during the end of the financial year which was carried forward for realisation in the next year. The Committee had found that due to non-completion of assessments in the first three quarters of the year; Rs. 2214 crore, Rs. 3618 crore, Rs. 3810 crore and Rs. 5704 crore remained unrealised and had to be shown as demand not fallen due during 1990-91, 1991-92, 1992-93 and 1993-94 respectively which indicated that the system was not working as it should and the disposal of work throughout the year was not uniform despite huge arrears in the work of assessments.

10. In their action taken reply, the Government had stated as under:—

“Instructions have been issued to the effect that the assessments in all high revenue yielding cases should be completed well before the close of the financial year. It may, however, be appreciated that in all such cases, usually complex legal and factual issues are involved requiring clarifications from the assesseees and repeated statutory notices u/s 142(1)/143(2) of the Act have to be issued at elicit details. It is not always possible to make ex-parte assessments merely because the assesseees seek a number of adjustments because every efforts has to be made to finalise assessments which are complete in all respects to avoid the assessments being set-a-side on that ground. Hence, in some cases, the assessments could be made only during the last quarter of the financial year. However, every effort is being made to see that there are no avoidable delays in completion of assessments in large cases.

The Action Plan for financial year 1996-97 and 1997-98 provide that, all brought forward scrutiny assessment must be completed by 31.10.96 and 31.10.97 respectively.”

11. Though the Committee do not dispute the fact that in those cases where complex legal and factual issues are involved clarifications from the assesseees are required and repeated statutory notices under Section 142(1)/143(2) of the Act have to be issued to elicit details, the Committee find it difficult to believe that these factors alone could have contributed towards raising almost 50% of the current demand in the month of March itself and thereby making it difficult to assess and collect the demand in that financial year itself. The Committee are of the confirmed view that assessment should not be kept pending indefinitely for want of clarifications from the assesseees and concerted efforts should be made wherever possible to ensure that there are no avoidable delays in completion of assessments.

The Committee would, therefore, reiterate their earlier recommendations and urge that the disposal of work throughout the year should be made uniform/equal with a view to complete the assessment of tax returns well in time leading to collection of demand in that financial year itself.

The Committee are, however, satisfied to note that action plan for financial year 1996-97 and 1997-98 providing completion of the brought forward scrutiny assessments by 31.10.96 and 31.10.97 respectively has been formulated. The Committee would like to be apprised of the progress made in this regard.

C. Computerisation, manpower redeployment separation of high value cases and Transfer Policy

Recommendations (Sl. Nos. 8 and 9, Para Nos. 2.13 and 2.14)

12. As regards Computerisation, manpower deployment, separation of high value cases from low value cases, transfer policy etc., the observations and recommendations of the Committee were as under:—

“On the third reason forwarded by the Department, *i.e.* dependence on the manual system, it is learnt by the Committee that Computerisation was introduced in the Department in 1986-87 and nearly eight year have passed with no worthwhile progress. The Committee is at a loss to understand why Computerisation has not delivered the desired result and would like to know what the Department propose to do for the future so that it is ensured that the mistake of the past are not repeated and proper computerised work environment is evolved. It is the belief of this Committee that more than 90 per cent of the revenue is coming from a minuscule proportion of the total number of cases. The Committee fails to understand why, instead of concentrating of cases which have a huge potential for revenue resources are being spread thinly over the vast multitude of cases where the contribution to revenue is insignificant.

The Committee notes that though computerisation will be of immense use the present system has to be worked out on an objective basis, for its complete success. This Committee would like to have a report on the money and other resources, spent on computerisation so far *vis-a-vis* the actual results achieved by the Department *i.e.* the extent to which work has not been actually transferred to the computers. The Committee also wishes that the Department should apply itself seriously in formulating proper policies regarding distribution of work to its officers so that all types of work/all types of assessees are not bunched

together which is presently the case, since this system is not conducive to the best results. The Committee also desires that the transfer and posting policies of the Department should be formulated and implemented strictly in such a manner that officers stay on posts for their prescribed tenures and are neither changed too quickly nor allowed to remain for too long on the same post. The Committee would like that policies relating to transfers and postings, division of work and specialisation, etc. should be fine-tuned with the overall objective of revenue maximisation after conducting a scientific study using the latest management techniques."

13. The reply of the Government on the above reads as under:—

1. Computerisation was introduced in the Income-Tax Department from 1985 in a phased manner. Mini computers were installed at 36 Centres. The last Centre to be made operational was Ranchi Centre in 1990. The work was done in batch mode without creation of any databases and without linkages among the systems. Lack of adequate hardware capacity at later stages, lack of technical/trained manpower and resistance from the staff affected successful implementation of the computerisation plan. In spite of these considerable progress was achieved in the areas of allotment of Permanent Account Number and Challan Processing.
2. This implementation of computerisation between 1985 and 1993 gave enough experience, exposure and insight into the problems and prospects of use of this state-of-art technology.
3. With a view to ensure that the mistakes of the past are not repeated, the Department has now embarked on an organised & concerted efforts. The working Group constituted by the Government in May, 1993, to study the existing manual and computerised system of the Department and to suggest a Comprehensive Computerisation Plan recommended a long term three tier comprehensive Computerisation Plan for Department. At the apex level there shall be National Computer Centre (NCC) having large computers to maintain databases and execute processing work of global nature including allotment of PAN as part of Assessee Information

System. At the second or middle level there shall be 10 to 15 Regional Computer Centres (RCCs) equipped with large computers to maintain regional database and to cater to regional processing needs. All the RCCs shall be connected to the NCC through high speed data communications links. At the third level, computers shall be installed in all the tax offices. These systems shall be connected to respective Regional Computers Centre for data transmission.

4. Keeping in view the objectives and the total systems requirements as spelt out in the report of the Working Group, the implementation of the new plan shall be accomplished in a phased manner. In the first phase, large computer systems have been installed at regional level at Delhi, Mumbai and Madras. In addition to the regional functions, PCC Delhi shall also act as NCC till the same is set-up and made functional in the second phase. There is centralised processing and database with provision of terminal banks in all buildings within a city are linked to the central computer (at regional level) through leased telecom lines. The three cities are linked through leased lines of the Department of telecommunications.
5. In the second phase the plan would be extended to Regional Computer Centres at Calcutta, Bangalore, Hyderabad, Pune, Ahmedabad etc. National Computer Centre would also be set up in this phase. Finally, in the third phase all other Income-Tax Offices will be connected to the respective Regional Computer Centres.
6. A city region-wise centralised database of all tax-payers as well as assessment and tax-collection related activities shall be created with centralised processing and decentralised input/output activities.

Applications

7. The following application are being developed for implementation:—
 1. Assessee Information System (PAN)
 2. Assessment Information System

3. Tax Deduction Information System
4. Tax Accounting System (TAN)
5. Individual Running Ledger Account System
6. Enforcement Information System
7. Resource Management System
 - (i) Manpower Management System
 - (ii) Physical Resources Management System
 - (iii) Financial Management System
8. Management Information System
9. Judicial Referencing System.

8. Once the full system is implemented and databases created over a period of next two to three years it would be capable of handling bulk of the routine and repetitive work releasing manpower to attend to cases with greater revenue potential."

14. The reply further states:—

1. During 1984-85 to 1991-92 a sum of Rs. 9.08 crores were spent on procurement of hardware, software, training and maintenance. Work relating to Permanent Account Number & Challan Processing was carried out at all the 36 centres. Assessment, Payroll, Grievance redressal, TAN & TDS system were implemented at some of the centres.
2. During 1994-95 a sum of Rs. 26.54 crores and during 1995-96 a sum of Rs. 4.55 crores have been spent on Comprehensive Computerisation being implemented at Delhi, Mumbai and Madras, Regional Computer Centre at Delhi & Madras were made operational during January, 1995 and Regional Computer Centre at Mumbai in February, 1995.
3. The work of development of all application systems except Tax Deduction at Source System referred to in reply to Recommendation No. 8 is complete and implementation is in progress. The work relating to allotment of all India Unique Identification Number, Permanent Account Number

to assessees as a subset of Assessee Information System is under implementation in the three cities of Delhi, Mumbai and Madras. Nearly 91.9% of taxpayers who had filed returns in 1996-97 have already applied for allotment of the Permanent Account Number under the new series. Out of these 72.2% of the taxpayers have already been allotted Permanent Account Numbers. Balance applications including those having deficiencies are at various stages of processing. Assessee Information System and Tax Accounting Information System have been implemented. The other applications are at various stages of implementation."

15. In their recommendation, the Committee had inter-alia desired the Govt. to (i) create computerised work environment (ii) reallocate and redeploy manpower on the basis of scientific analysis and specialisation applying management techniques of Always Better Control (ABC) system; (iii) formulate transfer and posting policy; and (iv) separate high value cases from low value cases and to concentrate on high yielding revenue cases.

From the reply furnished by the Govt., the Committee, however, find that the progress made in the computerisation of system, which started in 1985, is far from satisfactory. Though most of the applications are reported to have been developed but the implementation is still not complete. Whatever little progress has been made, is limited to big cities only. As regards action taken on other recommendations, the Govt. have stated that "once the full system is implemented and databases created over a period of next two to three years, it would be capable of handling bulk of the routine and repetitive work releasing manpower to attend to cases with greater revenue potential". The Committee consider the above reply hardly satisfactory as the same is silent with respect to conducting scientific study by using latest management technique for work norms/re-distribution of work, transfer policy and separation of high value cases from low value cases.

