

**FIFTY-FOURTH REPORT**  
**ESTIMATES COMMITTEE**  
**(1987-88)**

(EIGHTH LOK SABHA)

MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE

[Action Taken by Government on the recommendations contained in the Forty-Eighth Report of Estimates Committee (8th Lok Sabha) on the Ministry of Finance, Department of Revenue—Revenue Leakage.]



*Presented to Lok Sabha on 12 April, 1988*

LOK SABHA SECRETARIAT  
NEW DELHI

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## C O N T E N T S

	PAGE
COMPOSITION OF THE COMMITTEE . . . . .	(ii)
COMPOSITION OF THE STUDY GROUP ON ACTION TAKEN REPORT OF ESTIMATES COMMITTEE (1987-88) . . . . .	(v)
INTRODUCTION . . . . .	(vii)
CHAPTER I Report . . . . .	1
CHAPTER II Recommendations/Observations which have been accepted by Government . . . . .	15
CHAPTER III Recommendations/Observations which the Committee do not de- sire to pursue in view of Government's replies . . . . .	40
CHAPTER IV Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee . . . . .	48
CHAPTER V Recommendations/Observations in respect of which final replies of are still awaited . . . . .	55
APPENDIX Analysis of Action Taken by Government on the recommendations contained in the Forty-Eighth Report of Estimates Committee (Eighth Lok Sabha) . . . . .	59

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(1987-88)

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\*Elected on 6th August, 1987 *vice* Prof. Narain Chand Parashar resigned from the Committee w.e.f. 3rd June, 1987.

\*\*Ceased to be Members of the Committee on 14-2-1988 on being appointed Ministers of State in the Union Council of Ministers.

(iv)<sub>c</sub>

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**STUDY GROUP ON ACTION TAKEN REPORTS OF  
ESTIMATES COMMITTEE  
(1987-88)**

1. Smt. Chandra Tripathi—*Chairman*
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3. Shri Hannan Mollah
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6. Shri P. M. Sayeed
7. Shri V. S. Krishna Iyer
8. Shri Shantaram Naik
9. Shri A. Charles

## INTRODUCTION

1. The Chairman of the Estimates Committee having been authorised by the Committee to submit the Report on their behalf present this Fifty-Fourth Report on action taken by Government on the recommendations contained in the Forty-Eighth Report of the Estimates Committee (8th Lok Sabha) on the Ministry of Finance, Department of Revenue—Revenue Leakages.

2. The Forty-Eighth Report was presented to Lok Sabha on 30th April, 1987. Government furnished their replies indicating action taken on the recommendations contained in that Report on 7th December, 1987. The replies were examined by the Study Group on Action Taken Reports of Estimates Committee at their sitting held on 23 March, 1988. The draft report was adopted by the Estimates Committee on 30 April, 1988.

3. The report has been divided into following Chapters :

- (i) Report
- (ii) Recommendations/Observations which have been accepted by Government.
- (iii) Recommendations/Observations which the Committee do not desire to pursue in view of Government's replies.
- (iv) Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee.
- (v) Recommendations/Observations in respect of which final replies of Government are still awaited.

4. An analysis of action taken by Government on the recommendations contained in Forty-Eighth Report of Estimates Committee (Eighth Lok Sabha) is given in Appendix. It would be observed that out of 53 recommendations made in the Report, 31 recommendations i.e. about 58 per cent have been accepted by Government and the Committee do not desire to pursue 5 recommendations i.e. about 9.5 per cent in view of Government replies. Replies of Government in respect of 12 recommendations i.e. about 23 per cent have not been accepted by the Committee. Final replies in respect of 5 recommendations i.e. about 9.5 per cent are still awaited.

NEW DELHI;  
4 April, 1988  
15 Chaitra 1910(S)

CHANDRA TRIPATHI,  
Chairman,  
Estimates Committee

## CHAPTER I

### REPORT

1. This report of the Estimates Committee deals with action taken by Government on the recommendations contained in their 48th Report (8th Lok Sabha) on the Ministry of Finance, Department of Revenue—Revenue Leakages which was presented to Lok Sabha on 30 April, 1987.

2. Action Taken notes have been received in respect of all the 53 recommendations in the Report.

3. Action Taken notes on the recommendations of the Committee have been categorised as follows :—

(i) Recommendations/Observations which have been accepted by the Government :—

Sl. Nos. 1, 2, 3, 4, 5, 6, 7, 9, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 26, 27, 32, 34, 36, 37, 38, 39, 40, 41, 48 and 50.

(Chapter II—Total 31)

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

Sl. Nos. 12, 19, 25, 45 and 47.

(Chapter III—Total 5)

(iii) Recommendations/Observations in respect of which Government's replies have not been accepted by the Committee :—

Sl. Nos. 8, 10, 11, 28, 29, 35, 42, 43, 44, 46, 52 & 53.

(Chapter IV—Total 12)

(iv) Recommendations/Observations in respect of which final replies are still awaited :—

Sl. Nos. 30, 31, 33, 49 and 51.

(Chapter V—Total 5)

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

#### *Unearthing of Income in the Self-employed Sector*

##### **Recommendation (Sl. No. 4, Para 1.30)**

5. The Committee had observed that there was considerable scope for unearthing unaccounted income in the self-employed sectors consisting of lawyers, doctors, chartered accountants, tailors, architects etc. Revenue Secretary also echoed this feeling when he stated during evidence that a number of raids were conducted in Delhi on doctors, hospitals and clinics

which revealed huge turnover and that "Cat Scan people were having a turnover of Rs. 1 lakh per day." The Committee desired the Ministry to consider the feasibility of creating a cell in the Income Tax Department which should exclusively devote itself to finding ways and means and intensify efforts to unearth unaccounted income in this sector. However, to obviate general impression that some sort of favouritism took place in the matter of conducting raids, it should be ensured that the element of subjectivity was scrupulously obviated leaving no scope for discrimination in the matter of taking decision about conducting raids and the consequent follow up action.

6. The Ministry of Finance, Department of Revenue in their reply have stated that the recommendation of the Committee regarding creation of a Cell which should exclusively deal with tax evasion by the self-employed sector had been noted. Cases of self-employed professionals were already centralised with some Income Tax Officers in each charge where they could easily study the *modus-operandi* of tax evasion by reference to actual assessment cases on an year to year basis.

7. As regards the second recommendation relating to complete objectivity in the matters of searches, the Income-tax Act provided that an authorisation of search could only be ordered by a very senior officer (The Head of the Deptt.) after considering the information he had in his possession provided he had reason to believe that a search was justified. "This reason to believe was invariably based on material evidence before the officer. Before the issue of search warrant a formal order was required to be passed in writing. The Government, both by legislative measures as well as administrative instructions, had taken all steps to ensure that no discrimination or favouritism took place both in the matter of conducting of searches as well as in their follow up action.

