# TENTH REPORT

# STANDING COMMITTEE ON FINANCE (1994-95)

(TENTH LOK SABHA)

## MINISTRY OF FINANCE— DEPARTMENT OF REVENUE
## WORKING OF CENTRAL BOARD OF DIRECT TAXES

*Presented to Lok Sabha on 14 February, 1995*
*Laid in Rajya Sabha on 14 February, 1995*

LOK SABHA SECRETARIAT
NEW DELHI

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*44. Sh. Narendra Pradhan
**45. Vacant

SECRETARIAT

1. Shri G.C. Malhotra—*Joint Secretary*
2. Shri Satish Loomba—*Deputy Secretary*
3. Shri T.K. Mukherjee—*Assistant Director*

*Shri Narendra Pradhan was nominated as a member of the Standing Committee on Finance *w.e.f.* 25.8.94.

**Shri Mahendra Prasad, Member of Rajya Sabha ceased to be a member of the Committee *w.e.f.* 24 November, 1994 consequent to his retirement from the membership of Rajya Sabha. 24.11.1994

# INTRODUCTION

I, the Chairman of the Standing Committee on Finance having been authorised by the Committee to submit the Report, on its behalf, present the Tenth Report on the Ministry of Finance (Deptt. of Revenue)— Central Board of Direct Taxes.

2. The Committee had decided to examine the working of the Central Board of Direct Taxes under the Deptt. of Revenue as a part of the examination of the Annual Report of the Ministry of Finance (1993-94). In this connection, the Committee took oral evidence of the representatives of the Ministry and Central Board of Direct Taxes on 6, 7 and 21 October, 1994.

3. The Report is divided into following Chapters:—

| | | |
|---|---|---|
| (i) | Chapter I | Revenue Collection and Reduction of Tax Demands |
| (ii) | Chapter II | Disposal of Assessments |
| (iii) | Chapter III | Pendency of Appeals |
| (iv) | Chapter IV | Pre-emptive Purchase of Immovable properties |
| (v) | Chapter V | Other Matters |

4. Chapter I of the Report is focussed on the continuing increase in the outstanding tax demands despite numerous measures to reduce them, the tendency of late disposal of assessments during the fag end of the year and unsatisfactory collection of net realisable demands. In this connection, the Committee has recommended various measures for improving the administrative efficiency of the Income Tax Deptt.

5. Chapter II of the Report discusses the pendency position of assessments. The Committee has recommended conducting of a work study for ascertaining proper manpower requirements and the best deployment and rationalisation of work amongst the officers. It has also been recommended that the distinction between summary and scrutiny assessments regarding the scope and ambit should be kept in mind. Debatable questions which involve investigation of facts or law should be raised only in scrutiny assessments and not in summary assessment. The Committee has also suggested that norms should be evolved whereby assessing officers are made accountable for making overpitched assessments that are not sustained at two appellate levels so that unreasonable additions to income disclosed are controlled.

6. Chapter III looks into the problem of the pendency of large number of appeals at various levels. The Committee has suggested that the monitoring authority should adopt a selective approach in filing appeals

and should authorise the lodging of such appeals only after a careful scrutiny so that frivolous appeals are not encouraged. The Report also emhasises the need for simplification and rationalisation of the Income Tax Law. The Committee has recommended appointment of a Commission for simplification of the Income Tax Law.

7. Chapter IV of the Report discusses the working of the law introduced by Chapter XXC of the Income-tax- Act, 1961 which provides that pre-emptive purchase of immovable properties can be made by the Central Government and also discusses the role of the Valuation Cell. The Committee has recommended that having regard to the inflationary trends, pre-emptive purchase may be restricted to properties which are Rs. 25 lakh or more. The Report also emphasises that there should be complete transparency, to the extent possible, in the working of the Valuation Cells and element of subjectivity should be reduced to the barest minimum.

8. Chapter V of the Report discusses in brief the issues relating to export incentives, certificate for tax deducted at source, refunds and widening of tax net. The Committee has emphasized that the overall range of incentives offered for exports needs to be given a fresh appraisal in the context of the present economic scenario. The Committee has recommended that the Ministry should conduct a detailed analysis, 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 has also recommended that interest on income-tax refunds should bear the same rate at which the assessees are charged for late payment of any amount which is due from them. The Committee has also stressed the need for giving wide publicity, undertaking intensive survey operations and coordination with other authorities to bring more assessees under the Presumptive Tax Scheme. It has also recommended that the Ministry should specify more categories of transactions 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 to detect cases of tax evasion.

9. The Report was considered and adopted by the Committee at their sittings held on 6 and 20 January, 1995.

10. The Committee wishes to express its thanks to the officers of the Ministry of Finance (Department of Revenue) for assisting the Committee in furnishing the desired information. The Committee also appreciates the frankness with which the officials/representatives shared their views, perceptions and constraints with the Committee.

11. The Committee places on record its deep appreciation of the contribution made by Shri Mahendra Prasad who had ceased to be a member of the Committee w.e.f. 24 November, 1994 consequent to his retirement from the membership of Rajya Sabha.

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

NEW DELHI;
*1 February, 1995*
*12 Magha, 1916 (Saka)*

DR. DEBIPROSAD PAL,
*Chairman,*
*Standing Committee on Finance.*

# REPORT

## CHAPTER I

## REVENUE COLLECTION AND REDUCTION OF TAX DEMAND

### *Introduction*

1.1 Direct Taxes are a significant source of revenue, which not only augment the finances of the Government but also serve as a potent instrument for achieving socio-economic objectives by redistribution of income.

1.2 The Central Board of Direct Taxes, a statutory authority constituted under the Central Board of Revenue Act, 1963, functions as a Division of the Ministry of Finance in the Department of Revenue and deals with matters relating to levy and collection of direct taxes. The Board consists of a Chairman and five members and has several attached and subordinate office throughout the Country. It is the apex body of the Income-tax Department which administers the following laws relating to Direct Taxes for mobilising resources for the Central Revenues:—

(i) Income-tax Act, 1961.

(ii) Wealth-tax Act, 1957.

(iii) Gift-tax Act, 1958.

(iv) Interest-tax Act, 1974.

(v) Expenditure-tax Act, 1987.

(vi) The Benami Transaction (Prohibition) Act, 1988.

Apart from the above, it also administers the Estate Duty Act, 1953; the Super Profits Tax Act, 1963; the Companies (Profits) Sur-tax Act, 1964; the Compulsory Deposit (Income tax Payers) Scheme Act, 1974 and the Hotel Receipts Tax Act, 1980 in respect of case pertaining to the period when these laws were in force. The Board also assists the Central Government in the formulation of policies and procedures relating to administration of Direct Tax laws. The Board has been vested with the power of issuing such orders/instructions and directions to other income-tax authorities, as it may deem fit, for proper administration of the Income-tax Act and such authorities and all other persons employed in the execution of this Act are obliged to observe and follow such orders/ instructions and directions of the Board. However, the Board is not competent to issue instructions so as to interfere with the discretion of the Appellate authority in the exercise of their appellate functions.

1.3 Assessment of income is an important step in the process of quantification of tax demand on the basis of which collection of such tax is to be made under the Act. Tax is collected before assessment and also on regular assessment. Pre-assessment collection of tax is done by way of deduction of tax at source, advance tax and tax on self-assessment.