In the circumstances, the Committee conclude that the Ministry have not taken their recommendation in its real perspective. They, therefore, once again recommend that with a view to streamlining the system computerised work environment should be created as early as possible, redeployment of work force must be initiated after conducting scientific study on work-norms and separation and concentration on high value cases should be given top priority.

D. Clearing of Pending Scrutiny Assessments

Recommendation (Sl. No. 14, Para No. 2.19)

16. The Committee had observed that inspite of framing annual action plans providing targets for clearing the pending scrutiny as well as summary assessments, the Department in no year had been able to keep pace with the workload, with the result pending of summary assessments had increased and scrutiny assessments remained the same over the last four years. The Committee had desired the Department to review the position and devise a more practical and realistic approach in framing annual plans and create a result oriented system to ensure disposal of assessment work according to plan targets. The Committee had also desired that the progress of such action plans should be monitored closely by the Department.

17. Accepting the view point of the Committee, the Government have stated:—

“the recommendations of the Committee have been kept in view in framing the Action Plan for the financial years 1995-96, 1996-97 and 1997-98. It is submitted that under the existing reporting and monitoring system, progress of Action plan is under close scrutiny of CCIT/Board.

18. The Committee are satisfied to know that their view was kept in mind while framing the action plans for disposal of the pending scrutiny as well as summary assessments for the financial years 1995-96, 1996-97 and 1997-98. The Committee would like the Ministry of Finance to apprise them of the targets laid down in the action plans for disposal of assessment work for these years and achievements made thereto.

The Committee would also like to know the impact felt as a result of monitoring and scrutiny of action plans by CCIT/Board.

E. Delay in settlement of Refunds

Recommendation (Sl. No. 33, Para No. 5.22)

19. While examining refund cases, the Committee had desired to know the number of refund claims filed, the actual number disposed

of and the number of cases pending during the years 1991-92, 1992-93 and 1993-94. In this respect, the Ministry had submitted the following information:—

Year	No. of claims for		
	Refund	Disposal	Pending
1991-92	79,346	68,974	10,372
1992-93	77,337	69,052	8,285
1993-94 (Upto December, 1993)	80,059	53,372	26,687

20. The Committee were informed that instructions had been issued by the Board to the effect that all refunds must be issued within 10 days of completion of assessments and deterrent punishment be awarded to those officials who were found wanting. The Committee had observed that these instructions were hardly being implemented and had therefore, urged that a thorough enquiry into cases of delays in settlement of refunds be held with a view to analysing the reasons for delay and taking effective measures to remedy the situation. The Committee had desired to know whether the board's instructions requiring disciplinary action to be taken in cases of delay were followed in all cases of study.

21. The reply furnished by the Govt. is as follows:—

“One of the reasons for delay in settlement of refunds was found to be the requirement to verify the existing arrears before issue of refunds. The CBDT has since issued instruction to the effect that in cases of small refunds upto Rs. 5,000, there is no necessity to have verification of arrears before issue for refund. In such cases only post verification will be made for action, if any, to be taken. It was also found that another major reason for delay in settlement of refund is the necessity to issue advices to the Bank in all cases where the amount of refund exceeds Rs. 999/-. It has since been decided to discontinue the issue of advices and rules for this purpose are being framed.

As regards the initiation of disciplinary action in cases of delay in issue of refunds, it is submitted that as no cases of deliberate and wanton delays have come to notice, no such action has been initiated.”

22. The Committee appreciate that in accordance with the new instructions issued by Central Board of Direct Taxes the necessity to have verifications of arrears before issue of refunds has been dispensed with in cases of small refunds upto Rs. 5,000/. They are also satisfied to note that it has since been decided to discontinue the issue of advices to the banks and rules for this purpose are being framed. Though the latest figures of refund claims filed and disposed of have not been furnished by the Ministry yet in view of the fact that in 1993-94 (upto December, 1993) out of 80,059 claims, as many as 26,687 claims of refund were pending despite the strict instructions issued to dispose these off within ten days of completion of the assessments, the Committee are not inclined to accept the claim of the Govt. that no case came to their notice of deliberate and wanton delay in issuing of refund orders and as such no disciplinary action could be initiated.

The Committee would urge the Govt. to review all cases since 1993-94 and wherever there is a delay beyond the prescribed period in issuing refund orders, the concerned officers and officials must be punished for their lapses. The Committee would like to be apprised of the outcome of such a review.

Implementation of Recommendations

23. The Committee note with concern that some of the recommendations that stand accepted by the Govt. are still in the process of implementation. The Committee would like to emphasize that expeditious implementation of at least those recommendations which are accepted by the Govt. deserve utmost importance. They, therefore, urge the Govt. that concerted efforts should be made in order to ensure that the recommendations get implemented expeditiously. Even in cases, where it is not possible to accept the recommendations of the Committee on account of certain reasons, the matter should invariably be reported to the Committee. The Committee, however, desire that replies in respect of the recommendations as contained in Chapter 5 of the Report may be finalised and the Committee be apprised of the progress made as early as possible.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No. 5, Para 1.16)

The Ministry in a written reply have furnished the figures of net realisable demand. In a subsequent reply, they have also furnished a statement showing the break-up of the total outstanding demand. On an analysis of the statement and by reducing the various other demands from the total outstanding demand, the figures of net realisable demand arrived at is different from the figures of net realisable demand furnished by the Ministry earlier. This brings out clearly that there was considerable confusion on the subject which needed clarification. The Committee would, therefore, like the Ministry to reconcile the figures so as to have a correct and clear picture of the net realisable demand.

Recommendation (Sl. No. 6, Para. 1.17)

The Committee would also like to be informed as to why the net realisable demand which is due in particular year could not be collected by the end of that year when by its very definition it is free from all encumbrances.

Reply of the Government

The Department has already clarified the position with regard to recommendation No. 5 earlier, stating that initially the figures of non-realizable Demand consisted of demand not fallen due, demands paid but pending verification and demands stayed by Courts, Settlement Commission and Tribunal. However, in a later communication, the demands stayed by Income Tax authorities were also included in non-realizable demands as it was considered that the stay of demand by Income Tax authorities is granted in exercise of their quasi-judicial power. Hence, there was no confusion about the veracity of the figures.

The position of Outstanding Demand at the end of Financial year 1996-97 is given below:—

	(Rs. in crores) (Provisional)
(a) Demands not fallen due	Rs. 10089.24
(b) Demands paid but pending verification	Rs. 1546.89
(c) Demands stayed by Courts Settlement Commission & ITAT	Rs. 4510.36
(d) Demands stayed by Income Tax Authorities	Rs. 5644.74
(e) Demands covered by Instalments	Rs. 323.81
(f) Demands where recovery is difficult	Rs. 6177.70
(g) Net collectible demand	Rs. 5686.25

As regards the realisation of net collectible demands, the Department makes all out efforts to collect the demand by taking actions under the various provisions of the Income Tax Act., e.g. attachment of movable/immovable properties of the defaulters, detention in prison, appointment of receiver for management of defaulter's properties etc.

At the end of December, 1996, cases of 7,73,658 defaulters involving an amount of Rs. 2063.60 crores were certified to the Tax Recovery Officers for initiating recovery proceedings.

The position regarding attachment of movable/immovable properties is indicated below:—

	No. of cases
(a) Cases in which attachment of movable properties was made	
(i) Pending on 1st April, 96	1841
(ii) Upto the end of December, 96	537
Total:	2378

	No. of cases	No. of properties
(b) Cases in which immovable properties were attached		
(i) Pending on 1st April, 95	2755	3589
(ii) Upto the end of Quarter ending on December, 96	380	715
Total:	3135	4304
(c) Cases in which receiver appointed upto the end of Quarter (i.e. Dec. 96)	21	
(d) Defaulters against whom arrest proceedings initiated	228	

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 7, Para No. 2.12)

The Committee desires that the Department should conduct a work study for ascertaining proper manpower requirements and its best deployment and rationalise division of work among its officers and staff accordingly to ensure optimal collection of revenue.

Reply of the Government

The recommendation of the Committee to conduct a work study for ascertaining proper manpower requirements and its deployment in different areas of work as to ensure optimal collection of revenue has been accepted. The Directorate of Income-tax (Organisation & Management Services), New Delhi referred to as DOMS, which is an attached office of the Central Board of Direct Taxes, has been conducting periodical studies to assess the need for manpower and suitable deployment thereof.

After from other studies it has prepared a report on "Additional Requirement of Assessing Officers to deal with cases of new assesseees". This report emphasises the fact that, while during the short

duration of four financial years, namely 1992-93 to 1995-96, the number of assesseees have increased by nearly five million, yet there has been no complementary increase in manpower. Taking into account the work norms the report has suggested augmentation of cadre strength. DOMS has also prepared an approach paper on "Deployment of Income Tax personnel with a view to widening of tax base—Augmentation of financial powers at various levels".

The Central Board of Direct Tax is considering these reports.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 10, Para No. 2.15)

The Committee would also like that the distinction between summary assessment and scrutiny assessment and their scope and ambit should be kept in mind. Summary assessment should be quickly completed on the basis of the return, and adjustments which are permissible under the proviso to Section 143(1)(a) should be restricted only to cases where such adjustments are *prima facie* allowable or disallowable. Debatable questions which involve investigations of facts and law should be raised only in scrutiny assessment and not in the case of summary assessment.