8. The Committee find that the Ministry have not given serious thought to their recommendation to consider the feasibility of creating a cell in the Income Tax Department which should exclusively devote itself to finding ways and means and intensify efforts to unearth unaccounted income in the self-employed sector. The Ministry have merely stated that the recommendation 'has been noted' and have explained the existing procedure in this regard. In Committee's view, there is considerable scope for unearthing unaccounted income in the self-employed sector. They, therefore, reiterate their earlier recommendation and would like the Ministry to examine it in its proper perspective.

#### *Searches and Seizures—Launching of prosecutions*

##### **Recommendation (Sl. No. 8, Para 1.50)**

9. The Committee had been informed that while year-wise figures of number of search and seizure assessments completed and the number of



prosecutions launched were available with CBDT, their co-relation in so far as assessment completed and prosecution launched with specific search and seizure operations was stated to be not possible. From the procedure as explained by the Ministry the Committee drew an inevitable inference that cases of search and seizure in which ultimately prosecutions had to be launched were allowed to hang on for years rendering the very objective behind searches and seizures futile and infructuous. The Committee expressed serious concern over the matter and desired the Ministry/CBDT to initiate very early action for amending the Income Tax Act so as to provide time limit in the Income Tax Act for filing prosecution complaints.

10. The Ministry in their reply have stated that the matter had been examined. No time limit had been provided under the Income Tax Act for filing prosecutions. It may be noted that under Chapter XXXVI of Cr. P.C. limitation for taking cognizance to offence had been provided under section 468 which ranged between six months to three years depending upon the nature of the punishment. However, there was no limitation prescribed under Cr. P. C. also for offences with punishment of imprisonment exceeding three years. Power was also give to the courts to take cognizance of an offence after the expiry of the period of limitation if it was satisfied on the facts and in the circumstances of the cases that the delay had been properly explained or that it was necessary so to do in the interest of justice. Economic offence (inapplicability of Limitation) Act, 1974 provided w.e.f. 1-4-74 that for economic offence this period of limitation would not be applicable.

11. In view of the gravity of offences under the Income-tax and Wealth-tax Acts, the legislature in its wisdom raised the prison sentence to three years for most of the offences so as to remove any time limit for filing of prosecution and thus to prevent the tax evaders from escaping punishment.

12. The Committee are surprised at the reply of the Ministry which States that 'no time limit has been provided under the Income Tax Act for filing prosecutions. It is precisely for this reason that the Committee had recommended suitable amendment of the Act, while drawing an inference that cases of search and seizure in which ultimately prosecutions had to be launched, were allowed to hang on for years together with the Department of Income Tax. The Committee feel that the position calls for serious concern and corrective action. The Committee feel that it would not be proper that the Ministry should remain complacent in the expectation that punishment of 3 years would invariably take place in all cases. The Committee, therefore, reiterate their recommendation and desire the Ministry to initiate action thereon at the earliest.

*Cases pending in Courts***Recommendations (Sl. Nos. 10 and 11, Paras 1.66 to 1.68)**

13. The Committee had found that the number of prosecution cases pending till March, 1986 in various Courts was 9,303 whereas the convictions and acquittals during 1985-86 was 70 and 43 respectively. Sharing the concern of the Committee in regard to heavy pendency, the Revenue Secretary had stated during evidence that "the pendency of cases is about 9000 and the disposal is about 200 to 300 cases. So this is a very serious thing." Referring to the pace of disposal of such cases, Revenue Secretary had drawn a very ironic comparison by stating that "Here the culture is quite different. I find that tax cases in England or America are disposed of very fast. Customs cases are disposed of in 15 days. Perhaps for 15 years, it goes on here." The Committee noted that the setting up of Special Courts dealing with 12 Central Acts including the Direct Taxes Acts at 10 places, was also a recent development and such Special Courts had not so far been set up at metropolitan cities like Bombay, Calcutta and Ahmedabad where a large number of cases were piling up.

14. The Committee was informed that administration of law and justice being a State subject, the Ministry was in 'dialogue' with various State Governments for providing Magistrates who should exclusively attend to the cases arising out of economic offences. The Committee were in complete agreement with the proposal that cases belonging to Income Tax, Central Excise and Currency Acts etc. should be tried by 'exclusive Magistrates' so that they developed knowledge and expertise on the subject and that their number should also be sufficient to cope with the cases entrusted to them.

15. The Committee were distressed to observe that the Ministry/CBDT had miserably failed in carrying out their responsibility in taking timely and appropriate steps for improving the position with regards to disposal of pending cases relating to economic offence which arose mainly out of the searches and seizures carried out by them to detect concealment of unaccounted income which in turn generated black money. While the pendency had been rising year-after-year, Ministry/CBDT had not taken up the matter with the seriousness it deserved with the result that pendency was gradually going up. The Committee recommended that the Ministry/CBDT should take up the matter urgently at the highest level of the Government for setting up of the Special Courts at three metropolitan cities namely Bombay, Calcutta and Ahmedabad. They should also formally take up the matter regarding provision of 'exclusive Magistrate' for dealing with cases of economic offences with the State Governments, through the Union Ministry of Law and Justice and analyse the feedback for immediate appropriate action so that exclusive Magistrate trying economic offences did not remain on paper and became a reality at the earliest.

16. The Ministry in their reply have stated that the matter relating to the setting-up-earmarking of the courts for economic offences exclusively was taken up with the State Governments of Gujarat, Maharashtra and West Bengal and that it was the responsibility of the State Governments to set up special courts and provide adequate number of Trial Magistrates.

17. The Committee express distress over the reply of the Ministry which suggests casual and apathetic approach towards their recommendations over a very vital issue. They had expressed concern over the fact that while there was a gradual rise, year-after-year, in the pendency of cases of economic offences in various courts, the Ministry sat tight and did not take up the matter with the seriousness it deserved. The Committee had, therefore, recommended the Ministry/CBDT to take up the matter urgently at the highest level of the Government for setting up Special Courts at the three metropolitan cities namely Bombay, Calcutta and Ahmedabad. They had further recommended that the matter regarding provision of 'exclusive Magistrates' for dealing with economic offences, be taken up with the State Governments through the Ministry of Law and Justice. Reiterating their recommendation, the Committee desire the Ministry to initiate action urgently in this behalf.

*Rationalisation of Taxation Laws and Simplification of Procedures*  
**Recommendation (Sl. No. 14, Para 1.90 & 1.91)**

18. The Committee welcomed the measures for rationalisation of Taxation Laws and simplification of procedures which the Government proposed to incorporate in a comprehensive Direct Tax Laws (Amendment) Bill proposed to be introduced in the Parliament during the (1987) Budget Session. The proposed Bill was a sequel to the wide ranging discussions for over four months amongst knowledgeable people and Parliamentarians on the "Discussion Paper" which was laid on the Tables of both the Houses of Parliament on 14th August, 1986. The objectives underlying the "Discussion Paper" *inter alia* included placing trust on the tax-payer, reducing the area of discretion of the officers dealing with direct taxes, providing effective deterrence against tax evasion, preventing leakage of revenue through instrumentalities of taxable entities removing uncertainties in the matter of assessments and reducing litigation. Based on these objectives, the proposed Bill was to contain proposals like uniform accounting year for all tax-payers, computation of income of the charitable trusts in the same manner as the income of any other tax-payer, bringing taxable income close to the real income, particularly the income on property, simplification of procedures relating to advance payment of taxes, reduction in area of discretion of the Income Tax Officers and elimination of one tier of appeal i.e. of High Courts and

instead giving this jurisdiction to a high-powered tribunal whose decision will be binding all over the country.