*Brief Facts*

1.4 The following statement furnished by the Ministry indicates the trend of collection of Direct Taxes during the years 1990-91 to 1993-94:—

(Rupees in crores)

| Year | Corpo. Tax | Income tax | Interest tax | Exp. tax | Estate duty | Wealth tax | Gift tax | Total (rounded off) |
|---|---|---|---|---|---|---|---|---|
| 1990-91 | 5335 | 5371 | — | 80.27 | 3.07 | 231.17 | 3.39 | 11024 |
| 1991-92 | 7853 | 6731 | 305 | 144.45 | 2.87 | 306.59 | 8.35 | 15351 |
| 1992-93 | 8899 | 7888 | 716 | 153.69 | 1.19 | 463.98 | 7.94 | 18130 |
| 1993-94 | 9934 | 9158 | 698 | 216.63 | 0.30 | 138.53 | 4.38 | 20150 |

1.5 The following figures indicate the growth in the number of assessees under the Income-tax Act in the country:

| Year | Number (in Lakhs) |
|---|---|
| 1990-91 | 75.65 |
| 1991-92 | 78.44 |
| 1992-93 | 86.39 |
| 1993-94 | 102.06 |

1.6 The Committee has been informed that the number of returns received by the Department has gone up from about 62 lakhs during financial year 1990-91 to about 77 lakhs during the financial year 1993-94.

1.7 The Ministry in a written reply have furnished the following information in respect of the total outstanding demand and net realisable demand of Income-tax including Corporation tax:—

(Rupees in crores)

| As on | Total outstanding | NRD |
|---|---|---|
| 1.4.91 | 6695 | 3937 |
| 1.4.92 | 8461 | 4219 |
| 1.4.93 | 9489 | 5143 |
| 1.4.94 | 13360 | 6047 |

1.8 The Ministry also informed the Committee that the total outstanding demand includes the demands not fallen due, demands stayed by the Courts, Settlement Commission and the Tribunal and also the demands in respect of which verification of payment was pending. The net realisable demand is arrived at by reducing the above mentioned demands from the total outstanding demand.

1.9 When asked to furnish a detailed break-up of the total outstanding demand, the Ministry, in a subsequent reply, furnished the following statement, showing the break-up of the total outstanding demand of Corporation tax/Income tax during the years 1990-91 to 1993-94:

(Rupees in crores)

| | 1993-94 (Provl.) | 92-93 | 91-92 | 90-91 |
|---|---|---|---|---|
| Total outstanding Demand. | 13360 | 9489 | 8461 | 6695 |
| (i) Demand not fallen due | 5704 | 3810 | 3618 | 2214 |
| (ii) Demands claimed to have been paid but verification awaited. | 695 | 116 | 140 | 37 |
| (iii) Demands stayed by courts. | — | 213 | 221 | 294 |
| (iv) Demands stayed by Settlement Commission. | 914* | 107 | 155 | 66 |
| (v) Demand stayed by Tribunal. | — | 100 | 108 | 147 |
| (vi) Demands stayed by Income-tax authorities. | 343 | 1769 | 1606 | 1069 |

*Separate figures for demand stayed by courts, Settlement Commission and Tribunal for 1993-94 are not readily available. The figures for 1993-94 are provisional.

1.10 Elaborating the steps taken to realise the outstanding tax demands, the Ministry stated that high priority was given to the work of reduction of arrear demand and appropriate administrative, legal and other measures were taken to reduce the same. In bigger cases dossiers were maintained and the position was reviewed regularly. Request was also made to the concerned appellate authorities for early disposal of the cases. Wherever the recovery proceedings were stayed by the courts, steps were initiated to get the stay vacated. Coercive measures like attachment and sale of property, levy of penalty etc. were also taken by the Department in suitable cases for speedy recovery of demand.

1.11 During the course of evidence, the Chairman, CBDT also stated "continuous rising trend in the outstanding arrears and net realisable payment is one matter of deep concern to all of us. During the earlier year, 1993-94, we had concentrated on completing very large number of assessment involving search cases. This is one factor which has contributed to the sharp increase in the arrears of tax and the second factor is that we completed a large number of assessments of financial institutions which were involved in the Scam.....This year the emphasis has been on cash collection due to arrears payment. We have even directed that officers be redeployed from assessment work to collection and tax deduction at source activities. We hope that these steps will reverse the trend."

*Analysis and Conclusions*

**1.12 The Committee notes that the collection of direct taxes has increased over the years from Rs. 11024 crore in 1990-91 to Rs. 20150 crore in 1993-94. However, in spite of increase in the number of assessees from 86.39 lakh in 1992-93 to 102.06 lakh in 1993-94, the actual collection of direct taxes during 1993-94 falls short of the Budget Estimates of Rs. 21261 crore. 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 assesses are stated to be 102.06 lakh. The Committee feels that this discrepancy needs probing and reconciliation.**

**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 Ist April of 1991, 1992, 1993 and 1994 were Rs. 6695 crore, Rs. 8461 crore, Rs. 9489 crore and Rs. 13360 crore respectively. These statistics which are indices of the Department's performance lead to the conclusion 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 imporve results in collecting revenue demands and reducing arrears.**

**1.14 The Committee notes that a substantial portion of the total outstanding demand consists 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 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.**

**1.15 The Committee fails to understand why the work of assessment is not disposed off and carried out uniformly throughout the year particularly when there is no dearth of work. The Committee is equally concerned to note that Rs. 37 crore, Rs. 140 crore, Rs. 116 crore and Rs. 695 crore remained outstanding, a waiting 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 assessees. The fact that the assessees could not be given credit long after payment was**

made is a sad reflection on how the system works. The above facts reveal a very unhappy state of affairs in the Income-Tax Deptt. and are an indication of Deptt.'s efficiency. The Committee cannot but hold the Deptt. fully responsible for not effectively monitoring and curbing the tendency of late disposal of assessments during the fag end of the year. The Committee would like to state that there is an imperative need for a thorough reorientation and streamlining of the administrative machinery so as to make it an efficient instrument for realising the objectives of the Govt. 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 Deptt.

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 are Rs. 5704, Rs. 3374, Rs. 2613 and Rs. 2868 are in 1993-94, 1992-93, 1991-92, and 1990-91 respectively which are 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.

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

## CHAPTER II

## DISPOSAL OF ASSESSMENTS

*Brief position in law*

2.1 Section 143 of the Income-tax Act provides for two procedures for disposal of income-tax returns submitted to the Assessing Officers by the assessees. For quick realisation of tax, the Income-tax Act provides for a summary assessment under Section 143(1) (a) on the basis of the return filed by an assessee under Section 139 of the Income-tax Act. On the basis of such summary assessment, the assessee has to pay the tax which remains due after taking into account the advance taxes paid, if any, and the tax deducted at source. The proviso to Section 143(1) (a) gives the power to the Income-tax Officer to assess the income and the tax payable thereupon after making certain adjustments where there is an arithmetical error in the return/accounts or documents or where any deduction allowance or relief claimed in the return is *prima facie* in-admissible. Similarly, where such deduction, allowance or relief is *prima facie* admissible but not claimed in the return, the Income-Tax Officer may give relief by allowing such *prima facie* claim without calling the taxpayer. The Act, however also provides for a regular assessment after scrutinising the accounts which are produced and other documents or other evidence which an assessee may produce or is required to produce. Such assessment made under Section 143(2) is generally called scrutiny assessment.