Reply of the Government

The Central Board of Direct Taxes has taken every possible step to ensure that the *prima facie* adjustments u/s 143(1)(a) are made strictly in accordance with law and debatable additions involving investigation of facts and law are not made therein. A copy of the latest Board's Circular No. 689 dated 24.8.1994 is enclosed for ready reference (Annexure). It is submitted that, after issue of this circular, there are practically no complaint regarding any irregular adjustments made u/s 143(1)(a).

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 13, Para No. 2.18)

The Committee strongly feels that norms should be evolved whereby Assessing Officers are made accountable for making

overpitched assessments that are rejected at two appellate levels so that unreasonable additions to income disclosed are controlled.

Reply of the Government

The necessity of ensuring accountability of Assessing Officers in respect of assessment completed by them has been considered. The Action Plans for financial years 1995-96, 1996-97 and 1997-98 provide that all the cases where additions in excess of Rs. 5 lakhs are deleted in first appeal and no second appeal is filed should be examined by the CC/DG every quarter, and a report submitted to the zonal member with suggested action, if any, against the Assessing Officer.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 14, Para No. 2.19)

The Committee notes that inspite of framing annual action plans providing targets for clearing the pending the scrutiny as well as summary assessments, the Department in no year has been able to keep pace with the workload, with the result pending of summary assessments has increased and that of scrutiny assessments remained the same over the last four years. The Committee would like the Department to review the position and devise a more practical and realistic approach in framing annual plans and create a result oriented system to ensure disposal of assessments work according to plan targets. The Committee would also like that the progress of such action plans should be monitored closely by the Department.

Reply of the Government

The recommendations of the Committee have been kept in view in framing the Action Plan for the financial years 1995-96, 1996-97 and 1997-98. It is submitted that under the existing reporting and monitoring system, progress of Action Plan is under close scrutiny of CCIT/Board.

[Ministry of Finance, Dept. of Revenue CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 15, Para No. 3.11)

The Committee, therefore, is of the view that the monitoring authority should adopt a selective approach in filing appeals and

should authorise such appeals only after careful scrutiny so that frivolous appeals are not filed. It should also ensure scrutiny of every case before filing a reference or Special Leave Petition to see that the issue involved is not already settled/concluded by an earlier decision of the Courts or whether not it involves any complicated question. This would reduce unnecessary litigation and save time for the Revenue Officers for concentrating on other important matters.

Reply of the Government

The Central Board of Direct Taxes is aware of the need for adopting a selective approach in filing appeals and also for ensuring that appeals, references or Special Leave Petition are not filed in respect of issues already settled/concluded by earlier decision of the Court. As stated in replies to Question Nos. 5 to 7 of the Supplementary List of Questionnaires the Board has issued instruction No. 1493 dated 18.11.1982 (F. No. 279/189/82-ITJ) that the orders of the Commissioners of Income Tax (Appeals) on questions of fact should be accepted by the Commissioners unless the findings are perverse. While emphasizing selective approach in filing appeals before the Income Tax Appellate Tribunal, the Board issued Instruction No. 1894 dated. 16.6.1992 (F. No. 279/212/91-ITJ(PL) prescribing a monthly review by the Chief Commissioners of Income-Tax/Director Generals of Income-Tax of all appeals before the Income Tax Appellate Tribunals filed on questions of fact as well as at least 10% of the remaining appeals. Further, if any appeals were found to be not justified, they were required to be withdrawn.

Recently on 23.1.95, the Board has issued Instruction No. 1921 (F. No. 279 (F. No. 279/156/94-ITJ, dated 23.1.95) reiterating the need to ensure that departmental appeals before the Income Tax Appellate Tribunal are filled only after due care and scrutiny and emphasizing the importance of the monthly review of appeals prescribed by Boards Instruction No. 1894, dt. 16.6.92 (supra).

The reports received from the Chief Commissioners of Income Tax/ Directors General of Income Tax reveal that steps are being taken to adopt a very selective approach in filing appeals and references so as to reduce unnecessary litigation and filing of frivolous appeals. It has also been reported that pursuant to review conducted according to Board's Instruction No. 1894 dated 16.6.1992 (Supra), the Chief Commissioners of Income Tax are directing withdrawal of appeals filed before the Income Tax Appellate Tribunal.

The recent steps taken by the Department have resulted in a reduction of the number of appeals filed by the Department before the Income Tax Appellate Tribunal.

The relevant details are as below:—

	1994-95	1995-96
Total number of cases filed	1,26,035	90,696*

*Figures are provisional.

The number of Special Leave Petition filed before the Supreme Court in direct taxes matters also decreased substantially from 753 appeals in 1992-93 to 458 appeals in 1995-96 (these figures are provisional).

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 16, Para No. 3.12)

The Committee also desired that proper attention should be given for preparation and support cases where it has been decided to file appeals before the Tribunal or any other higher authority.

Reply of the Government

With a view to improving the quality of representations in appellate matters, the Central Board of Direct Taxes, amongst others, desired through Instruction No. 1750 dated 4.7.1984 (F. No. 272/92-ITJ), that the Commissioners of Income Tax should personally ensure that all relevant records are supplied to the departmental representatives before the Tribunal well in time and at least three days before the date of hearing. Similarly, through Instruction No. 1684 (F. No. 279/198/85-ITJ dated 4.2.1986), the Board has emphasized that the Assessing Officer should send a copy of the Memorandum of Appeal to the departmental representatives before the Tribunal, so as to ensure that the departmental representatives are able to make an effective representation on behalf of the department before the Tribunal.

The reports received from the Chief Commissioners of Income Tax/ Directors General of Income Tax reveal that due attention is being accorded to proper representation of the cases before the Tribunal and

the High Court. In important cases, Assessing Officers, Deputy Commissioners and Commissioners of Income Tax actively assist, brief and support the departmental representatives before the Income Tax Appellate Tribunal and Standing Counsels before the High Courts/Supreme Court so as to ensure proper and effective representation in appeals.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 17, Para No. 3.13)

The Committee is further of the view that where the decision of the Tribunal has finally settled, the question of fact in respect of a particular case, the Assessing Officers should follow the same decision and should not differ from it unless there are compelling reasons.

Reply of the Government

The procedure being followed by the Department is exactly on the same lines as recommended by the Committee. Unless there are further references to the High Court/Supreme Court on the grounds of perversity of the Tribunal's order in its finding of fact, the order of the Income-tax Appellate Tribunal become final on questions of fact and are followed by the Assessing Officers for the succeeding assessment years.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 20, Para No. 3.18)

The Committee desires that the Department should prepare a list of pending cases on common issues involving major legal points before High Courts and Supreme Court for the purpose of bunching and High Courts and Supreme Court may be requested to expedite hearing of these cases for their early disposal.

Reply of the Government

For the purpose of expediting of the disposal of Court cases pending before Supreme Court, the grouping of cases on some important issues was undertaken. The major issues identified before

the Supreme Court included:—

- (i) Matters relating to issue whether subsidy is to be deducted from the actual cost of asset for computing depreciation, investment allowance etc.
- (ii) Issue whether Rule 1D of the Wealth Tax Act is mandatory or directory.
- (iii) Challenge to Constitutional validity of Chapter XXC of the Income Tax Act, 1961 regarding pre-emptive purchase of property.
- (iv) Matters regarding Section 44AC and 206C of the Income Tax Act.
- (v) Matters involving Section 35B of the I.T. Act, 1961.

The request for early disposal of the bunched cases resulted in the judgments of the Supreme Court on the first three issues mentioned above, resulting in disposal of 195 cases by the Supreme Court. Further, consequent to the judgement of the Supreme Court in the case of C.B. Gautam Vs. Union of India 65 Taxman 440 on the constitutional validity of Chapter XXC, 194 writs in various High Courts were also disposed of.

In a recent decision of the Supreme Court in the case of GIT. Vs. N.C. Budhiraja & Co. Ltd. 204 ITR 412, 17 cases were disposed of by the Supreme Court. The judgement which are in favour of the Department, are circulated for consequential action in similar cases.

The recent decision given by the Supreme Court are expected to have a cascading effect in reducing litigation to the extent of about 15% before the High Courts and the Income Tax Appellate Tribunal.

The Central Board of Direct Taxes expedites the disposal of the cases pending before the High Courts through issue of instructions from time to time to the field authorities for identifying issues recurring in a large number of cases, and requesting the Chief Justice of the High Court for hearing out of turn in these cases and for constituting Tax Benches on a regular basis.

The reports received from the Chief Commissioners of Income Tax indicate that requests made to the Chief Justice of the High Court for

expeditious disposal of cases on priority basis and for bunching of court cases yielded results in the form of acceleration of the disposal of court cases before the High Court.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/
97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 21, Para No. 4.11)

The Committee is of the view that having regard to the inflationary trends, pre-emptive purchase under Chapter XXC may be restricted to properties which are Rs. 25 lakhs or more.