19. The Committee had expressed the hope that the proposed Bill will be introduced in Parliament at the earliest and also enacted at an early date. The Committee were aware that making and simplification of tax laws was a continuous exercise on an on-going basis. The Committee were however, of the considered view that the main success of any law lay in its proper and faithful implementation by a dedicated and sincere administrative machinery. The Committee further expressed the hope that Ministry/CBDT will lose no time in implementation of provisions of the proposed law soon after enactment and gear up the machinery to achieve the underlying objectives so as to bring about a discernible change in the administration of tax laws and encourage its voluntary compliance by the tax-payers.

20. The Ministry in their reply have stated that the recommendations made by the Committee in the above paras have been noted for consideration and shall be implemented as soon as possible.

**21. The Committee express serious concern over the casual approach in which the Ministry has dealt with their recommendations as is reflected in the reply which states that the recommendations of the Committee 'have been noted for consideration and shall be implemented as soon as possible'. They would like to emphasise that the Ministry should deal with their recommendations with all the seriousness and expedite implementation thereof in letter and spirit.**

#### *Standardised Valuation of Properties*

##### **Recommendation (Sl. No. 20, Para 1.141)**

22. The Committee had welcomed the proposal of the Government to incorporate Rule 1-BB of the Wealth Tax Rules, which provided standardised valuation of all properties in the statute itself. For this purpose, the Government were stated to have published draft valuation rules in March, 1986 to invite public opinion thereon. The draft valuation rules had been modified in the light of public response and as a result of simplification exercise, these rules envisaged standardised valuation of all properties, shares and jewellery etc. and not the market value thereof. Chairman, CBDT indicated during evidence that a Bill for incorporation of these rules in the Wealth Tax Act was likely to be introduced in Parliament during the (1987) Budget Session. The Committee took this measure to be a step in the right direction and desired the Ministry to bring it before Parliament at the earliest.

23. The Ministry in their reply have stated that the recommendations made by the Committee had been noted and will be implemented as early as possible.

24. The Committee had recommended that the Bill to incorporate Rule 1-BB of the Wealth Tax Rules, which provides standardised valuation of all properties and which was proposed to be introduced during the 1987 Budget Session, be brought before Parliament at the earliest. But the reply of the Ministry states that 'the recommendation made by the Committee has been noted and will be implemented as early as possible'. The Committee wonder as to what the Ministry wants to convey through this reply. They would, however, desired to be informed of the fate of the proposed legislation within three months.

*Strengthening of Intelligence gathering Agencies*

**Recommendations (Sl. Nos. 28, 29, Paras 3.9, 3.10)**

25. The Committee learnt that for strengthening intelligence gathering agencies under the Directorate of Revenue Intelligence, modern sophisticated anti-smuggling electronic equipments and devices were being pressed into service. The Customs telecommunications network had covered the west coast, part of east coast and the Indo-Nepal border and coverage extended to Rajasthan sector of the Indo-Pakistan border and Indo-Bangladesh border in 1985. The Committee had been informed that while the work on the Indo-Pakistan border had been completed, it was still incomplete on the Indo-Bangladesh border and that the question of further expansion of the telecommunication network in this sector would depend on allocation of resources and trends in smuggling. The Committee were surprised as to why the work on the Indo-Bangladesh border which was equally vulnerable for smuggling and large scale intrusion of people from across the border, had not been completed. They urged that the left out work of providing the telecommunication network on the Indo-Bangladesh border should be completed without delay and constraints of resources should not be allowed to stand in the way of such a vital task which related to strengthening of intelligence agencies.

26. The Committee were informed that strengthening of preventive and intelligence set up in the vulnerable areas under the Directorate of Revenue Intelligence, was kept under constant review. While 598 posts of various grades were sanctioned for strengthening P&I set up in the vulnerable areas of West coast, East coast, Indo-Nepal and Indo-Pak borders in 1983, further review of staff strength in these areas had not been taken up after 1983. According to the Committee it could not be considered to be a "constant review" by any standards, particularly in view of fast changing situations in the vulnerable areas on our borders and increase in the smuggling activities from neighbouring countries. The Committee desired the CBEC to undertake a meaningful review of the requirements of the staff and equipment in these areas on a regular basis, preferably every two years and induct personnel and equipment wherever found wanting, without delay.

27. The Ministry in their reply have stated that the observations/recommendations of the Committee had been noted. The Scheme for setting up a telecommunication network along the Indo-Bangladesh border was sanctioned in 1985. Action had been taken for procuring and positioning all requisite equipment and also about 35% of the posts have been filled. Out of 56 wireless stations along the Indo-Bangladesh border, 21 stations were fully operational. As soon as suitable personnel were available, the remaining posts will be filled and all the stations made operational.

28. The Committee had made specific recommendation that the left-out telecommunication network on the Indo-Bangladesh border should be completed without delay. But after a lapse of more than six months time the Ministry has reported to the Committee that out of 56 wireless stations along the Indo-Bangladesh border, only 21 stations are fully operational. The Committee regret to observe that the Ministry have treated their recommendation in such a light-hearted manner. The Committee reiterate their recommendation and desire the Ministry to take urgent steps to complete the left-out telecommunication network on Indo-Bangladesh border and inform the Committee of the progress made within 3 months.

29. The Committee had further desired the CBEC to undertake a meaningful review of the requirements of the staff and equipment in the border areas, preferably every two years and induct personnel and equipment whenever found wanting without delay. But to their dismay, the Committee find that the Ministry/CBEC have ignored this recommendation and have not cared to state anything in this regard in their reply. The Committee desire positive steps should be taken in this direction under intimation to them within three months.

#### *Pendency of Customs Prosecution Cases*

##### **Recommendation (Sl. No. 35, Para No. 3.56)**

30. The Committee had expressed serious concern at the huge pendency of Customs prosecution cases in various courts of law noting that at the end of 1985, 2,462 cases relating to customs prosecutions were pending. According to the Ministry for expeditions disposal of these cases, 13 Special Courts exclusively for trying cases of economic offences had already been set up. The Ministry was also stated to have mooted setting up of 18 more such Special Courts in January, 1986 and the matter for setting was still under consideration of the Ministries of Home Affairs and Law & Justice. The Committee desired the Ministry of Finance to take up this matter at the highest level of the Government so as to have it decided expeditiously. Matter should also be initiated and taken up with the State Governments for providing infrastructural facilities for setting up these courts simultaneously.