*Brief facts*

2.2 The position regarding pendency of Summary Assessments, as furnished by the Ministry is as follows:

| F. Year | Workload for disposal | Disposal | Pendency at the end of the F. Yr. | No. of officers on asstt. duty | Disposal of summary assessments per Assessing Officer (rounded off to nearest 100) | % age of pendency to workload (col. 4 to 2) |
|---|---|---|---|---|---|---|
| | | | | | (Columns 2 to 4 figures in lakhs) | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 90-91 | 72.29 | 61.25 | 11.04 | 2176 | 2800 | 15.3% |
| 91-92 | 75.01 | 64.07 | 10.94 | 2456 | 2600 | 14.6% |
| 92-93 | 81.84 | 68.84 | 13.00 | 2552 | 2700 | 15.9% |
| 93-94 | 89.92 | 76.75 | 13.17 | 2890 | 2700 | 14.6% |

2.3 Similarly, the following table shows the position regarding the pendency of Scrutiny Assessments:

(In Lakhs)

| Year | No. of assessments for disposal | No. of assessments disposed of | Pendency |
|---|---|---|---|
| 1990-91 | 4.42 | 2.64 | 1.78 |
| 1991-92 | 5.34 | 3.07 | 2.27 |
| 1992-93 | 5.42 | 3.02 | 2.40 |
| 1993-94 | 5.18 | 3.52 | 1.66 |

2.4 It can be inferred readily that the pendency position, in both the kinds of assessments, as on 1.4.94 was very high.

2.5 On being asked as to why such a large number of assessments were pending finalisation, the reasons forwarded by the Department could be divided into three categories. Firstly, the very nature of assessment was quasi-judicial, where all the relevant material was required to be gathered and an adequate and reasonable opportunity of being heard had to be given to the assessee. It was explained by the Department that delays resulted in the assessment proceedings when detailed information could not be submitted by the assessees in time or when the Advocates and

Chartered Accountants, who generally represented the assessees, needed more time to study the case.

2.6 Secondly, according to the Deptartment, the attention of the Assessing Officer was also spread over other statutory duties under different direct tax laws and other administrative work like, attending to penalty and prosecution matters, collection of taxes, furnishing of reports to higher authorities, house keeping, etc. All this resulted in paucity of time for assessment work.

2.7 The third reason forwarded by the Department was the inadequacy of the manual system. The representatives of the Department explained that under the present system, the bulk of the work was mechanical and routine, making it difficult for the available manpower to finish the work properly and deployment of trained manpower in the changed computer environment was necessary.

2.8 The Committee also noted that steps for clearing the arrears of assessments have been taken in the form of framing of annual action plans. These action plans have prescribed targets for clearing the pending scrutiny as well as summary assessments. As a part of the action plans, overall targets for the Chief Commissioners have also been set-up. Alongwith this, a detailed and comprehensive criteria for selection of scrutiny cases has also been made.

*Analysis and Conclusions*

2.9 The Committee has noted with concern that the pendency position of assessments continues to be very bad, despite the steps taken by the Department What is surprising that even the summary assessments which are expected to be finalised without the complications usually associated with scrutiny assessments continue to pile up in the Department. There have been complaints that at the time of the summary assessment, which is expected to be made on the basis of the return filed by the assessee, the Income-tax authorities exercise their power under the proviso to Section 143(1) (a) and make adjustments in matters of deductions, allowances or reliefs which are not of a *prima facie* nature at all. This prolongs the proceedings which are often contested before the High Court or before a higher forum, eventhough judicial decisions have made it clear that adjustments under the proviso which are not of a *prima facie* nature and which admit of alternative views or which are debatable cannot be made under the proviso. The Central Board of Direct Taxes also has issued instructions in conformity with such judicial decisions. The Committee is at a loss to understand why in spite of such judicial decisions and instructions of the Central Board of Direct Taxes more than 13 lakh summary assessments are pending finalisation at the end of 1993-94 and is further concerned to note that what may perhaps be latent in this figure is the large amount of income tax refund which might be due to the assessees causing them undue harassment.

2.10 Coming to scrutiny assessments, the Committee has found, that on an average, about two lakh cases have remained pending at the end of each financial year, for the last four years. This is also a very alarming position because the Committee believes that scrutiny assessments which obviously comprise of larger returns of income, are the main sources of income-tax for the Government.

2.11 During the course of the evidence of the CBDT officials, the Committee also expressed a serious concern about the problem of overpitched assessments. The Committee pointed out that it was common knowledge that in case an assessee did not comply with the demands of illegal gratification made by the Assessing Officer, huge and unreasonable additions in the income of the assessee were made, making the assessment unduly overpitched and oppressive. In many cases, these overpitched additions were deleted by the first Appellate authority and also thereafter by the Appellate Tribunal. Care should be taken that assessments which ultimately do not survive the test of judicial scrutiny at the Appellate level should not be indulged in unless there is strong and cogent evidence for such additions. The Ministry in their reply had admitted that they were seized of the matter and suitable instructions have been issued to deal with such problems.

2.12 The Committee concludes that the position of pendency of assessments is not at all satisfactory and do not find enough justification in the arguments forwarded by the Department. The quasi-judicial nature of scrutiny assessments is appreciated, but even summary assessments are taking too long to be finalised and it is in fact the summary assessments which are found to be more in arrears. The mention of work other than that relating to assessments by the Department is not convincing as prosecution matters are just minimum, and the work relating to other direct taxes is also not substantially heavy. **The Committee desires that the Department should conduct a work study for ascertaining proper manpower requirements and its best deployment and rationalise the division of work amongst its officers and staff accordingly to ensure to optimal collection of revenue.**

**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 mistakes of the past are not repeated and a 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 System (ABC System) since it is the belief of the Committee that more than 90 per cent of the revenue is coming from a miniscule 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.

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 now 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 for 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.

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 assessments.

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 crystalise the final demand on assessment being completed.

**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 lakh and above should be picked up for scrutiny on a 100% basis. 50% of all returns with income between Rs. 5 lakh and Rs. 10 lakh should also be selected for scrutiny on a random basis and 10 per cent of all returns with income below Rs. 5 lakh should be picked up on a random basis for scrutiny assessment. In case of corporate assessees, these levels should be modified suitably. 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.**

**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.**

**2.19 The Committee note that inspite of framing annual action plans providing targets for clearing the pending scrutiny as well as summary assessments, the Department in no year has been able to keep pace with the work load, with the result that the 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 action plans and create a result oriented system to ensure disposal of assessment work according to plan targets. The Committee would also like that the progress of such action plans should be monitored closely by the Department.**

## CHAPTER III

## PENDENCY OF APPEALS

*Brief Positions in Law*

3.1 The Direct Tax Laws provide for the remedies which an aggrieved assessee may pursue by way of appeal before the higher authorities. Whenever an assessee is aggrieved by an order of the Assessing Officer, he may prefer an appeal before the first appellate authority, namely, the Deputy Commissioner (Appeals)/Commissioner (Appeals). The rights of appeal before the first appellate authority is given only to an assessee aggrieved by an order of assessment. Against the order of the Deputy Commissioner (Appeals)/Commissioner (Appeals), the assessee or the Department can appeal to the Appellate Tribunal. The Tribunal is the final fact finding authority and the decision of the Tribunal on questions of fact is final and conclusive. However, if questions of law arising out of the order of the Tribunal are disputed, then a reference against such an order lies with the High Court. The High Court is not competent to reappreciate or find afresh questions of fact. A further appeal against the judgement of the High Court lies before the Supreme Court only on substantial questions of law.