Reply of the Government

The Recommendation of the Committee has been accepted by the Government and *vide* Notification S.O. No. 636(B) dated the 12th July, 1995, the following limits have been fixed for pre-emptive purchase of the properties in respect of agreements of sale entered into after 31st July, 1995:

Bombay	Rs. 75 lakhs
Delhi	Rs. 50 lakhs
Calcutta, Bangalore, Ahmedabad, Madras, Pune	Rs. 25 lakhs
Other notified areas	Rs. 20 lakhs

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/
97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 23, Para No. 4.13)

The Committee would also like the Income-Tax Department to conduct an internal assessment to judge the unnecessary and avoidable administrative workload generated by acquisition of problem properties and cases; where the Department has been made a respondent in third party disputes and inform this Committee.

Reply of the Government

An internal assessment to judge the unnecessary and avoidable workload generated by purchase of problem properties and cases where the Department has been made a respondent in third party disputes has since been made by the Income-Tax Department.

The Following main reasons for litigations in purchased properties have been noticed:—

- (i) In about 33% properties, purchase orders made before the pronouncement of C.B. Gautam judgement by the Supreme Court are pending in litigation. These orders were made without grant of any opportunity of being heard to any party and without disclosure of reasons for the purchase as per the Law applicable at the relevant time.
- (ii) In about 10% cases, though litigations are pending, the properties have already been sold in the public auction conducted by the department and there is no blocking of any Government money in these cases.
- (iii) In other properties under litigation, disputes raised by tenants, transferors, transferees and third parties on various points are pending. However, in most of these cases, either the consideration amount has been deposited in the account of the Appropriate Authority and hence the money remains in the control of the Government, or no payment at all has been made after getting necessary orders from the Courts.

The Income Tax Department is taking all possible steps to minimise litigations and the consequential unnecessary and avoidable workload in cases where purchase orders are passed. This point has been deliberated at length in a Conference of the Appropriate Authorities and detailed guidelines in this regard have been formulated in the Conference.

[Ministry of Finance, Deptt. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 27, Para No. 4.19)

It is the view of the Committee that there should be complete transparency to the extent possible in the working of the Valuation Cells and the element of subjectivity should be reduced to the barest minimum.

Reply of the Government

The Valuation Cells are following plinth area rate and cost indexes by the Central Public Works Department from time to time for various places. These rates are available with all Valuation Cells and are made available to any interested person. There is thus complete transparency to the extent possible, in the working of the Valuation Cells. Since

Valuations are made on the basis of these fixed plinth areas rates and cost indexes, there is greater objectivity in the working of the Valuation Cells.

[Ministry of Finance, Deptt. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 28, Para No. 4.20)

There should be a free flow of information between the State Revenue/Registration and Income-tax Authorities to detect cases where the application of this law has been evaded though the value of the completed transaction was above Rs. 10 lakhs and proper action should be taken against the evaders. The services of Valuation Cell should be made available to the State Authorities, if asked for.

Reply of the Government

The information as mentioned is already being collected by the Income Tax Department. Long Term Action Plan for F.Y. 1994-95 to 1996-97 dated 4-4-94 wherein sources of information are listed with code numbers for CIB verification takes care of this.

As regards making available the services of Valuation Cell to the State Authorities is concerned, the same has been done as and when a requisition has been made. During the Financial Year 1994-95 such services were rendered to the Ministry of Textiles in valuation of land belonging to mills of NTC, the Ministry of Civil Supplies, Consumer Affairs and Public Distribution in Valuation of Properties belonging to Hindustan Vegetable Oil Corporation Limited.

[Ministry of Finance, Deptt. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 29, Para No. 5.8)

The Committee, therefore, is of the view that in granting the benefit of deduction of the profits derived from export from the total income the provisions of section 80HHC should be recast on a reasonable basis so that the export incentive may not be unreasonably diluted or eroded by artificial or interpretative process.

Reply of the Government

The Ministry have taken note of the Complications arising in the process of implementation of section 80HHC. The provisions of Chapter VIA including the provisions of section 80HHC are reviewed year after year and attempt is constantly made to simplify the basis of computation of deduction as available in this section.

[Ministry of Finance, Deptt. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 32, Para No. 5.15)

The Committee desires that suitable provisions should be made for mandatory compliance of the provisions of Section 203 under which the certificate for tax deducted is required to be produced and failure to issue such certificate within the specified time should be visited with penal consequences. The Committee desire that necessary legislative provision should be made in that regard.

Reply of the Government

Section 203 of the Income-tax Act requires every person deducting tax to issue TDS certificate within the prescribed time. In case, the person fails to issue such certificates within the prescribed time, he is liable for penal action under which section 272A(2)(g) which prescribes a penalty of not less than Rs. 100/- but which may extend to Rs. 200/-, for every day during which the failure continues. Therefore, there is not need for any further amendment in this regard.

[Ministry of Finance, Deptt. of Revenue—CBDT, O.M. No. 401/10/
97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 35, Para No. 5.24)

The Committee is further of the view that the Department should be prompt in settling refund cases and also should give necessary instructions to ensure that refund vouchers and advise not reach the assesseees and the bank respectively simultaneously without any delay.

Reply of the Government

The reply in respect of S. No. 33 may kindly be seen. The system of issuing advices to Banks is proposed to be dispensed with.

[Ministry of Finance, Deptt. of Revenue—CBDT, O.M. No. 401/10/
97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 36, Para No. 5.26)

Taking in view the size of the country and the population engaged in small trade and business, the number of persons brought under the schemes is only tip of the iceberg. The Committee, therefore, recommends that the Department should gear up its machinery to

give wide publicity to these schemes and educate the target group on the advantages of these schemes and the benefits. Intensive survey operations should also be undertaken of the Department with other authorities like Sales Tax Department, Transport Authorities, Municipal Authorities etc. will help the Department to collect the required information and bring more people under the tax net.

Reply of the Government

It is submitted that the Presumptive Tax Scheme u/s 115K, which did not yield desired results, has been discontinued and in its place measures for widening the tax net by an amendment to Section 139 have been introduced by the Finance Act, 1997. The new proviso, inserted under section 139(1) prescribes four economic criteria, namely ownership of a four wheel vehicle, occupation of immovable property meeting certain prescribed criteria, ownership of a telephone and foreign travel in the previous year. The proviso imposes a liability to file the return of income if any person fulfils any two of the above criteria. With the same object a new scheme of presumptive taxes on the basis of estimated income for retail traders has also been introduced under section 44AF. This section provides that, in the case of persons engaged in the business of retail trade of any good or merchandise having a turnover of less than Rs. 40 lakhs, will be assessed to tax on a presumptive basis estimating the income at the rate of 5% of the total turn over.

[Ministry of Finance, Deptt. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 37, Para No. 5.28)

The Committee desires that the new Comprehensive Computerisation Scheme initiated by the Department should be implemented in a time bound programme all over the country. The implementation of the scheme should also be reviewed at periodic intervals at appropriate levels in the Deptt., since the matter is badly delayed already.

Reply of the Government

The New Comprehensive Computerisation Scheme being implemented in the city regions of Delhi, Bombay and Madras is being regularly monitored at the level of Member, C.B.D.T.

[Ministry of Finance, Deptt. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

CHAPTER III

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

Recommendation (Sl. No. 1, Para No. 1.12)

The Committee notes that the collection of direct taxes has increased over the years from 11024 crores in 1990-91 to 20150 crores in 1993-94. However, inspite of increase in the number of assessees from 88.39 lakhs in 1992-93 to 102.06 lakhs in 1993-94, the actual collection of direct taxes during 1993-94 falls short of the Budget Estimates of Rs. 21261 crores. The Committee is also at a loss to understand why only 77 lakh returns were received by the Department for the year 1993-94 when the total number of assessees are stated to be 102.06 lakhs. The Committee feels that this discrepancy needs probing and reconciliation.

Reply of the Government

The following are the Budget Estimates (BE), Revised Estimates (RE) and the figures of collection for 1996-97 :

(Rs. in crores)

Taxes	Budget Estimates	Revised Estimates	Collection (Provisional)	Shortfall/ Increase
Corporation Tax	19600	19010	18449.66	- 560.34
Income Tax	17843	18843	18211.46	- 631.54
Interest Tax	1250	2000	1640.07	- 359.93
Wealth Tax	110	110	75.85	- 34.15
Expenditure Tax	190	190	293.18	103.18
Gift Tax	10	10	9.80	- 0.20
Estate Duty	0	0	0.29	0.29
Total	39003	40163	38680.31	- 1482.69

It would, thus, be seen that there was a minor shortfall in collection of Direct Taxes of Rs. 1482.69 crores.

The following factors mainly account for the difference between the total number of assessees on record and the number of returns filed annually:

- (i) With the increase in the basic exemption limit each year, many assessees in the small income brackets cease to file the returns. However, pending verification that they are not assessees any more, they are not immediately struck off the registers of the Department and hence discrepancy arises.
- (ii) There are many one-time filers of returns just to claim refunds of excess tax deducted at source mainly from their salary income. As the drawing and disbursing officers are not empowered to grant deductions such as u/s. 80G of the Income-tax Act for donations made to charitable trusts etc., many assessees file their returns to claim refunds on that account. They may not file returns for the subsequent years as there may be no such claims of refunds and the tax deducted at source is just adequate to cover the tax on total income. Also, under the existing provisions of the Income-tax Act, salaried tax payers can disclose their other incomes to their employers and have adequate tax deducted at source. As such persons do not file their returns, discrepancy arises between the number of assessees on records and the number of returns received.
- (iii) There are cases where assessees derive non-recurring incomes like Capital Gains, Winnings from horse races, Crossword puzzles and other games etc. Such assessees feel no necessity to file returns for subsequent years, whereas the department does immediately remove them from their registers.
- (iv) There are a large number of salaried employees who retire from services, Government or private, every year and cease to have taxable income, even taking into account their income from the investments out of their retirement benefits. Such assessees also account for the difference.
- (v) Though, with the deletion of Section 139(1A) of the Income-tax Act w.e.f. the Assessment Year 1993-94, every person

who derives taxable income is statutorily required to file his return of income, still, in cases where full tax has been paid by way of Advance tax, tax deduction at source or otherwise, there is no penal consequence for non-filing of returns. On this account also, many persons do not file their returns.