31. The Ministry in their reply have stated that the observations/recommendations of the Committee have been noted. The matter was

taken up with the Ministry of Home Affairs and the Ministry of Law at the Additional Secretary's level in March, 1987. The matter for setting up of Special Court at Ahmedabad was taken up with the State Government at Secretary (Revenue)'s level in June, 1987. More Special Courts will be set up by moving the Central Government and the State Governments.

32. Taking serious note of a very large number of customs prosecution cases pending in various courts of law, the Committee had desired that the matter regarding setting up of 18 more Special Courts, might be taken up at the highest level of the Government so as to have it decided expeditiously; and the matter regarding providing infrastructural facilities for setting up these courts be taken up with the State Governments simultaneously. But the Ministry's reply shows that the matter was taken up with the Ministries of Home, Law and Justice at Additional Secretary's level in March, 1987 and with the State Government of Gujarat at Secretary (Revenue)'s level in June, 1987, without indicating as to what headway had been made in this regard. The Committee express its disappointment at the attitude of the Ministry and would like to impress upon them to accomplish the job without any further loss of time.

*Modernisation and Re-structuring of Customs and Central Excise Departments*

**Recommendation (Sl. No. 37, Paras No. 3.71 and 3.72)**

The Committee were informed that in view of Government's new thrust towards mobilisation of additional resources for developmental plans, urgent measures were to be taken to streamline and modernise different tools and procedures of Customs and Central Excise Departments. It became apparent that computerisation of various processes and procedures in these departments was essential to obtain proper scrutiny with speed and accuracy and to build up a data bank with a view to bringing about uniformity in assessments, reduction in disputes and containment of duty evasion. The existing administrative pattern in these departments, which involved frequent physical contacts between the assesseees and the officers at lower levels, with consequential growth of corrupt practices, also called for a change. It had, therefore, been decided to redesign the structure of both these departments, to reinforce manpower at certain levels, to upgrade certain posts with reference of their job content and project higher responsibilities. Keeping these considerations in view, proposals for restructuring of Customs and Central Excise Departments were presently under final consideration stage of the Department of Personnel.

34. The Committee expressed satisfaction that at long last the proposals for modernisation and restructuring of these Departments, which were overdue, have reached a final stage of their approval by the Department of Personnel. The Committee expressed the hope that the proposals

2-939LSS/87

will be approved by the Department of Personnel at the earliest and restructuring of these Departments would be carried out and accomplished within a stipulated time-frame.

35. The Ministry in their reply have stated that the observations of the Committee have been noted. The proposals for restructuring the Customs and Central Excise Departments were being pursued with the Department of Personnel.

36. The Ministry had reported to the Committee that the matter regarding re-designing and re-structuring of the Central Excise and Customs departments was under the final consideration of the Department of Personnel and had expressed the hope that the proposals would be approved by them at the earliest. But even after a lapse of more than six months, the reply of the Ministry indicates that the matter is still 'being pursued' with the Department of Personnel. The Committee cannot but express their dissatisfaction over the disinterested and casual approach of the Ministry towards their recommendations. They desire the Ministry to take up the matter with the Department of Personnel at the highest level and have it decided conclusively, without any further delay.

*Filling up of Vacant posts in the Central Economic Intelligence Bureau*

**Recommendation (Sl. No. 38, Para Nos. 3.85 to 3.87)**

37. The Committee had commended the setting up of the Central Economic Intelligence Bureau to co-ordinate and strengthen the intelligence gathering activities of all the intelligence and enforcement agencies both at the Central and State Level, concerned with various economic offences and for overall direction and control of the activities of these agencies. The Bureau which was also responsible for working out institutional arrangements for sharing of economic and commercial intelligence with various State Governments and foreign Governments headed by a Director General of the rank of Additional Secretary and had a total sanctioned staff strength of 131. Against this the working strength as on 25th February, 1987, was only 86.

38. The Committee had appreciated that within the short span of its inception, the Bureau had made its presence felt and made commendable achievements in various fields viz., seizure of gold, foreign and Indian currency and narcotics worth Rs. 5 crores in Bombay in September, 1985, seizure of incriminating documents in October, 1985 which disclosed evasion of Central Excise duty of over a crore of rupees by a firm in Haryana; organising the first ever co-ordinated operation 'KAL BHAIRAV' in December, 1985; action in May, 1986 against a notorious gang of smugglers believed to be smuggling arms and ammunition across the Indo-Pakistan border; and operation 'RUDRA' against tax evaders in the State of Jammu and Kashmir in July, 1986.



39. The Committee had recommended that all the vacant sanctioned posts in the Bureau be filled without delay, and it should be provided with latest modern equipment/gadgets for carrying out meaningful operations smoothly.

40. The Ministry in their reply have stated that the observations/recommendations of the committee have been noted.

41. As regards filling up of vacant sanctioned posts 95 posts out of 131 sanctioned have already been filled up (as on 27-10-1987). Efforts are being made to fill up the remaining posts as early as possible. After the remaining posts, particularly those in the cadre of Intelligence Officers, were filled up and the Bureau become fully operational, necessary gadgets will also be procured for the Bureau so as to make its operations more effective.

42. The Committee are disappointed at the reply of the Ministry to their recommendation regarding filling up of the vacant sanctioned posts and providing equipment/gadgets to the operational staff without delay. The Ministry have dealt with the matter in a routine manner by stating that out of 135 sanctioned posts 95 have been filled up (86 posts had been filled upto Feb., 1987); and after the remaining posts are filled up and the Bureau becomes fully operational, necessary gadgets will also be procured. The Committee had, however, desired and expected a multi-pronged, simultaneous action for filling up the vacant posts as also procurement of the equipment and gadgets. But unfortunately no headway seems to have been made so far. The Committee would urge the Ministry to finalise the matter without any further delay.

*Prosecution cases filed under the Customs Act*

**Recommendation (Sl. Nos. 42 & 43, Para Nos. 3.118 & 3.119)**

43. The Committee had expressed distress to find that as on 31 December, 1986, there were 3,106 prosecution cases filed under the Customs Act, which were at various stages of trial. These included 839 cases which were pending for more than 3 years. The Committee desired vigorous measures to be taken by the CBEC to liquidate pendency of cases so that the revenue locked up in these cases was released at the earliest.

44. The Committee further noted that there were 757 dormant cases under the Customs Act, pending for various periods exceeding 3 years, as the accused persons in these cases were not available for trial readily and many of them were absconding or were foreigners who had left the country. In Committee's view, these cases should not be allowed to hang on for years together for want of accused persons or evidence. If there was no provision under the law to close these cases after a lapse of specified period, the Committee recommended that the law should be modified for the purpose at the earliest.