3.2 An assessee, however, can move the High Court against an order of assessment or against any other order of the taxing authority under Article 226 of the Constitution on the limited grounds that the authority passing the order has no competence, jurisdiction or authority to pass such an order or there is a violation of the Fundamental Rights of the petitioner. The Courts sometimes admit writ petitions on ground that the order has been passed in violation of the principles of natural justice or on the ground of lack of jurisdiction or the order passed is patently perverse. However, in view of the alternative remedies provided under the direct tax laws, the courts are normally not inclined to admit writ petitions where such alternative remedy by way of an appeal gives complete redressal to the aggrieved party.

*Brief Facts*

3.3 In respect of the pendency position of appeals in regard to income-tax, at various levels, the Committee collated the following information

from the Ministry:

| Appeals pending with | Years | | |
|---|---|---|---|
| | 1990-91 | 1991-92 | 1992-93 |
| Deputy Commissioner (Appeals) | 120561 | 114615 | 84774 |
| Commissioner of Income-tax (Appeals) | 114496 | 143655 | 145914 |

3.4 The number of appeals pending with these Authorities for 1993-94 in respect of income-tax only was not available with the Ministry, but the Committee was informed that 93504 cases of appeals were pending with the Deputy Commissioner (Appeals) and 173178 cases of appeals were pending with the Commissioner of Income-tax (Appeals), which figures included appeals in respect of other direct taxes as well in the absence of the figures of Income-tax appeals pending with these authorities for 1993-94 the Committee could not compare it with the figures of earlier years. The Committee also learnt that 58780 cases of appeals were pending for more than three years, as on 31.3.94. The period-wise classification of these cases, beyond a period of three years could not be made available to the Committee, giving rise to a suspicion that there could be many cases dragging on for years without end.

3.5 The Committee also wanted to know the figures of departmental appeals out of the total appeals pending before the Appellate Tribunal during each of the last three years. In a note furnished after evidence, the Ministry gave the following information:

| As on | Pending cases | |
|---|---|---|
| | Total | No. filed by the Department |
| 31.3.1992 | 222513 | 114816 |
| 31.3.1993 | 245855 | 127488 |
| 31.3.1994 | 266605 | 139191 |

3.6 The Committee was also informed that even though the administrative Commissioners have the statutory power to file or not to file an appeal, instructions have been issued by the Board from time to time to the Commissioners with a view to restricting the numer of departmental appeals to the Tribunal. The Revenue Secretary admitted during the course of evidence that "the Department is losing a large number of cases

because in many cases, the Department has wrongly gone to the Tribunal". However, it is not clear from the statement as to how many of these cases were lost because of inadequate legal preparation and follow up. The Committee could not go into the question of the number of cases lost at the CIT (A) level out of the total filled by the assessees but is inclined to believe that this data would also be quite revealing in as much as the Committee was given to understand that majority of these cases were being decided against the assessing officers.

3.7 In regard to the number of cases of appeals/reference writs pending before the various High Courts and the Supreme Court, the Ministry furnished the following information:—

| | Pending cases | |
|---|---|---|
| As on | In Supreme Court | In High Courts |
| 31.3.1992 | 3131 | 25336 |
| 31.3.1993 | 5223 | 33166 |
| 31.3.1994 | 6038 | 53175 |

3.8 Though no information on the total revenue involved in appeals could be made available, the amount stayed/kept in abeyance by Courts, Tribunal and by Income-tax authorities due to appeal and revision was stated to be Rs. 15400401(000).

*Analysis and Conclusions*

3.9 The Committee is dismayed to note that such a huge number of appeals and writ matters are pending at various levels. When asked about the reasons for pendency of such a large number of appeals with the Deputy Commissioners of Income-tax (Appeals) and Commissioner of Income-tax (Appeals), the Ministry replied that since these appeals are filed by the assessees, their institution depends on the assessees only. The Committee, however, is not satisfied with this view of the Ministry. The Committee feels that the Ministry should try to know and analyse the causes of dissatisfaction of the assessees with the assessments of the assessing officers.

3.10 The Committee is concerned with the large number of appeals which are filed not only at the first stage by the assessees before the first Appellate authority but also the increasing number of appeals filed before the Appellate Tribunal and particularly by the Revenue authorities. The number of references which are filed before the different High Courts has also increased alarmingly and it is found that in a large number of cases, the Revenue authorities file such applications for reference. It is true that if there is a substantial case for preferring an appeal before the Tribunal or there are adequate reasons for reference on questions of law which are

complicated and difficult and on which the courts take different view, the Revenue authorities can come up either by way of an appeal or by way of reference application. However, there should be proper system of monitoring by some higher authority, to scrutinise the cases in which appeals are filed by Deptt. or reference application is made by the Revenue authority. It is necessary to check multiplicity of cases where there is no sufficient ground for the revenue to go higher up or where the points have already been decided by the highest authority. The Committee has been informed that administrative instructions are there that reference applications can be filed only after obtaining the approval of the Chief Commissioners of Income-tax and after consultation with the departmental Counsel. Similarly, instructions have also been issued that where the issue involved is settled subsequently by a decision of the Supreme Court, the pending reference should be withdrawn in case it becomes infructuous. However, the way, appeals are filed or references are made by the Revenue authorities leaves no room for doubt that these matters are taken up almost in a routine manner and there is a complete lack of proper monitoring of these cases.

**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 or not it involves any complicated question. This would reduce unnecessary litigation and save time for the Revenue officers for concentrating on other important matters.**

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

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

**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 cases will finalise the disputes between the Revenue authority and the assessees and will thereby facilitate quick realisation of the tax demands.**

3.15 During the course of evidence tendered by the Ministry/Board officials on the subject, the Committee gathered that more and more number of appeals are being filed on the point of interpretation of law. In this connection, it may be worthwhile to take note of the fact that no less

than fifty three thousand, one hundred and seventy five cases in the High Courts and six thousand and thirty eight cases in the Supreme Court are pending as on 31.3.1994, which are essentially disputes arising out of interpretation of law. These are very large numbers indeed, and what is even more alarming is that both these numbers, which show cases pending in High Courts/Supreme Court as on 31.3.1994, represent a 100% increase over the position as on 31.3.1992. In other words, cases pending in High Courts/Supreme Court have doubled in the last two years.