2. Apart from the above, there may be cases where returns are not deliberately filed. In Board's Instruction No. 1997 dated 3.6.94 it was pointed out that the Board has decided that the non-filers should be severely dealt with and if returns are not voluntarily filed, notices u/s. 142(1)/148 should be issued in all cases and also effectively pursued thereafter. Thus, every effort is being made to ensure that the returns are filed by all eligible assesseees.

[Ministry of Finance, Deptt. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 4, Para No. 1.15)

The Committee fails to understand why the work of assessment is not disposed off and carried out uniformly through out the year particularly when there is no dearth of work. The Committee is equally concerned to note that Rs. 37 crores, Rs. 140 crores, Rs. 116 crores and Rs. 695 crores remained outstanding awaiting adjustments/verifications with reference to relevant challans during 1990-91, 1991-92, 1992-93 and 1993-94 respectively although these amounts were claimed to have been paid by the assesseees. The fact that the assesseees could not be given credit long after payment was made is a said reflection on how the system works. The above facts reveal a very unhappy state of affairs in the Income Tax Department and are an indication of Department's efficiency. The Committee cannot but hold the Department fully responsible for not effectively monitoring and curbing the tendency of the late disposal of assessment during the fag end of the year. The Committee would like to state that there is an imperative need for a thorough re-orientation and streamlining of the administrative machinery so as to make it an efficient tool for realising the objective of the Government. The Committee would also like that the Board (CBDT) should hold periodical review meetings with the officers to discuss threadbare their problems and difficulties in the implementation of the annual action plans with a view to improving the administrative efficiency of the Department.

Reply of the Government

The credit for pre-paid taxes is required to be given on receipt of bank's copy of challan. This takes some time. In the meantime, the amount is shown as awaiting adjustment/verification with reference to relevant challans. This is an administrative measure to avoid frauds in giving credit to the tax payers. The Department is designing a computer-based Tax Accounting System (TAS), which when completed, will remove this problem and enable the assessing officers to give effect for the taxes paid by the assessee immediately.

However, to obviate this delay, the Board has decided that the Assessing officers may give credit for the pre-paid taxes at the time of completion of assessment u/s. 143(1)(a) or 143(3) of the Income Tax Act, on the basis of proof of payment evidenced by the counter-foil of the challans attached with the return of income. This would be done on a provisional basis. Subsequently, when Daily Collection Registers are received from the CTUs, the Assessing Officers should confirm the proof of payment with reference to Daily Collection Register *vis-a-vis* counterfoils of challans attached with the return of income. This may be done as soon as Daily Collection Register is received by the Assessing officer. If any discrepancy is noticed regarding proof of payment submitted by the assessee, the matter may be re-opened by disallowing the credit already given for prepaid taxes.

However, the above procedure does not in any way change the due accounting procedure for giving credit of taxes.

The comments against the recommendations at S. No. 3 may kindly be perused. It is further submitted that periodical review meetings are held in the form of annual Conference of CITs/CCs/DGs where all aspects of implementation of the action plans and also of improving the administrative efficiency of the Department are discussed at length and remedial measures are taken wherever called for.

The performance of action plan targets is also monitored at the Boards level through the system of monthly D.O. Letters. Further while preparing the Action Plan, due emphasis is given to the disposal of time barring assessments much before the time barring date. Action Plan for 1997-98 provides that all time barring assessments may be disposed of by 31.10.97.

[Ministry of Finance, Deptt. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 11, Para No. 2.16)

Where scrutiny assessments have been initiated by issuing a notice u/s 143(2), summary assessment also should not be resorted to. This will also save time in view of the fact that when scrutiny assessment has already been initiated, there is no need for again resorting to summary assessment as the scrutiny assessment if made properly, will crystallise the final demand on assessment being completed.

Reply of the Government

Under the existing law it is difficult to accept this recommendation. It may kindly be appreciated that the provisions of section 143(1)(a) and 143(3) are independent of each other. In fact charging of additional tax under sub-section (1A) of Section 143 is possible only in the course of making *prima facie* adjustment u/s 143(1)(a). Such additional tax cannot be charged, for the first time, in an assessment u/s 143(3). Hence, it is submitted that processing u/s 143(1)(a) has to be necessarily precede a regular assessment u/s 143(3).

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/
97-ITCC, dated 11 August, 1997]

Recommendation (Sl. No. 12, Para No. 2.17)

The Committee also feels that scrutiny assessment should be made above a particular income level and in other cases scrutiny assessments may be made by way of random picking up. The Committee is of the view that all returns of individuals and HUF disclosing income of Rs. 10 lakhs and above should be picked up for scrutiny on a 100% basis. 50% of all returns with income between Rs. 5 lakhs and Rs. 10 lakhs should also be selected for scrutiny on a random basis on 10 per cent of all returns with income below Rs. 5 lakhs should be picked up on a random basis for scrutiny assessment. In case of corporate assesseees, these levels should be modified suitably. Instead of taking a large number of scrutiny cases which may not be completed within a reasonable time, attention should be focused on high level income basis. However, if as a result of survey or information available otherwise there is large scale evasion in a particular case, scrutiny assessment should be resorted to irrespective of the level of income shown in the return.

Reply of the Government

As for the last recommendation in the above para the same has been accepted and is already being implemented. All cases involving survey, search or availability of information of evasion, are compulsorily selected for scrutiny irrespective of their levels of income.

The Committee's recommendations regarding greater attention to be given to high income levels cases and corporate assesseees have been accepted and the guidelines for selection of cases for scrutiny formed for the financial year 1997-98 take these aspects into account. At the same time it has to be appreciated that it may not be correct to choose the cases of high incomes year after year for scrutiny as such action in itself would be a disincentive for the assesseees to disclose high income. It was in this view that the present guidelines provide for selection of 50% of the cases where income or loss exceeds Rs. 25 lakhs in the case of corporate assesseees in metropolitan cities and Rs. 10 lakhs and above in other cities. The percentage in the case of non-corporate assesseees is 33%.

As regards the suggestions of the Committee regarding scrutiny of 100% of the cases disclosing income of Rs. 10 lakhs and above, it is submitted that the available manpower it is not found possible to adhere to the same. Regarding scrutiny of 10% of all returns with income below Rs. 5 lakhs as suggested by the Committee, in the present norms for financial year 1997-98 the same has been accepted in the case of corporate assesseees with the modification that the Lower income limit is taken as Rs. 50,000/-. However, cases having income between Rs. 50,000 and Rs. 25 lakhs are subjected to higher percentage of scrutiny *i.e.* 33%. It is, therefore, submitted that the Committee's recommendations have been kept in view and incorporated to the extent possible and in future years when large scale computerisation is likely to unburden routine work of the Assessing Officers, a greater number of cases as suggested by the Committee would be taken up for scrutiny.

In the financial year 1996-97, the CBDT introduced the concept of limited scrutiny in respect of cases assessed with DCIT (Spl. Range) and all companies returns. Under this scheme, over and above, the cases selected for indepth scrutiny, cases requiring adjustment/additions on legal issues etc. will also be selected for scrutiny for the limited purpose of making prescribed adjustments. This scheme has been

introduced with the objective of avoiding loss of revenue in such cases which under the existing scrutiny norms could not be selected for detailed investigation.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC, dated 11 August, 1997]

Recommendation (Sl. No. 18, Para No. 3.14)

The Committee is also of the view that the disposal of cases at the stage of first Appellate Authority or before the Tribunal should not take an unduly long time. Expeditious disposal of case will finalise the disputes between the Revenue authority and the assessee and will thereby facilitate quick realisation of the tax demands.

In response to Question No. 14 arising out of oral evidence taken on 6, 7 & 21 October, 1994, it was stated that for the purpose of reducing the pendency of appeals filed before the Commissioners of Income Tax (Appeals) to about 5 months workload by 1.4.1998, approximately 50 additional posts of Commissioners of Income Tax (Appeals) would be required in addition to the constitution of the existing 182 posts. Within the existing constraints imposed by the available strength of Commissioners of Income Tax (Appeals), (supra) efforts are being made to ensure expeditious disposal of appeals by the first appellate authorities. Reports received from the Chief Commissioners of Income Tax/Director General of Income Tax reveal that the disposal of appeals by the Commissioners of Income Tax (Appeals) is being constantly monitored. Special emphasis is being placed on disposal of high demand appeals and appeals relating to search and seizure assessments, so as to ensure quicker realisation of tax demands. As regards disposal of cases before the Income Tax Appellate Tribunal, the administrative Ministry is the Ministry of Law, Justice and Company Affairs.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC, dated 11 August, 1997]

Recommendation (Sl. No. 22, Para No. 4.12)

The Committee further notes that various devices are being resorted to for circumventing the application of Chapter XXC. Such devices are in different forms. It is noticed that the stated consideration is deliberately kept below. The prescribed limit by the process of sub-

dividing the property into smaller parts and selling each of them at a price less than Rs. 10 lakhs to even the same person or their nominee. Sometimes transactions are completed on the basis of the Power of Attorney to avoid application of Chapter XXC. Instances are not uncommon when a multi-storeyed building is constructed upon the land by the developer company and such developer nominates the various persons to whom each flat is sold and the land owner in terms of the agreement that with the developer transfers the aliquot share to the purchasers of the flat nominated by the developer. The Committee is of the view that such type of transactions which attempt to avoid the application of Chapter XXC should be looked into and suitable provisions may be made to plug the loopholes in order to achieve the objectives for which Chapter XXC was introduced.