45. The Ministry in their reply have stated the observations/recommendations of the Committee had been noted.

46. **The Committee had recommended that measures should be taken to liquidate prosecution cases which are pending in various courts for more than 3 years, and that the Customs Act should be modified to provide for closure/withdrawal of dormant prosecution cases which are hanging on for years together where the accused persons are absconding or are foreigners who have left the country. Surprisingly, the reply of the Ministry does not indicate any steps having been taken in the matter and only states that the 'observations/recommendation of the Committee are noted'. The Committee would like the Ministry to initiate action urgently in accordance with their recommendations and report progress at the earliest.**

*Storing of Confiscated/Seized Goods*

**Recommendation (Sl. No. 44, Para No. 3.120)**

47. The Committee had expressed serious concern over the fact that for storing seized/confiscated goods, the Customs Department was having hired godowns of large areas as compared to the departmental godowns in the metropolitan cities like Bombay, Calcutta, Madras and Delhi. While the quantum of seized/confiscated goods was on the increase, the department had not given any thought to increase its own storage capacity by acquiring/building godowns of its own. The Committee were sure that Government must be paying heavy amount by way of rent for the hired godowns. The Committee, therefore, desired the CBEC to give a serious thought to this matter and draw plans for acquiring/building godowns in all the metropolitan cities without delay.

48. The Ministry in their reply have stated that the Committee's observations regarding acquisition/construction of godowns for storage of seized and confiscated goods had been noted.

49. **The Committee had recommended for drawing plans for acquisition/construction of their own godowns in all the metropolitan cities for storage of seized/confiscated goods and to do away with hired godowns and avoid payment of heavy amount by way of rent. But instead of indicating chalking out of any specific plans in this regard, the Ministry have only "noted" the Committee's observations. The Committee cannot but express their unhappiness upon this light-hearted approach of the Ministry towards their recommendations. They would like the Ministry to initiate steps in this direction without delay.**

*Collusion of Customs and Central Excise Officers with economic offenders.*

**Recommendation (Sl. Nos. 46 and 52, Para Nos. 3.122 & 3.164)**

50. The Committee had found that during the last 3 years, 28 officers of various levels were reported involved in wrongly giving benefits of Trans-

fer of Residence facilities leading to evasion of Customs duty on baggage. While departmental action had been taken against 13 officers, departmental proceedings/enquiry were in various stages of progress in respect of the remaining officers. The Committee urged the Department to finalise these cases at the earliest. They also desired the C.B.E.C. to adequately strengthen its vigilance machinery so as to apprehend officers indulging in such malpractices.

51. The Committee were informed that the cases of Group 'A' and 'B' Officers found in collusion with economic offenders in the Customs and Central Excise departments were referred to the Central Vigilance Commission for seeking their advice for taking appropriate disciplinary action against them. Cases of Group 'C' and 'D' officers were decided in the Department itself. The Committee desired the CBEC to take strict, deterrent and exemplary action against officers found in collusion with economic offenders so as to discourage others in indulging such malpractices. At the same time vigilance machinery should be strengthened to detect such collusions. The Committee further desired the CBEC to scrupulously follow their earlier recommendations with regard to rotation of officers so that no officer was allowed to continue at a sensitive position/station for more than three years. Exception to this rule may be made strictly in very rare cases only.

52. The Ministry in their reply have stated that the observations/recommendations of the Committee had been noted for further guidance.

53. The Committee had desired the CBEC to finalise cases of 13 officers against whom departmental proceedings/enquiry were in various stages of progress. They had also urged to strengthen the Vigilance machinery so as to apprehend officers indulging in malpractices. Instead of communicating the progress made in the cases of enquiry and the steps taken to strengthen the Vigilance machinery, the Ministry have only "noted" the recommendations of the Committee for further guidance. The Committee would like to be informed of the latest position in regard to enquiry cases as also the concrete steps taken to strengthen the Vigilance machinery.

54. The Committee had desired the CBEC to scrupulously follow their recommendations with regard to rotation of officers so that no officer is allowed to continue at a sensitive position for more than 3 years. But the Ministry's reply, as in the case of earlier recommendations, does not indicate concrete steps taken or guidelines framed in accordance with their recommendation. They would like to be apprised of the concrete action taken in the matter.

*Grant of Awards/Rewards to informers/Officers*

**Recommendation (Sl. No. 53, Para No. 3.175)**

55. The Committee had taken note of the fact that there were schemes for grant of awards/rewards to informers, officers and staff in the CBEC

for providing information leading to apprehending smugglers and for unearthing evasion of customs and excise duty. There was also a provision for Presidential awards for meritorious services rendered by officers in these Departments even at the risk of their lives. The Committee desired these schemes to be reviewed periodically so as to keep them suitably attractive. They further desired that complete objectivity should be observed for arriving at decisions about these awards/rewards. The Committee were informed that the scheme of reward was not applicable to senior officers in these Departments. They would desire that some sort of incentive should be available to senior officers also so as to encourage them for devotion and dedication to their duties as also inculcating a sense of competition amongst them.

56. The Ministry in their reply have stated that the observations/recommendations of the Committee were noted.

57. The Committee had recommended that a scheme for some sort of incentives in the shape of rewards/awards should be formulated for senior officers also for their meritorious services in unearthing evasion of customs/excise duties or apprehending smugglers. But the Ministry's reply does not go beyond noting the recommendations/observations of the Committee. The Committee would like to be informed of the concrete steps taken for implementation of their recommendation.

#### *Implementation of recommendations*

58. The Committee would like to emphasise that they attach the greatest importance to the implementation of recommendations accepted by Government. They therefore, urge that Government should take steps in this regard. In cases where it is not possible to implement the recommendations in letter and spirit for any reason, the matter should be reported to the Committee in time with reasons for non-implementation.

59. The Committee desire that reply in respect of the recommendations contained in Chapter V of the Report may be finalised and final reply of the Government furnished to Committee expeditiously.

## CHAPTER II

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

#### Recommendations (Sl. Nos. 1 and 2, Paras 1.10, 1.11 and 1.28)

Notwithstanding various measures taken or proposed to be taken by the Government to rationalise and simplify tax laws and to bring about improvements in the quality of tax administration, the Committee are constrained to observe that combating the menace of Revenue leakages and generation of black money in the country did not receive until recent years the importance it deserved. It is rather a belated realisation by the Government as late as in 1985 that the subject has assumed importance when according to Revenue Secretary "a major series of revenue reforms were started.....the tax rates were drastically reduced and the whole lot of it (tax laws) was taken up for simplification." The "Discussion Paper" on simplification and rationalisation to tax laws is also a recent phenomenon based on which the Government now propose to bring forward a comprehensive Amending Bill containing about 350 clauses.

It is too obvious to be pointed by the Committee that the growth of an economy in the country and entire gamut of financial administration and fiscal policies of the Government are dependent on the smooth flow of revenues. This would be possible only if tax laws are simple and unambiguous, there is sound and committed tax administration to implement them and voluntary compliance thereof by the taxpayer. However, contrary to this, complicated and intricate tax laws and procedures, rampant corruption in the tax collecting machinery and habitual tax avoidance by a large section of assesseees have already done an irreparable damage allround. The Committee are aware that these factors have also contributed to the growth of black money which has assumed alarming proportions and has earned the dubious distinction of a 'parallel economy' in the country. The Committee feel that there is no further scope for laxity or compliscence and would like the Government to girdle their loins and proceed with all the administrative and legislative measures with all the speed at their command to achieve the objective at the earliest.