3.16 The Committee understands that there has been an unusual increase in the numnber of appeal cases because of the different interpretation that is given by different court of law. It is true that for income tax purposes, certain concepts are given statutory meaning which give rise to complexisites in the interpretation of such expressions. For example, the definition of charitable purpose appearing in Section 2(15) of the Income-tax Act has undergone changes from time to time. Similarly the exemption allowed to income derived from property held under trust for charitable or religious purposes under Section 11 of the act and the exclusion of such exemption under circumstances provided in Section 13 of the Act have also varied from time to time. Similarly, the definition of transfer in relation to a capital asset defined in Section 2(47) of the Income-tax Act has undergone substantial changes with the result that disputes regarding transfer of proprerty for the purpose of capital gains and also for compulsory acquisition under Chapter XX(C) of the Income-tax Act have multiplied considerably. These are only illustrations to show that if taxation laws are not simplified, complications in the administration of tax laws are likely to increase further and may lead to increased number of cases before the Appellate authorities and before the High Court and the Supreme Court. Expressions which are used according to ordinary law should not often be tinkered with unless there is an imperative need, and for the purposes of facilitating proper administration of tax laws, a modicum of stability should be adhered to. As a matter of fact, the Revenue Secretary himself admitted that on subjects like capital subsidy, charitable institutions, calculation of depreciation, investment allowances etc., there was a lot of litigation. He was also of the view that complexity of law and the multitude of exemptions had given rise to increased litigation.

3.17 The Committee, therefore, feels that various exemptions and special benefits which are allowed under the Income-tax Act require a judicious scrutiny and the exemptions and benefits may be rationalized in such a way that corporate assessees with heavy profits do not escape the tax not altogether. The Committee also feels that the complication of the interpretative process involved in such exemptions and allowances may be avoided by simplifying the law instead of using words and expressions which may result in interpretative complexities. One of the reasons for the multiplicity of cases before the Appellate authorities, the High Court and

the Supreme Court is the employment of expressions which are sometimes obstruce and admit of different interpretations. This can be avoided if words and expressions are used in the Act which do not admit of ambiguities. **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 a Commission may be headed by a retired judge of Supreme Court of India. The Committee notes that since the Income-tax Act, 1961 was introduced to simplify the Income-tax Act of 1922, more than 30 years have passed and the 1961 Act is now pasted 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.**

**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.**

## CHAPTER IV

## PRE-EMPTIVE PURCHASE OF IMMOVABLE PROPERTIES

*Brief position in Law*

4.1 The Committee has examined the working of the law which has been introduced by way of Chapter XXC of the Income-tax Act under which pre-emptive purchase of immovable properties can be carried out by the Central Government. The subject matter of such pre-emptive purchase has been considerably debated in various forums.

4.2 The Direct Taxes Enquiry Committee, popularly known as the Wanchoo Committee, had taken the view that under-valuation of price in the sale deed of immovable properties was a widespread method of tax evasion and recommended, by way of a drastic remedy that the Govt. should empower itself to acquire a property where the consideration was found to be under-stated in the Sale Deed. By doing so, the State Governments, would also be able to realise full stamp duty if true consideration for the sale of immovable property was disclosed.

4.3 The legislative history of Chapter XXC of the Income-tax Act can be traced to the earlier provision of Chapter XXA of the Act, which was introduced on the basis of the recommendation of the Wanchoo Committee. Under Chapter XXA of the Income-tax Act, the competent authority can initiate proceeding for the acquisition of an immovable property if the authority has reason to believe that the immovable property of a fair market value exceeding Rs. 10 lakh has been transferred by a person to another person for an apparent consideration which is less than the fair market value of the property and that the consideration for such transfer has not been truly stated in the instrument to transfer with the object of:—

(a) facilitating the reduction or evasion of the liability of the transferee to pay tax under the Income-tax Act in respect of any income arising from the transfer, or

(b) facilitating the concealment of any income or any money or other assets which have not been disclosed by the transferee for the purpose of Income-tax Act or the Wealth Tax Act.

4.4 In the application of Chapter XXA, difficulties have been experienced by the Revenue Deptt. in acquisition of the property when the transfer has been already completed by the Instrument of Transfer. Chapter XXC, therefore, has been introduced with a view to counter attempts to evade the payment of taxes by disclosing consideration for such

sale at an under-stated value. Chapter XXC is intended to be used only in cases where, in an agreement to sell an immovable property in an urban area to which the provisions of that Chapter apply, there is a significant undervaluation of the property concerned, *viz.*, by 15 per cent or more. If the appropriate authority concerned is satisfied that, in an agreement to sell an immovable property in such areas, the apparent consideration shown in the agreement for sale is less than the fair market value by 15 per cent or more, it may draw a presumption that this undervaluation has been done with a view to evade tax. In other words, the provisions of Chapter XXC are to be resorted to only when there is a significant undervaluation of the immovable property to be sold in the agreement of sale with a view to evade tax.

4.5 Even though a presumption of an attempt to evade tax may be raised by the appropriate authority concerned, such a presumption is often rebutted and this would necessarily imply that the concerned parties must have an opportunity to show cause as to why such a presumption should not be drawn. It is because of this reason that the Supreme Court in the recent decision in the case of C.B. Gautam *Vs.* Union of India and others (199 I.T.R. 530) has held that the requirement of an opportunity to show cause must be read into the provision of Chapter XXC before an order for purchase by the Central Government is waived, by an appropriate authority under Chapter XXC. The appropriate authority is required to give reasons for its decision in order that such a decision, in an appropriate case, can be challenged in a court of law.

4.6 In view of the law, laid down by the Supreme Court in the case of C.B. Gautam *Vs.* Union of India, the legal position is that the appropriate authority can exercise its power of pre-emptive purchase if the following conditions are met:—

(a) There is a significant undervaluation of the property to evade tax;

(b) the appropriate authority must give the proposed transferer and the transferee an opportunity of being heard; and

(c) the appropriate authority must give reasons for its decision.

In other words, the Committee finds that the requirements which are now to be complied with by the appropriate authority, come nearer to the conditions which are to be satisfied for acquisition of immovable property under Chapter XXA.

4.7 Under Chapter XXC, no transfer of an immovable property for a consideration of Rs. 10 lakh and above can be effected unless a no objection certificate is granted by the appropriate authority after filing a

declaration in Form No. 37-1 wherein certain particulars for declaration have been prescribed.

4.8 The object of the introduction of Chapter XXC is to curb the proliferation of black-money in transactions relating to immovable property and to act as a deterrent against under-statements of consideration in real estate transactions.

*Brief facts*

4.9 Confining to the statistics available in respect of Delhi only, the Committee noticed that in the eight year period from 1986 to 1994, only 6997 references were received by the Appropriate Authority at Delhi for grant of permission under this law. Without examining any other point for the time being, it is observed that this works out to about 70 applications received in a month on an average. Considering the mushroom growth of colonies, builders, brokers and the booming prices of real estate in Delhi, it is clear, *prima facie*, that this figure of 70 property deals in a month is only the tip of the iceberg and the vast majority of deals are being conducted by simply avoiding the law. The Committee finds it difficult to believe that less than 7000 properties, of value above Rs. 10 lakh, have been bought and sold in a city like Delhi in a period of eight years. From this fact alone, it is abundantly clear that buyers and sellers of properties are not seeking the permissions required under law and the applicability of this law is being evaded with impunity. When asked whether the Income-tax Deptt. had any means or mechanism to detect cases where, the permission, though required, was not sought by the parties, the Deptt. replied that there was no organised manner of finding out such cases. On being questioned further, whether if such cases were found out, the Deptt. had any effective powers to deal with the evaders, the Deptt. officials replied that in cases where the properties were registered for values below Rs. 10 lakh, the Deptt. had virtually no means to deal with such cases. It, therefore, emerged quite clearly that the seeking of permission in respect of transfer of properties worth Rs. 10 lakh and above was being avoided by the parties concerned and the Deptt. was, more or less, a mute spectator in the scenario.