Reply of the Government

The Ministry have taken note of various devices used for deliberately understating the apparent consideration of the properties. However, keeping in view the experience of the Ministry with regard to the provisions of Section XXA and the purpose for which the provisions of Section XXA were deleted from the statute book, the Ministry are of the view that no useful purpose will be served by making any further attempts for making the provisions of Chapter XXC more stringent. This may invite more complaints particularly of harassment from the public. Besides, in view of the substantial increase in the limits for application of the provisions of Chapter XXC, the scope of such attempts of sub-dividing the property etc. will be substantially reduced.

[Ministry of Finance, Deptt. of Revenue—CBDT, O.M. No. 401/10/
97-ITCC, dated 11 August, 1997]

Recommendations (Sl. Nos. 24 and 25, Para Nos. 4.16 & 4.17)

The Committee is of the view that a guideline similar to the one provided for the valuation of immovable property under the Wealth Tax Act should be set out by the Central Board of Direct Taxes for determination of the fair market value for the purpose of the income tax and also for other direct tax laws wherever such determination of fair market value is required under the law.

It is the Committee's considered view that the Government should adopt a uniform norm or guideline for the determination of the fair

market value of the property and for such purpose may adopt the norms already laid down under the Wealth Tax Act.

Reply of the Government

Wherever references are made for determination of the fair market value of an immovable property under Income-tax Act and other direct tax laws, the guidelines prescribed under the Wealth Tax Act apply *mutatis mutandis*. Since the reference to the Valuation Cell under the Income-tax Act is not mandatory, the statutory guidelines cannot be issued for such references. Besides the scope of references under the Income Tax Act is Limited only for the purpose of determining the investment in the properties.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC, dated 11 August, 1997]

Recommendation (Sl. No. 26, Para No. 4.18)

The Committee is also further of the view that in order to avoid arbitrary valuation of properties, indicative norms should be fixed for value of real estate in different areas which should serve as a bench mark. These norms should be reviewed periodically say three years. The Valuation Cell on determination of these norms for valuation in particular areas, may examine cases where the property is transferred at a price below the norm, and if on the basis of explanation given by the concerned party, the concerned authority is satisfied that the transaction is bonafide and not a collusive or colourable one it may accept such valuation.

Reply of the Government

Schedule III to the Wealth Tax Act already contains rules for determining the value of any immovable property, being a building or land appurtenant thereto, or part thereto, or part thereof.

For other immovable properties like plots of land, it is not practicable to prescribe indicative norms for valuation as the market value of a plot of land depends on a large number of factors and not only on the area where it is located. Significant variations in the market value of a plot of land take place due to factors like surrounding roads, nearness of market, hospital, slum etc. Pending litigations, local laws and many other factors also have effect on the market value.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC, dated 11 August, 1997]

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

Recommendation (Sl. No. 2, Para No. 1.13)

The continuing increase in the outstanding tax demands despite numerous measures to reduce them is a matter of serious concern to the Committee. The Committee find that the income tax and Corporation tax arrears outstanding as on 1st April of 1991, 1992, 1993 and 1994 were Rs. 6695 crores, Rs. 8461 crores, Rs. 9489 crores and 13360 crores respectively. These statistics which are indices of the Departments performance lead to the conclusions that measures taken by the Department to realise tax dues have not been effective enough and need to be intensified. The Committee urges the Department to maintain a relentless pressure on all fronts to improve results in collecting revenue demands and reducing arrears.

Reply of the Government

The Total Outstanding Demand of Corporation Tax and Income Tax at the end of financial year 1996-97 is Rs. 33978.99 crores (Provisional). In a Tax Department, the phenomenon of tax arrears is a continuing one. Though, the tax demand outstanding at the beginning of the financial year is substantially collected/reduced, the arrears again go up because a part of the fresh tax demand raised during the year is not fully collected by the end of the financial year.

The position of collection out of current demand raised during 1996-97 and the arrear demand is given below:

	(in crores) (Provisional)
(A) Current demand raised during 1996-97	= Rs. 42227.34
Reduction by way of prepaid taxes and Collection	= Rs. 26119.45
% age of Reduction/Collection out of Current demand	= 61.85%

(B) Arrear Demand as adjusted upto the month of March, 97	= Rs. 29260.66
Reduction/Collection out of Arrear Demand	= Rs. 9438.53
% age of Reduction/Collection out of Arrear	= 32.26%

The analysis of the Total Outstanding Demand is given below to illustrate the main reasons for the demand being outstanding:

	(Provisional) (Rs. in crores)	%age
(a) Demands not fallen due	10089.24	29.69
(b) Demands paid but pending Verification	1546.89	4.55
(c) Demands stayed by Courts Settlement Commission & ITAT	4510.36	13.27
(d) Demands stayed by Income Tax Authorities	5644.74	16.61
(e) Demands covered by Instalments	323.81	0.95
(f) Demands where recovery is difficult	6177.70	18.18
(g) Net collectible demand	5686.25	16.74
Total	33978.99	100.00

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC, dated 11 August, 1997]

Comments of the Committee

[Please refer para No. 8 of Chapter I]

(Recommendation Sl. No. 3, Para No. 1.14)

The Committee notes that a substantial portion of the total outstanding demand consist of the demanus not fallen due and the demands in respect of which verification of payment was pending. During the course of evidence, a representative of the Ministry admitted that almost 50 per cent of the current demand was raised in the month of March itself and, therefore, that demand had to be shown as not fallen due. This clearly shows that a big portion of the demand was raised only during the end of the financial year which was carried forward for realisation in the next year. The Committee finds that due to non-completion of assessments in the first three quarters of the year Rs. 2214 crore, Rs. 3618 crore, Rs. 3810 crore and Rs. 5704 crore remained unrealised and had to be shown as demand not fallen due during 1990-91, 1991-92, 1992-93 and 1993-94 respectively, which indicates that the system is not working as it should and the disposal of work throughout the year is not uniform despite huge arrears in the work of assessments.

Reply of the Government

Instructions have been issued to the effect that the assessments in all high revenue yielding cases should be completed well before the close of the financial year. It may, however, be appreciated that in all such cases, usually complex legal and factual issues are involved requiring clarifications from the assesseees and repeated statutory notices u/s 142(1)/143(2) of the Act have to be issued to elicit details. It is not always possible to make *ex-parte* assessments merely because the assesseees seek a number of adjustments because every efforts has to be made to finalise assessments which are complete in all respects to avoid the assessments being set-a-side on that ground. Hence, in some cases, the assessments could be made only during the last quarter of the financial year. However, every effort is being made to see that there are no avoidable delays in completion of assessments in large cases.

The Action Plan for financial year 1996-97 and 1997-98 provide that, all brought forward scrutiny assessments must be completed by 31.10.96 and 31.10.97 respectively.

[Ministry of Finance, Deptt. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Comments of the Committee

Please refer Para No. 11 of Chapter I

Recommendation (Sl. No. 8, Para No. 2.13)

On the third reason forwarded by the Department, *i.e.* dependence on the manual system, it is learnt by the Committee that Computerisation was introduced in the Department in 1986-87 and nearly eight years have passed with no worthwhile progress. The Committee is at a loss to understand why Computerisation has not delivered the desired results and would like to know what the Department propose to do for the future so that it is ensured that the mistake of the past are not repeated and proper computerised work environment is evolved. It is the belief of this Committee that proper managerial skills have not been applied at the apex levels in the Department with a view to optimise results with the resources available. The Committee would like to know if any organised effort has been made for manpower redeployment on a scientific basis so that work allocation on the basis of specialisation, in the interest of greater revenue, is achieved. The Committee would like to be informed, if any, study has been conducted to separate the high value cases from the low value cases, on the lines of the well known management Techniques of Always Better Control (ABC System) since it is the belief of the Committee that more than 90 per cent of the revenue is coming from a minuscule proportion of the total number of cases. The Committee fails to understand why, instead of concentrating on cases which have a huge potential for revenue resources are being spread thinly over the vast multitude of cases where the contribution to revenue is insignificant.

Reply of the Government

1. Computerisation was introduced in the Income-Tax Department from 1985 in a phased manner. Mini computers were installed at 36 centres. The last Centre to be made operational was Ranchi Centre in 1990. The work was done in batch mode without creation of any databases and without linkages among the systems. Lack of adequate hardware capacity at later stages, lack of technical/trained manpower and resistance from the staff affected successful implementation of the computerisation plan. In spite of these considerable progress was achieved in the areas of allotment of Permanent Account Number and Challan Processing.