The Committee are informed that the Central Information Branches, functioning under the Commissioners of Income-tax had identified 85 sources of information for discovering new assesseees and for locating concealment of income by the existing assesseees. These branches were co-ordinating their activities and disseminating necessary information to the field officers. The review to update the sources of information,

(which the Committee feel remained more on paper and is hardly observed in practice) is stated to be taken every year and an up-to-date list thereof was last circulated to field officers in June, 1985. However, during evidence (held in March, 1987) referring to item 57 of the list of Action Plan for Survey, when it was pointed out that the electricity consumption bills for over Rs. 2000/- per annum, paid by non-industrial users needed upward revision in view of increase in rates of electricity charges, Revenue Secretary immediately conceded by stating "this ceiling needs to be revised, I agree." The Committee are constrained to observe that either the statement of the Ministry that these sources are reviewed and updated every year is incorrect and misleading or the review itself is conducted in a casual and perfunctory manner. Whatever be the case it reflects adversely on the functioning of the Central Information Branches which are supposed to be the basic agency for providing necessary information to the field officers for proceeding with their job. The Committee desire that the list of sources may be thoroughly scanned and made realistic and record kept indicating the number of new assesseees discovered with reference to a particular item in the list. The Committee also desire that functioning of the Central Information Branches should be reviewed periodically by the respective Commissioners of Income-tax under whom these Branches are functioning.

### **Reply of Government**

The existing instructions relating to utilisation of information collected from the sources, identified for the purpose have been reviewed and the revised procedure for functioning of CIBs has been laid down in the CBDT's Instruction No. 1759 dated 11th June, 1987. With the strengthening of the investigation Wings the CIBs have been placed under the control and supervision of DSI (Inv). Instead of fixing ceilings of monetary limits for every source of information at the All-India Level, it has been decided that the DSI (Inv) under whom a particular CIB is functioning, will in consultation with the DI (Inv) fix monetary limits for the sources identified for collection of information for one year. The DSI (Inv) may at their discretion vary the monetary limits from those specified in survey Action Plan taking into account all relevant factors like workload and manpower available in their respective zones. Instructions requiring maintenance of registers for recording receipt of information for verification of information received with reference to the source of information have been issued. But for linking the lakhs of new assesseees that are found every year with 85 present sources of information will only be possible when Investigation Wing is provided with adequate number of computers.

[Ministry of Finance, O. M. No. 62/23/87-T.C. Dated 7th December, 1987]

### **Recommendation (Sl. No. 3, Para 1.29)**

The Committee express satisfaction over the arrangements which provide regular meetings of all the investigating and enforcement agencies of the Central and State Governments, at the State headquarter, under the Chairmanship of the Chief Secretary or Home Secretary of the State Governments, for coordinating their activities and exchange of information relating to economic offences. The Committee hope that such meetings do take place at regular intervals. They would like these arrangements to be further strengthened and institutionalised so that information relating to economic offences having inter-state ramifications is gainfully exchanged among the respective investigating/enforcement agencies.

### **Reply of Government**

Zonal Meetings of Collectors of Customs and Central Excise, Commissioners of Income-tax and Commissioners of Sales-tax are held to exchange information relating to economic offences and coordinating action for detection of such cases. Instructions have now been issued to all the revenue enforcement agencies to send the minutes of their Zonal Meetings to the Director General, Central Economic Intelligence Bureau. This new post of Director General, CEIB was created with effect from 20-9-1985 to coordinate the activities at the national level between the Department of Income-tax, Customs and Central Excise, Revenue Intelligence and Narcotics Bureau.

[Ministry of Finance, O.M. No. 162/23/87-TC Dated 7th December 1987].

### **Further Reply of Government**

The Committee express satisfaction over the arrangements which provide regular meetings of all the investigating and enforcement agencies of the Central and State Governments, at the State Headquarter, under the Chairmanship of the Chief Secretary or Home Secretary of the State Governments, for coordinating their activities and exchange of information relating to economic offences. The Committee hope that such meetings do take place at regular intervals. They would like these arrangements to be further strengthened and institutionalised so that information relating to economic offences having inter-state ramifications is gainfully exchanged among the respective investigating/enforcement agencies.

The observations/recommendations of the Committee have been noted. The department has issued instructions from time to time for regular meetings to be held by the Customs authorities with all the Enforcement Agencies of the Central/State Government at the Headquarters level, Divisional level etc. In the vulnerable areas, particularly in the border regions, coast line and international airports, regular co-ordination meetings are held

which are attended by the Customs, B.S.F., Coast Guard, local police and other Enforcement Agencies deployed for taking co-ordinated action against smugglers and their activities. The information relating to economic offences is exchanged at various levels for further targeting the action against smugglers.

A Central Committee consisting of senior officials of Directorate of Revenue Intelligence, Coast Guard, Border Security Force and Department of Revenue has been constituted under the Finance Ministry's orders dated 21st October, 1987. This Committee would enable the agencies concerned to exchange information and to take co-ordinated action so that the total anti-smuggling effort is strengthened.

[Ministry of Finance O.M. No. 162/23/87-T.C. dated 14th December, 1987].

### **Recommendation (Sl. No. 4, Para No. 1.30)**

The Committee feel that there is considerable scope for unearthing unaccounted income in the self-employed sectors consisting of lawyers, doctors, chartered accountants, tailors, architects etc. Revenue Secretary also echoed this feeling when he stated during evidence that a number of raids were conducted in Delhi on doctors, hospitals and clinics which revealed huge turnover and that "Cat Scan people were having a turnover of Rs. 1 lakh per day." The Committee would, therefore, like the Ministry to consider the feasibility of creating a cell in the Income Tax Department which should exclusively devote itself to finding ways and means and intensify efforts to unearth unaccounted income in this sector. However, to obviate general impression that some sort of favouritism takes place in the matter of conducting raids, it should be ensured that the element of subjectivity is scrupulously obviated leaving no scope for discrimination in the matter of taking decision about conducting raids and the consequent follow-up action.

### **Reply of Government**

The recommendation of the committee regarding creation of a Cell which should exclusively deal with tax evasion by the self-employed sector has been noted. Cases of self-employed professionals are already centralized with some Income Tax Officers in each charge where they can easily study the *modus operandi* of tax evasion by reference to actual assessment cases on an year to year basis.

As regards the second recommendation relating to complete objectivity in the matters of searches, it is submitted that the Income-tax Act provides that an authorisation of search can only be ordered by a very senior officer (The Head of the Deptt.) after considering the information he has in his possession provided he has reason to believe that a search is justified. This



reason to believe' is invariably based on material evidence before the officer. Before the issue of search warrant, a formal order is required to be passed in writing. The Government, both by legislative measures as well as administrative instructions, has taken all steps to ensure that no discrimination or favouritism takes place both in the matter of conducting of searches as well as in their follow-up action.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987].