4.10 During the course of the evidence of the officers of the Central Board of Direct Taxes it came out that the applicability of Section 269 UC of Income Tax Act was being avoided by the buyers and sellers by resorting to novel methods. In some of the cases, the sale of properties was being fractionalised by creating more number of buyers so that the value of each transaction was kept below the limit of Rs. 10 lakh. In other cases, the sale of larger properties was carried out in parts to the same buyer, by staggering the transactions and ensuring that the value of each transaction was below the limit of Rs. 10 lakh.

*Analysis and Conclusion*

4.11 The Committee fully appreciates that the object for introducing Chapter XXC was to check under-statement of consideration in the Sale Deed of Transfer and thereby to curb the proliferation of black money. In practice, however, the Committee finds that the administration of the said provision has created more problems than those that were intended to be solved. The attempts to avoid the application of Chapter XXC have taken a variety of methods. In the application of this provision, there are complaints that the appropriate authority has not followed any rational principle or method and the complaints of taking illegal gratification require to be fully investigated. The harassment often created in the application of this law also needs appropriate consideration. **"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 lakh or more."**

**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 lakh 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 a 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.**

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

*Role of Valuation Cell*

4.14 Valuation of immovable property for different purposes, both under the Income-tax Act as well as under the Wealth Tax Act often presents considerable difficulties. Such valuation becomes necessary for the purpose of pre-emptive purchase under Chapter XXC of the Income-tax Act in order to ascertain the fair market value of the property. If the apparent consideration is lower than the fair market value of the property which is

to be sold by me than 15 per cent, it raises a presumption that the property is sold at an under-stated value to evade the payment of tax. What constitutes fair market value is a question on which there cannot be any uniform view. Several norms or guidelines have been set out by valuation experts. For example, the valuation of an immovable property may be made on the basis of the fair rent which the property is reasonably expected to fetch if let out. The other guideline often resorted to is what is known as land-cum-building method by which the valuation of land and the building constructed thereupon are ascertained separately. Cost of construction is also a norm which is relied upon in certain cases. These tests are only illustrative of the complexity of the problem and no one single test is decisive or determinative of the fair market value of the immovable property. The price at which the property having the same or similar facility and character in the same locality is sold may be taken as an index of the fair market value of the property. It is, therefore, necessary for the Central Board of Direct Taxes to evolve certain norms or guidelines for determination of the fair market value. In the absence of such guidelines, the decision of the Valuation Officer is likely to be arbitrary and may be influenced by collateral or extraneous consideration.

4.15 It is relevant in this connection to note that the Wealth Tax Rules have laid down the norm for the valuation of immovable property. Clause 3 of part B of Schedule III of the Wealth Tax Act provides for the valuation of immovable property by multiplying the net maintainable rent by the figure 12.5. The procedure for such valuation of immovable property is laid down in Part B of Schedule III of the Wealth Tax Act. Earlier also Rule IBB provided for the determination of the market value of immovable property for the purpose of Wealth Tax Act by an amount arrived at by multiplying the net maintainable rent in respect of the house fixed for residential purposes by fraction 100×8 and by an amount arrived at by multiplying the net maintainable rent in respect of the remaining part of the house, if any by fraction of 100×9.

*Conclusion*

**4.16 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.**

**4.17 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.**

**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 a 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.

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.

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 lakh 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.

## CHAPTER V

## OTHER MATTERS

### *Incentive for Exports*

5.1 The Committee has been informed that as far as incentives for exporters are concerned, earlier there was the cash compensatory support and various other advance licensing schemes. Subsequently, this was replaced by the Replenishment Licensing Scheme and Exim Scheme in order to make it feasible for the exporters to export their products in a competitive environment. Finally, the entire export policy was reviewed and revised and practically everything was put under Open General License (OGL). It was decided that since the foreign exchange rate had become floating and that there was also a devaluation of the Rupee, the entire question on the export incentives had to be given a second look.

5.2 Presently there are provisions in the Income Tax Act which allow deduction of profits derived from exports in the computation of taxable profits. Apart from that, there are many other facilities and other incentives which have been given to the exporters under Customs Law and under the Import Export Trade Policy.

5.3 Under the Income Tax Act, export incentive at present is allowed by Section 80HHC. Under the said provision, an assessee being an Indian company or a person other than a company, being a resident in India, is allowed full exemption from income tax in respect of profits derived from the export out of India of any goods or merchandise to which the said section applies, in accordance with the provisions of the said section. The benefit of deduction in respect of the profits derived from exports is available to an Export House Certificate holder or a Trading House Certificate holder subject to certain conditions specified in the said section. Such benefit is also available to a supporting manufacturer who has sold goods or merchandise to an Export House or Trading House in respect of which the Export House or Trading House has issued a certificate. The present provision allows deduction from the total income of profits derived from the export of goods or merchandise manufactured as also in respect of profits from export of trading goods. However, the computation of the export profits in accordance with section 80HHC presents certain anomalies.

5.4 In a case where the export out of India is of goods or merchandise, manufactured or processed by the assessees, the profits derived from such export shall be the amount which bears to the profits of the business, the

same proportion as the export turnover in respect of such goods bears to the total turnover of the business carried on by the assessees. In the computation of the total turnover, freight or insurance is not included in view of the fact that freight or insurance does not form part of the export turnover. Similarly, excise duty, sales tax or octroi, which also do not form part of the export turnover, are not specifically excluded from the computation of total turnover. It is logical that the said items, which do not form part of the export turnover, should also be excluded from the computation of total turnover. While finding out the proportion of export turnover to total turnover for determining the profit derived from exports, it is logical to exclude items from the total turnover which are not included in the export turnover.

5.5 In the case of profit derived from the export of trading goods, the computation of profit is made by deducting from the export turnover direct costs and indirect costs attributable to such export of trading goods.

5.6 The difficulty, however, arises in determining the indirect costs in respect of export of trading goods in view of the explanation to section 80HHC(3) which relates to indirect costs after deducting direct costs allocated in the ratio of export turnover in respect of trading goods to the total turnover.

5.7 Similarly, in the case of income derived from the sale of tea grown and manufactured by the seller, such income according to Rule 8 of the I.T. Rules 1962, is to be computed as if it were income derived from business and 40% of such income shall be deemed to be income liable to income tax and 60% thereof is to be treated as agricultural income liable to agricultural income-tax. Difficulty often arises as to whether in the case of Tea grown, manufactured and exported out of India, the deduction under section 80HHC is to be allowed first in the computation of the composite income treating it as income derived from business and thereafter the proportion of 40% and 60% thereof is to be made, or the income is to be computed under Rule 8 without allowing the deduction under Section 80HHC and thereafter the benefit of such deduction will be available against only the 40% of such computed income which is treated as non-agricultural income. In the latter case, the benefit available under Section 80HHC in respect of export of tea is substantially reduced.

**5.8 The Committee, therefore, is of the view that in granting the benefit of deduction of the profits derived from exports from the total income, the provision 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 complicated interpretative process.**

5.9 It also came out during the course of evidence that there has been gross misuse and abuse of export incentives and there were also cases of faked exports. It was admitted that in certain cases, exporters have used these licences only for the purpose of importing high duty items and selling them in the market for the purpose of earning profits rather than exporting goods which could fetch foreign exchange. According to the Ministry, the quantum amount on account of such misuse could be of the order of Rs. 1000 to 1500 crore though no dependable data was available and the press reports placed the estimates at a much higher figure.