2. This implementation of computerisation between 1985 and 1993 gave enough experience, exposure and insight into the problems and prospects of use of this state-of-art technology.

3. With a view to ensure that the mistakes of the past are not repeated, the Department has now embarked on an organised and concerted efforts. The working Group constituted by the Government in May, 1993, to study the existing manual and computerised system of the Department and to suggest a Comprehensive Computerisation Plan, recommended a long term three tier comprehensive Computerisation Plan for the Department. At the apex level there shall be National Computer Centre (NCC) having large computers to maintain databases and execute processing work of global nature including allotment of PAN as part of Assessee Information System. At the second or middle level there shall be 10 to 15 Regional Computer Centres (RCCs.) equipped with large computers to maintain regional database and to cater to regional processing needs. All the RCCs shall be connected to the NCC through high speed data communications links. At the third level, computers shall be installed in all the tax offices. These systems shall be connected to respective Regional Computer Centres for data transmission.

4. Keeping in view the objectives and the total systems requirements as spelt out in the report of the Working Group, the implementation of the new plan shall be accomplished in a phased manner. In the first phase, large computer systems have been installed at regional level at Delhi, Mumbai and Madras. In addition to the regional functions, RCC Delhi shall also act as NCC till the same is set-up and made functional in the second phase. There is centralised processing and database with provision of terminal banks in all buildings at these three cities to facilitate decentralised input/output. All buildings within a city are linked to the central computer (at regional level) through leased telecom lines. The three cities are linked through leased lines of the Department of Telecommunications.

5. In the second phase the plan would be extended to Regional Computer Centres at Calcutta, Bangalore, Hyderabad, Pune, Ahmedabad etc. National Computer Centre would also be set up in this phase. Finally, in the third phase all other Income-Tax Offices will be connected to the respective Regional Computer Centres.

6. A city region-wise centralised database of all tax-payers as well as assessment and tax-collection related activities shall be created with centralised processing and decentralised input/output activities.

Applications

7. The following applications are being developed for implementation:—

1. Assessee Information System (PAN)
2. Assessment Information System
3. Tax Deduction Information System
4. Tax Accounting System (TAN)
5. Individual Running Ledger Account System
6. Enforcement Information System
7. Resource Management System
 - (i) Manpower Management System
 - (ii) Physical Resources Management System
 - (iii) Financial Management System
8. Management Information System
9. Judicial Referencing System

8. Once the full system is implemented and databases created over a period of next two to three years it would be capable of handling bulk of the routine and repetitive work releasing manpower to attend the cases with greater revenue potential.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Comments of the Committee

Please refer Para No. 15 of Chapter I

Recommendation (Sl. No. 9, Para No. 2.14)

The Committee notes that though computerisation will be of immense use the present manual system has to be worked out on an objective basis, for its complete success. This Committee would like to have a report on the money and other resources, spent on computerisation so far *vis-a-vis* the actual results achieved by the

Department *i.e.* the extent to which work has not been actually transferred to the computers. The Committee also wishes that the Department should apply itself seriously in formulating proper policies regarding distribution of work to its officers so that all types of work/all types of assesseees are not bunched together which is presently the case, since this system is not conducive to the best results. The Committee also desires that the transfer and posting policies of the Department should be formulated and implemented strictly in such a manner that officers stay on posts for their prescribed tenures and are neither changed too quickly nor allowed to remain for too long on the same post. The Committee would like that policies relating to transfers and postings, division of work and specialisation, etc. should be fine-tuned with the overall objective of revenue maximisation after conducting a scientific study using the latest management techniques.

Reply of the Government

1. During 1984-85 to 1991-92 a sum of Rs. 9.08 crores were spent on procurement of hardware, software, training and maintenance. Work relating to Permanent Account Number & Challan Processing was carried out at all the 36 centres. Assessment, Payroll, Grievance redressal, TAN & TDS system were implemented at some of the centres.

2. During 1994-95 a sum of Rs. 26.54 crores and during 1995-96 a sum of Rs. 4.55 crores have been spent on Comprehensive Computerisation being implemented at Delhi, Mumbai and Madras, Regional Computer Centre at Delhi & Madras were made operational during January, 1995 and Regional Computer Centre at Mumbai in February, 1995.

3. The work of development of all application systems except Tax Deduction at Source System referred to in reply to Recommendation No. 8 is complete and implementation is in progress. The work relating to allotment of all India Unique Identification number, Permanent Account Number to assesseees as a subset of Assessee Information System is under implementation in the three cities of Delhi, Mumbai and Madras. Nearly 91.9% of taxpayers who had filed returns in 1996-97 have already applied for allotment of the Permanent Account Number under the new series. Out of these 72.2% of the taxpayers have already been allotted Permanent Account Numbers. Balance applications including those having deficiencies are at various stages of processing. Assessee Information System and Tax Accounting

Information System have been implemented. The other applications are at various stages of implementation.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/
97-ITCC dated 11 August, 1997]

Comments of the Committee

Please refer Para No. 15 of Chapter I

Recommendation (Sl. No. 33, Para No. 5.22)

The Committee urge that a thorough enquiry into causes of delays in settlement of refunds be held with a view to analysing the reasons for delay and taking effective measures to remedy the situation. The Committee would also like to know whether the Board's instructions requiring disciplinary action to be taken in cases of delay were followed in all cases of study.

Reply of the Government

One of the reasons for delay in settlement of refunds was found to be the requirement to verify the existing arrears before issue of refunds. The CBDT has since issued instruction to the effect that in cases of small refunds upto Rs. 5,000, there is no necessity to have verification of arrears before issue of refund. In such cases only post verification will be made for action, if any, to be taken. It was also found that another major reason for delay in settlement of refund is the necessity to issue advices to the Bank in all cases where the amount of refund exceeds Rs. 999/-. It has since been decided to discontinue the issue of advices and rules for this purpose are being framed.

As regards the initiation of disciplinary action in cases of delay in issue of refunds, it is submitted that as no cases of deliberate and wanton delays have come to notice, no such action has been initiated.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/
97-ITCC dated 11 August, 1997]

Comments of the Committee

Please refer Para No. 22 of Chapter I

CHAPTER V

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL REPLIES OF THE GOVERNMENT ARE STILL AWAITED

Recommendation (Sl. No. 19, Para No. 3.17)

The Committee therefore, is of the view that simplification of the law is of paramount importance. The Committee recommends the appointment of a Commission consisting of lawyers, judges and Chartered Accountants with relevant experience, senior officers of the Central Board of Direct Taxes as also representatives from the Chambers of Commerce and trade to simplify the law. Such Commission may be headed by a retired judge of Supreme Court of India, the Committee notes that since the Income-tax Act of 1961 was introduced to simplify the Income-tax Act of 1922, more than 30 years have passed and the 1961 Act is now larded with amendments, clarifications and insertions of new provisions which sometimes do not present a coherent picture and do not bring out the real objectives or the purposes for which such changes are required. The Committee is of the view that if the Income-tax law is simplified and rationalised, much of the litigations which crop up before the courts of law and also before the Appellate authorities can be reduced.

Reply of the Government

The Government has set up an Expert Group in August, 1996 with a view to simplifying and rationalising the Direct Tax Law, and rewrite the new Direct Tax Law. The Group submitted its report to the Government in February, 1997 and a draft Bill based on the Group's recommendations is under preparation. This Bill is expected to be introduced in the Parliament in the Winter Session later this year.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/
97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 30, Para No. 5.10)

This Committee is inclined to take a view that apart from the fact that some of the benefits for exports are being grossly misused, the

overall range of incentives offered for exports itself needs to be given a fresh thought in the contemporary scenario. Accordingly this Committee desires that the Ministry should conduct a scientific appraisal in consultation with the Ministry of Commerce, to find out the extent to which these concessions have contributed towards increase in exports and to the extent their continuation, is still relevant. The Committee further desired that the adequacy or requirement of various export incentives should be considered by the Govt. from time to time.

Reply of the Government

As mentioned in the comments with regard to the Recommendation No. 29, the various deductions available in regard to exports trade and foreign exchange receipts are under review. Apart from the tax incentives, there are a number of other factors which contribute to the increase of the country's exports, and therefore, it is not possible to measure the extent to which the fiscal concessions have contributed towards increase in exports. However, the Ministry have noted that in the changed scenario, the adequacy and the requirement of these incentives need a review.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/
97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 31, Para No. 5.10)

Till such time, the Committee further recommends that the Ministry should gear up its intelligence wing to ensure a continuous surveillance over the exporters to detect any misuse of the licenses.

Reply of the Government

The recommendation of the Committee has been accepted by the Department.

The scheme of CIB verification for collecting third party information has recently been revised to include several new sources of information and also to make the system more effective and result oriented. Under the revised scheme the details of all the exporters are to be collected by the Income Tax Deptt. from the offices of Export Promotion Council and DGFT. The information after collation will be passed on to the Assessing Officer for verification and taking necessary action as per Income Tax Law in cases where false claims of export related exemptions come to light. On receipt of specific informations, actions like survey, search & seizure are also taken by the Department.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/
97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 34, Para No. 5.23)

The Committee is also of the view that in respect of any amount of income-tax refundable by the Govt. to an assessee, the interest rate on the amount so refundable should bear the same rate of interest at which the assessee is charged for the payment of any amount which is due from him.