#### **Recommendation (Sl. No. 5, Para No. 1.31)**

The Committee note that *modus operandi* adopted by various economic offenders for suppressing their income and thereby evading taxes had been identified by the Central Board of Direct Taxes from time to time. The Committee understand that based on the recommendations contained in the Report 'Aspects of Black Economy in India' Government have initiated/taken various administrative and legislative measures to thwart such attempts by the economic offenders. These measures include liberalisation of summary assessment scheme and stepping up of deterrent measures like surveys, searches and prosecutions, simplification of forms for returns, simplification of tax laws and tax education through programmes in the mass media like television. The Committee would urge upon the Ministry to finalise the proposed administrative measures without delay and bring forward legislative proposals before Parliament expeditiously. They would also like to point out that as and when new measures are incorporated in the tax laws, ways are simultaneously discovered by the legal experts to avoid taxes by finding lacunae and loopholes therein. The Committee would, therefore, emphasise that Government should keep these aspects in mind while finalising the legislative proposals. According to the Committee that tax laws should be simple and clear to an average assessee and incapable of having varied interpretations.

#### **Reply of Government**

The recommendations made by the Estimates Committee in para 1.31 have been noted. It may be mentioned that while finalizing legislative proposals, every care is taken to ensure that there are no lacunae. However, it may not always be possible to anticipate all the subsequent events including judicial interpretations by all the High Courts and the Supreme Court. Hence plugging the loopholes is an on-going process.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987].

#### **Recommendation (Sl. No. 6, Para 1.47)**

The Committee are informed that surveys are conducted by the field officers with the purpose of locating new assessees and induce people to

file their income tax/wealth tax returns voluntarily. According to Revenue Secretary their target was to book six lakh new assesseees every year and according to him if 2 lakhs new assesseees are located as a result of surveys the remaining 4 lakhs would file returns voluntarily due to fear of raids etc. However the figures furnished to the Committee indicate that the number of surveys conducted during the years 1984-85, 1985-86 and 1986-87 (upto 31-3-1987) were 1,80,693, 1,65,911 and 1,27,050. As against these surveys the number of new assesseees who filed income-tax returns voluntarily during these years was 1,22,615, 90,251 and 3,50,536 respectively. The Committee find that CBDT is still far behind its declared target of unearthing 6 lakhs assesseees in a year even after having been vested with more powers as a result of incorporation of Section 133-B in the Income Tax Act. The Committee would like the CBDT to effectively gear up their machinery and accelerate the process of conducting effective and realistic surveys. They also desire that constraints of manpower should not be allowed to come in the way of achieving the target set forth.

### Reply of Government

The figures of surveys conducted by the field officers and the number of new assesseees located were furnished to the Committee as under :—

Financial year	No. of premises surveyed	No. of new assesseees who have filed voluntary I.T. returns
1984-85	1,80,693	1,22,615
1985-86	1,65,911	90,251
1986-87 (upto 31-1-1987)	1,27,050	3,50,536

After the completion of the financial year 1986-87 (i.e. from 1-4-1986 to 31-3-1987) the number of premises surveyed was 2,30,410 and the number of new assesseees discovered was 6,55,563. Thus the CBDT had exceeded its target of discovering 6 lakhs new assesseees despite the manpower constraints.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

### Recommendation (Sl. No. 7, Para 1.48)

The Committee find that Section 133-A(5) of Income Tax Act empowers Income Tax authorities to conduct surveys to discover lavish and ostentatious expenditure on marriages and functions. The purpose of such surveys is to establish concealment of income by persons who made disproportionate expenditure on marriages and functions as compared to their declared income so as to compel them to make full disclosure of their in-

come for the purpose of payment of income tax on their actual income. The Committee are disappointed with the statement of Revenue Secretary during evidence that only six cases of this nature had come to their notice, whereas it is common knowledge that in a vast country like India there are thousands, if not, lakhs, of such cases. Evidently it is either due to inadequate provision in the law or the laxity of the Income Tax Department in operating it, or more likely the collusiveness of the officers leading to hushing up of such cases. The Committee would like the CBDT to go thoroughly into the matter and take severe action against the officers involved who have not proceeded against the 'big fish' either due to dear or other obvious reasons.

### Reply of Government

The contents of the recommendations have been noted. It is clarified that the six cases brought out during the sitting of the Committee were *examples* of successful operations under Section 133-A(5). The list of 6 cases was not the exhaustive list of such survey operations. The statistics for Delhi Charge alone reveal that during the financial year 1986-87 and 1987-88, a total number of 102 cases of ostentations expenditure including marriage were enquired into where the expenditure incurred was more than Rs. 50,000/-. Enquiries under these provisions will be further stepped up after the new staff sanctioned for the Investigation Wing is made available.

[Ministry of Finance, O.M. No. 162/23/87-T.C., dated 7th December, 1987]

### Recommendation (Sl. No. 9, Para 1.65)

The Committee understand that the administrative approval for launching prosecutions is given by the CBDT who also receive information regarding results of proceedings from the field formations. The Committee have been informed that with the stepping up of the number of prosecution cases, the matter regarding delegation of power of approval of a prosecution case to the Chief Commissioner of Income Tax is at present under consideration of the CBDT. This will be possible only if separate Chief Commissioners of Income Tax are posted in each State. The Committee are surprised that in a matter of such import, why CBDT has been sitting tight and no steps have been initiated in this regard so far. The Committee desire that the decision with regard to delegation of administrative power for approval of prosecution cases be taken by the CBDT urgently and in the light thereof action should be taken to appoint Chief Commissioners of Income-Tax in each State without any further delay.

### Reply of Government

The CBDT has already decided to delegate administrative approval for prosecution to Chief Commissioners. The appointment to the posts of

Chief Commissioners has also already been approved by the Senior Selection Board.

[Ministry of Finance, O.M. No. 162/23/87-T.C., dated 7th December, 1987]

### **Recommendation (Sl. No. 13, Para 1.83)**

The Committee express unhappiness over the fact that adequate attention has not hitherto been paid to the investigation and prosecution work. They are surprised that only one officer and two clerks drawn from other duties, on *ad hoc* basis, had been looking after such an important work and prosecution which were launched during the recent years were not pursued vigorously. This rendered the search and seizure work also infructuous. The Committee would, therefore, like the CBDT to strengthen the enforcement agencies in accordance with the approval of the proposal by the Cabinet and fill up all the sanctioned posts without any further delay. The prosecution wing which has been neglected all these years, should also be adequately strengthened and prosecutions vigorously pursued. The Committee are not aware of any specific reasons as to why 500 posts of Inspectors sanctioned on year to year basis since 1979 have not been regularised. The desire that these posts should be regularised and sanctioned on permanent basis if their continuance has been found necessary in the light of the previous experience.