**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.**

**5.11 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 licences.**

*Certificate for Tax Deducted*

5.12 Section 203 of the Income Tax Act provides for issuance of a certificate by every person deducting tax in accordance with the various provisions of Chapter XVII within the specified time.

5.13 During the course of evidence, the Committee desired to know whether the Act provides for any punishment or penalty if the person who has deducted the tax does not issue the certificate. A representative of the Ministry stated that there was no provision. When asked further what is the alternative in such cases, the Secretary Revenue stated, "we will certainly look into it and make that compulsory at the time of payment itself when the cheque is given".

5.14 The Committee is of the view that in the absence of any provision for any penalty for non-compliance of the provisions under which the issue of such certificate is to be made, if the person deducting the tax at source and paying the amount so deducted to the Government treasury, does not issue the certificate within the specified time, the person from whose income such tax has been deducted at source will not get the benefit of the credit for the tax deducted in his own assessment. This creates an anomalous position.

**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.**

*Refunds*

5.16 Where the amount of tax paid exceeds the amount of tax payable, the assessee is entitled to a refund of the excess. If the refund is not granted by the Department within three months from the end of the month in which the claim is made, simple interest at the prescribed rates becomes payable to the assessee on the amount of such refund.

5.17 The Act also provides for refund of any amount which may become due to an assessee as a result of any order passed in appeal or other proceeding without his having to make any claim on that behalf. Simple interest at the prescribed rate is payable to the assessee in such cases too.

5.18 The Ministry have informed the Committee that Administrative instructions have been issued that all refunds must be issued within 10 days of completion of assessments. Also, the assessing officers have been instructed to dispose of the refund claims promptly and to enclose the refund vouchers to the orders giving rise to the refunds. The Board also has directed that surprise inspections should be carried out by the Commissioners/Deputy Commissioners of Income-tax to ensure that refunds are granted promptly. If refunds remain unissued, written explanations of the concerned officials are to be called for and in appropriate cases suitable deterrent punishment to the erring officials is to be awarded.

5.19 During the course of evidence, the Committee pointed out that under Section 80-L, all the companies are deducting tax at source; but the general complaint is that it is very difficult to get the refund without giving something underhand. When asked as to what is being done to stop such a practice, the Secretary Revenue replied :—

> "Last year, a special drive was undertaken by the Board to ensure that the refunds were given in time and in the current year in the first few months, the refunds were amounted to Rs. 5000 crore. Generally, the refund is given in time and it takes about fifteen to twenty days times. However, there are certain cases where the refund is not given in time. But the strict instructions have been given from the Board that the refund should be given in time".

5.20 The Committee desired to know the number of refund claims for disposal, the number of cases disposed of and the number of cases pending during the last three years. The Ministry, in a written note after the evidence, furnished 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 (up to December 1993) | 80,059 | 53,372 | 26,687 |

5.21 Even though instructions and directions are stated to have been issued by the Board that all refunds must be issued within 10 days of completion of assessments and deterrent punishment to the erring officials to be awarded where the officials are found wanting, these instructions are hardly being observed/followed by the assessing officers. This is amply clear from the fact that out of 80059 refund claims, 26687 refund claims are pending disposed during 1993-94 which is substantial evidence to establish that refund claims have infact been delayed by certain officers causing harrassment to honest assessees.

**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 delay.**

**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.**

**5.24 The Committee is further of the view that the Deptt. should be prompt in settling refund cases and also should give necessary instructions to ensure that refund vouchers and advice note reach the assessee and the bank respectively simultaneously without any delay.**

*Widening of Tax Net*

5.25 The Committee notes that one of the steps taken by the Ministry in widening of tax base during the recent years is the introduction of Presumptive Tax Scheme for small businesses and persons engaged in certain professions. The scheme applies to persons with a turnover of less than Rs. 5 lakh and having income of Rs. 42,000 for assessment year 1995-96. The tax payable under the scheme works out to Rs. 1400/- in case of individuals. A new scheme for estimating income of the taxpayers engaged

in the business of civil construction having gross receipts of Rs. 40 lakh or less and for truck owners having 10 or less trucks has been introduced through the Finance Act 1994. Under this Scheme, the income of a civil contractor is assessable at a presumptive rate of 8% of the gorss receipts and the Income of a truck owner is assessable at the rate of Rs. 1000 per month per truck and for a heavy goods vehicles and Rs. 1800 per month for truck for other vehicles. The Committee feels that these are goods schemes and may prove a good source for increasing the revenue collections. The Committee is, however, concerned to learn that only 1.16 lakh and 1.96 lakh persons were brought under the tax net during the years 1992-93 and 1993-94 respectively in the whole country. Similarly, only 0.23 lakh and 0.24 lakh persons were brought under the tax net during 1992-93 and 1993-94 respectively in the four metropolises of Bombay, Calcutta, Madras and Delhi. The amount of tax collected was only Rs. 16.47 crores and Rs. 2753 crore in the country as whole and Rs. 3.18 crores and Rs. 3.41 crores in the four metropolies during those years.

**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 a tip of the iceberg. The Committee, therefore recommends that the Deptt. 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 to bring more assesses under the scheme. Coordination of the Deptt. with other authorities like Sales Tax Deptt., Transport Authorities, Municipal authorities etc. will help the Deptt. to collect the required information and bring more people under the tax net.**

5.27 The Committee regret to note that even though the Permanent Account Number (PAN) system was introduced long back in 1972, the system is yet to achieve its objectives even after a lapse of over two decades. Even the computerised allotment of PAN introduced from 1985 onwards, is, as admitted full of serious weaknesses and shortcomings. Since the same was not found to meet the fundamental needs of the comprehensive computerisation plan, a new PAN system for identifying a taxpayer is in the offing. In the new unique PAN system, taxpayers data in structured form will be collected to create Central Taxpayers Master File at Delhi to enable computer matching and ensure uniqueness for generating and allotment of PAN. It is also proposed to print and issue laminated PAN with photograph from the respective computer centres. It will enable the Deptt. to build up a database of different individual tax payers. According to the Deptt. such steps will help in identifying benami business, running of multiple companies by the same assessee etc.