Reply of the Government

Different rates have been provided in regard to interest chargeable under various sections of the Income-tax Act keeping in view the nature of default. Where the levy of interest is of compensatory nature, the rate of interest is lower. However, where the levy of interest has also the element of penalty, a higher rate of interest has been provided. In so far as the interest payable by the Government is concerned, it is only of compensatory nature. In view of this, lower rates of interest have been provided. However, the Expert Group set up to rewrite the new Direct Tax Law has recommended that interest should be allowed to the assessee at the same rate as is charged from him *i.e.* at 18% per annum. A decision on this recommendation will be taken while finalising the new Direct Tax Bill.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 38, Para No. 5.24)

On a link between PAN and widening of tax receipts, the Committee was informed by the representatives of the Ministry that to apply the benefits of PAN to Sales Tax etc., they were taking up the matter with the State Finance Minister to make use of PAN number for Sales Tax Registration. According to the Ministry, if this proposal gets through, it will help them to widen the tax base. The Committee feels that this is a step in the right direction and the matter be pursued further.

Reply of the Government

The question of use PAN, in the context of widening of tax base by Sales Tax and other authorities, has been taken up with the State Government and other authorities. The matter will be followed up.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 39, Para No. 5.30)

The Committee also desires that the Ministry should examine the feasibility of introducing PAN number in opening a bank account.

Reply of the Government

The feasibility of introducing PAN for opening of Bank Accounts shall be examined in consultation with the Department of Banking.

[Ministry of Finance, Dept. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

Recommendation (Sl. No. 40, Para No. 5.31)

The Committee further suggests that the Ministry should specify more categories of transaction in which it will be compulsory for the persons to quote their PAN numbers. Simultaneously, the Ministry should make adequate arrangements to collect information about such transactions for cross-checking with a view to detecting cases of tax evasion.

Reply of the Government

1. The Hon'ble Committee's recommendations for specifying more categories of transaction in which it would be compulsory for the persons to quote their PAN number is being taken up.

2. Adequate arrangements will also be made to collect information about all such transactions for cross-checking, for detecting cases of tax evasion and for broadening of tax base.

[Ministry of Finance, Deptt. of Revenue—CBDT, O.M. No. 401/10/97-ITCC dated 11 August, 1997]

NEW DELHI;
22 July, 1998

31 Asadha, 1920 (Saka)

MURLI DEORA,
Chairman,
Standing Committee on Finance.

MINUTES OF THE TWELFTH SITTING OF THE STANDING
COMMITTEE ON FINANCE HELD ON 21 JULY, 1998.

The Committee sat on Tuesday, 21 July, 1998 from 1500 hrs. to
1600 hrs.

PRESENT

Shri Murli Deora — *Chairman*

MEMBERS

Lok Sabha

2. Shri Haribhai Parathibhai Chaudhary
3. Shri Rayasati Sambasiva Rao
4. Shri Kavuru Sambasiva Rao
5. Shri Prithviraj D. Chavan
6. Shri Varkala Radhakrishnan
7. Shri M. Sahabuddin
8. Kum. Kim Gangte
9. Shri. P. Chidambaram

Rajya Sabha

10. Dr. Manmohan Singh
11. Shri Krishna Kumar Birla
12. Shri Narendra Mohan
13. Shri O.P. Kohli
14. Shri Biplab Dasgupta
15. Shri Suresh A. Keswani

SECRETARIAT

1. Dr. (Smt.) P.K. Sandhu — *Director*
2. Shri S.B. Arora — *Under Secretary*
3. Shri N.S. Hooda — *Assistant Director*

2. The Committee took up for consideration the draft Action Taken Reports on the following Reports of the Committee:—

- | | | | | |
|-------|----|----|----|----|
| (i) | ** | ** | ** | ** |
| (ii) | ** | ** | ** | ** |
| (iii) | ** | ** | ** | ** |
| (iv) | ** | ** | ** | ** |

(v) Tenth Report (Tenth Lok Sabha) on Working of Central Board of Direct Taxes.

- | | | | | |
|----|----|----|----|----|
| 3. | ** | ** | ** | ** |
| | ** | ** | ** | ** |

4. The Committee, thereafter took up for consideration the draft Action Taken Report on Working of Central Board of Direct Taxes and adopted the same without making any amendments/modifications.

5. The Committee then approved the detailed tour programme of the Committee to visit Mumbai on 10 and 11 August, 1998 to have informal meetings with various banks/FIs. LIC, GIC, BSE, NSE and RBI on matters pertaining to banking and insurance sectors, corporate governance, etc.

The Committee then adjourned.

CIRCULAR NO. 689

F. NO. 225/102/94-ITA. II
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 24th August, 1994.

To

All Chief Commissioners of Income-tax,
All Directors General of Income-tax.

Sir,

Subject: Scope of *prima facie* disallowances under section 143(1)(a) of the Income-tax Act, 1961—regarding.

Section 143(1)(a) authorises, with effect from assessment year 1989-90, *inter-alia* disallowance of any loss-carried forward, deduction, allowance or relief claimed which, on the basis of information available in the return or the accompanying accounts or documents, is *prima facie* inadmissible. The earlier instructions of the Board were to the effect that no disallowances should be made of items on which two opinions are possible. The matter has been further considered by the Board in the light of the recommendations of the Tax Reforms Committee headed by Prof. Raja J. Chelliah and it has been decided that *prima facie* disallowance shall be made only in respect of the following types of claims:—

- (a) an incorrect claim, if such incorrect claim is apparent from the existence of other information in the return or the accompanying accounts or documents.

Example:

If a deduction has been claimed under the head capital gains under section 54-F, and if there is information in the return of income or the

accompanying accounts or documents to show that the unutilised not consideration had not been deposited in an account specified in the notified scheme as stipulated under section 54F(4), the claim is incorrect and can be disallowed as a *prima facie* adjustment.

- (b) any claim in respect of which there is an omission of information which is required, under the specific provisions of the Act or the Rules, to be furnished alongwith the return to substantiate such claim.

Example:

If the audit report specified under section 80 HHC(4), which is required to be filed alongwith the return of income, is not so filed, the deduction claimed under that section can be disallowed as a *prima facie* adjustment. Some more examples in this regard are the non-filing of audit reports or other evidence alongwith the return of income as required under section 12A(b), 33AB(2), 35E(6), 43B (first proviso) 54(2), 54B(2), 54D(2), 54F(2), 54G(2), 80HH(5), 80HHA(4), 80HHB(3), 80HHD(6), 80HHE(4), 80I(7), 80-IA(8) and the like. But if evidence is subsequently furnished, rectification under section 154 should be carried out to the extent permitted by Board's Circular No. 669 dated 25.10.1933. No *prima facie* disallowance shall, however, be made if any evidence, required to be filed alongwith the return of income only in pursuance of the non-statutory guidance notes for filling in the return of income, is not so filed.

- (c) A claim for deduction or rebate of any amount which exceeds statutory limit imposed, if such limit is expressed either as a specific mandatory amount or as a percentage, ratio or a fraction, and if the information relevant to application of the statutory limit appear in the return or the accompanying accounts or documents.

Example:

- (i) If under section 24(1)(i) the deduction in respect of repairs and collection charges is claimed in excess of 1/5th of the annual value (applicable with effect from assessment year 1993-94), such excess can be disallowed as a *prima facie* adjustment.
- (ii) If the rebate on contribution eligible under section 88 is claimed in excess of 20% of such contribution, the excess

can be disallowed, provided there is indication of the total amount of such contribution in the return of the accompanying accounts or documents.

(b) Any claim which is patently inadmissible in law.

Example:

Deduction of items like income-tax, wealth-tax, personal expenses, depreciation claimed on conveyances under the head salary, depreciation claimed under the head house property and the like. The items of disallowance should be such that no two opinions are possible on their inadmissibility.

The Board desires that no other *prima facie* disallowance should be made except with the previous approval of the Commissioner or Income-tax who will, after according approval in suitable cases, bring the same to the notice of the Board.

The above procedure applied to all returns pending processing under section 143(1) on the date of issue of this Circular.

Yours faithfully,

APPENDIX

(Vide Para 3 of the Introduction)

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT
ON THE RECOMMENDATIONS CONTAINED IN THE
TENTH REPORT OF THE COMMITTEE (TENTH LOK SABHA)
ON WORKING OF CENTRAL BOARD OF DIRECT TAXES

	Total	% of Total
(i) Total number of recommendations	40	
(ii) Recommendations/observations which have been accepted by the Government. (vide Recommendations at Sl. Nos. 5, 6, 7, 10, 13-17, 20, 21, 23, 27, 29, 32, 35, 36 and 37)	19	47.50
(iii) Recommendations/observations which the Committee do not desire to pursue in view of the Government's replies. (vide Recommendations at Sl. Nos. 1, 4, 11, 12, 18, 22, 24, 25 and 26)	9	22.50
(iv) Recommendations/observations in respect of which the Government's replies have not been accepted by the Committee (vide Recommendations at Sl. Nos. 2, 3, 8, 9 and 33)	5	12.50
(v) Recommendations/observations in respect of which final replies of the Government are still awaited. (vide Recommendations at Sl. Nos. 19, 30, 31, 34, 38, 39 and 40)	7	17.50