**5.28 The Committee desires that the new comprehensive computerisation scheme initiated by the Deptt. 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.**

**5.29 On a link between PAN and widening of tax receipts, the Committee was informed by the representative of the Ministry that to apply the benefits of PAN to Sales Tax etc., they were taking up the matter with the State Finance Ministers 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.**

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

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

NEW DELHI
*1 February, 1995*

12 Magha, 1916 (Saka)

DR. DEBIPROSAD PAL,
*CHAIRMAN,*
*Standing Committee on Finance.*

## STATEMENTS OF CONCLUSIONS / RECOMMENDATIONS OF THE STANDING COMMITTEE ON FINANCE CONTAINED IN THE REPORT

| Sl. No. | Reference of Para No. of Report | Conclusions / Recommendations |
|---|---|---|
| 1 | 2 | 3 |
| 1. | 1.12 | The Committee notes that the collection of direct taxes has increased over the years from Rs. 11024 crore in 1990-91 to Rs. 20150 crore in 1993-94. However, in spite of increase in the number of assessees from 86.39 lakh in 1992-93 to 102.06 lakh in 1993-94, the actual collection of direct taxes during 1993-94 falls short of the Budget Estimates of Rs. 21261 crore. The Committee is also at a loss to understand why only 77 lakh returns were received by the Departments for the year 1993-94 when the total number of assessees are stand to be 102.06 lakh. The Committee feels that this discrepancy needs probing and reconciliation. |
| 2. | 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 crore, Rs. 8461 crore, Rs. 9489 crore and Rs. 13360 crore respectively. These statistics which are indices of the Deptt.'s performance lead to the conclusion that measures taken by the Deptt. to realise tax dues have not been effective enough and need to be intensified. The Committee urges the Deptt. to maintain a relentless pressure on all fronts to improve results in collecting revenue demands and reducing arrears. |
| 3. | 1.14 | The Committee notes that a substantial portion of the total outstanding demand consits of the demands not fallen due and the demands in respect of which verification of payment was pending. During the |

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| | | 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. |
| 4. | 1.15 | The Committee fails to understand why the work of assessment is not disposed off and carried out uniformly throughout the year particularly when there is no dearth of work. The Committee is equally concerned to note that Rs. 37 crore, Rs. 140 crore, Rs. 116 crore and Rs. 695 crore 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 assessees. The fact that the assessees could not be given credit long after payment was made is a sad reflection on how the system works. The above facts reveal a very unhappy state of affairs in the Income-tax Deptt. and are an indication of Deptt.'s efficiency. The Committee cannot but hold the Deptt. fully responsible for not effectively monitoring and curbing the tendency of late disposal of assessments during the fag end of the year. The Committee would like to state what there is an imperative need for a thorough reorientation and streamlining of the administrative machinery so as to make it an efficient tool for realising the objective of the Govt. The Committee would also like that the Board (CBDT) should hold periodical review |

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| | | 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 Deptt. |
| 5. | 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 reducuing 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 brought out clearly that there was considerable confusion on the subject which needed clarification. The Committee would, therefore, like to reconcile the figures so as to have a correct and clear picture of the net realisable demand. |
| 6. | 1.17 | The Committee would also like to be informed as to why the net realisable demand which is due in a particular year could not to collected by the end of that year when by its very definition it is free from all encumbrances. |
| 7. | 2.12 | The Committee desires that the Department should conduct as work study for ascertaining proper manpower requirements and its best deployment and nationalise division of work among its officers and staff accordingly to ensure optimal collection of revenue. |
| 8. | 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 Deptt. propose to do for the future so that it is ensured that the mistakes of the past are not repeated and a 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 |

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| | | 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 System (ABC System) since it is the belief of the Committee that more than 90 per cent of the revenue is coming from a miniscule 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. |
| 9. | 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 now 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. |
| 10. | 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. |

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| | | 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 assessments. |
| 11. | 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 crystalise the final demand on assessment being completed. |
| 12. | 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 lakh and above should be picked up for scrutiny on a 100% basis. 50% of all returns with income between Rs. 5 lakh and Rs. 10 lakh should also be selected for scrutiny on a random basis on 10 per cent of all returns with income below Rs. 5 lakh should be picked up on a random basis for scrutiny assessment. In case of corporate assessees, 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 focussed on high level income cases. 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. |
| 13. | 2.18 | The Committee strognly 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. |

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| 14. | 2.19 | The Committee notes that inspite of framing annual action plans providing targets for cleaing 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 demise a more practical and realistic approach in framing annual action plans and create a result-oriented system to ensure disposal of assessment work according to plan targets. The Committee would also like that the progress of such action plans should be monitored closely by the Department. |
| 15. | 3.11 | The Committee, therefore, is of the view that the monitoring authority should adopt a selective approach in filling 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 filling 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 or not it involves any complicated question. This would reduce unnecessary litigation and save time for the Revenue officers for concentrating on other important matters. |
| 16. | 3.12 | The Committee also desires that proper attention should be given for preparation and support to cases where it has been decided to file appears before the Tribunal or any other higher authority. |
| 17. | 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 Officer should follow the same decision and should not differ from it unless there are compelling reasons. |
| 18. | 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 cases will finalise the disputes between the Revenue authority and the assessees and will thereby facilitate quick realisation of the tax demands. |

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| 19. | 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 pasted 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. |
| 20. | 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. |
| 21. | 4.11 | The Committee is of the view that having regard to the inflationery trends, pre-emptive purchase under Chapter XXC may be restricted to properties which are Rs. 25 lakh or more. |
| 22. | 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 that Rs. 10 lakhs to even |

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| | | 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 tupe 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. |
| 23. | 4.13 | The Committee would also like the Income-tax Deptt. to conduct an internal assessment to judge the unnecessary and avoidable administrative workload generated by acquisition of problem properties and cases where the Deptt. has been made a respondent in third party disputes and inform this Committee. |
| 24. | 4.16 | 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. |
| 25. | 4.17 | 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. |
| 26. | 4.18 | The Committee is also further of the view that in order to avoid arbitrary valuation of properties, indivative norms should be fixed for value of real estate in different areas which should serve as a |

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| | | bench mark. These norms should be reviewed periodically say three years. The Valuation Cell, on determination of these norms for valuation in a particular area, may examine cases where the property is transferred at a price below the norms, 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. |
| 27. | 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 minimum. |
| 28. | 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 lakh 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. |
| 29. | 5.8 | The Committee, therefore, of the view not in granting the benefit of deduction of the profits derived from export from teh total income the provision of Section 80 HHC should be recast on a reasonable basis so that the export incentive may not be unreasonably diluted or eroded by artificial or interpretative process. |
| 30. | 5.10 | This Comittee 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. Accondingly 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 |

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| | | export incentives should be considered by the Govt. from time to time. |
| 31. | 5.11 | 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. |
| 32. | 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. |
| 33. | 5.22 | The Committee urge that a thorough enquiry into uses 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 insturctions requiring disciplinary action to be taken in cases of delay were followed in all cases of delay. |
| 34. | 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. |
| 35. | 5.24 | The Committee is further of the view that the Deptt. should be prompt in settling refund cases and also should give necessary instructions to ensure that refund vouchers and advice note reach the assessee and the bank respectively simultaneously without any delay. |
| 36. | 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 Deptt. 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 |

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| | | operations should also be undertaken to bring more assessees under the scheme. Coordination of the Deptt. with other authorities like Sales Tax Deptt., Transport Authorities, Municipal authorities etc. will help the Deptt. to collect the required information and bring more people under the tax net. |
| 37. | 5.28 | The Committee desires that the new comprehensive computerisation scheme initiated by the Deptt. 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. |
| 38. | 5.29 | On a link between PAN and widening of tax receipts, the Committee was informed by the representative of the Ministry that to apply the benefits of PAN to Sales Tax etc., they were taking up the matter with the State Finance Ministers 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. |
| 39. | 5.30 | The Committee also desires that the Ministry should examine the feasibility of introducing PAN number in opening a bank account. |
| 40. | 5.31 | The Committee further suggests that the Ministry should specify more categories of transactions 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 crosschecking with a view to detecting cases of tax evasion. |