### **Reply of Government**

For implementation of the provisions of Section 133-B of the Income Tax Act, 1961 relating to Survey and Investigation work 937 posts in various cadres were created in 1986. A lot of 500 posts of Inspectors created in 1979 were also adjusted against the assessed requirement of posts for Survey & Investigation work for which provision was made in the Finance Bill 1986. These are now permanent posts. The question of converting the remaining posts into permanent ones will be taken up after 3 years and after their permanent requirement has been established. For strengthening the enforcement agencies 1377 posts in various cadres have been created during 1986-87 out of which 202 posts are meant for prosecution work alone. Another 1225 posts for survey and 1425 posts for various enforcement agencies will be created over a period of 5 years upto 1990-91 in a phased manner. Most of the posts created during 1986-87 have been filled. A few vacancies are still existing for want of candidates sponsored by the Staff Selection Commission to be appointed against direct recruitment quota and a small number of posts are kept vacant on account of Stay Orders passed by the Central Administrative Tribunal.

[Ministry of Finance, O.M. F No. 162/23/87-T.C., dated 7th December, 1987].

### **Recommendation (Sl. No. 14, Paras 1.90 & 1.91)**

The Committee welcome the measures for rationalisation of Taxation Laws and simplification of procedures which the Government proposes to incorporate in a comprehensive Direct Tax Laws (Amendment) Bill proposed to be introduced in the Parliament during the current (1987) Budget Session. The proposed Bill will be as a sequel to the wide ranging discussions for over four months amongst knowledgeable people and Parliamentarians on the "Discussion Paper" which was laid on the Tables of both the Houses of Parliament on 14th August, 1986. The objectives underlying the "Discussion Paper" *inter alia* include placing trust on the taxpayer, reducing the area of discretion of the officers dealing with direct taxes, providing effective deterrence against tax evasion, preventing leakage of revenue through instrumentalities of taxable entities removing uncertainties in the matter of assessments and reducing litigation. Based on these objectives the proposed Bill is to contain proposals like uniform accounting year for all tax-payers, computation of income of the charitable trusts in the same manner as the income of any other tax-payer, bringing taxable income close to the real income particularly the income on property simplification of procedures relating to advance payment of taxes, reduction in area of discretion of the Income Tax Officers and elimination of one tier of appeal i.e. of High Courts and instead giving this jurisdiction to a high-powered tribunal whose decision will be binding all over the country.

The Committee hope that the proposed Bill will be introduced in Parliament at the earliest and also enacted at an early date. The Committee are aware that making and simplifications of tax laws is a continuous process and the Government is well advised to continue this exercise on an on-going basis. The Committee are, however, of the considered view that the main success of any law lies in its proper and faithful implementation by a dedicated and sincere administrative machinery. The Committee hope that Ministry/CBDT will lose no time in implementation of provisions of the proposed law soon after enactment and gear up the machinery to achieve the underlying objectives so as to bring about a discernible change in the administration of tax laws and encourage its voluntary compliance by the tax-payers.

### **Reply of Government**

The recommendations made by the Committee in the above para have been noted for consideration and shall be implemented as soon as possible.

[Ministry of Finance, O.M. No. 162/23/87-T.C., dated 7th December, 1987]

### **Recommendation (Sl. No. 15, Para 1.100)**

The Committee are keenly awaiting the results of the long-term fiscal policy of the Government which *inter alia* aims at reduction of tax rates

and rationalisation of tax structure in the corporate sector. The present flat rate of income tax charged from public limited companies on their net profit is stated to be 50 per cent, for private limited companies there are two separate rates, viz. 55 per cent for manufacturing companies which add to the wealth of the country and 60 per cent for trading and investment companies. A new provision is stated to have been introduced recently known as the minimum tax provision whereunder effective rate of taxation on companies is computed at much less rate than 50 or 55 per cent. Under this provision every company is eligible to have the facility of investment deposit upto 20 per cent of their profit. It, however, transpired during evidence that certain companies misused the incentives which allowed them deductions on account of depreciations and certain other deductions of artificial nature where the companies had not to spend an amount. The Committee, while appreciating efforts of the Government in rationalisation of structure in the corporate sector, would like the Government to plug loopholes which enable companies to misuse provisions relating to incentive on account of deductions etc. The object of the tax collecting machinery should invariably be proper determination of taxable income and the collection of full taxes due.

#### **Reply of Government**

The provisions of investment deposit account has been introduced in the Income Tax Act, 1961 as a replacement of the investment allowance under which tax-payers including companies were eligible for deduction of an amount equal to 25% of the cost of plant and machinery installed by the company. As mentioned in para 5.14 of the Long Term Fiscal Policy, it was found that the provisions of investment allowance suffered from certain demerits and drawbacks. While the new investment deposit account removes the drawbacks of the earlier provision for allowing investment allowance, it has retained its merits. The new provision provides for deduction only if an amount upto 20% of the profit of the company is either utilised in the purchase of plant and machinery or is deposited with the Development Bank. Hence, the observation of the Committee that a new provision also helps deduction of artificial nature requires reconsideration. As far as depreciation allowance is concerned, the deduction is allowed with a view to enable the tax-payer to recover the cost of plant and machinery over a period of time and to enable industry to modernise by replacing obsolete machinery and plant with new and efficient equipment. The rates of depreciation have been liberalised recently primarily with this object, so that 80 per cent of the cost of plant and machinery is recovered within 4 year initial period. The liberalised rate of depreciation aims at helping in modernisation. Under the provisions of Income Tax Act, certain tax concessions by way of deductions are allowed without the tax-payer having to spend any amount for claiming the deduction. These incentives are built in primarily to fulfil certain socio-economic objectives of

the Government, like encouragement of exports, savings and investment etc. However, as announced in para 5.20 of the Long Term Fiscal Policy the existing tax concessions other than those relating to promotion of savings and earning of foreign exchange are being reviewed with a view to do away with as many of them as possible.

In order that these provisions of tax incentives are not misused, the Finance Act, 1987 has incorporated a new Section 115J in the Income Tax Act. This new provision provides that if the total income of a company computed under the Income-tax Act is less than 30% of the "book profits" arrived at as per the provisions of the Section, the total income of the company for the purpose of tax shall be taken at 30% of the "book profits" so arrived at and tax levied accordingly. This will ensure that profit making companies will pay a certain minimum tax, in spite of the various incentive provisions.

[Ministry of Finance, O.M. No. 162/23/87—T.C. Dated 7th December, 1987]

#### **Recommendation (Sl. No. 16, Para 1.128)**

The Committee are happy to be informed that the Government is making sustained efforts for improving the quality of tax administration. The first step taken in this direction is stated to be screening of more and more officers from the point of view of efficiency and integrity. As a result of this exercise, 30 officers of the rank of Commissioners have been made to retire voluntarily. The screening is, however, done by a set of senior officers on the basis of instructions in this regard by the Department of Personnel and before final decision is taken, approval of the Prime Minister is obtained. Action is also stated to have been taken against officers against whom cases of proven harassment have been brought to the notice of the Department and as many as 52 officers, including 8 Heads of Departments have been retired under FR 52(j) during the last one year. The Committee while appreciating weeding out of officers of doubtful integrity would, however, caution the Ministry/CBDT to be discreet and ensure that the process is not made a tool to victimise the officers on any other extraneous consideration.

#### **• Reply of Government**

The detailed procedure prescribed by DP&T for taking action in cases of premature retirement under FR 56(J) is scrupulously followed. The material is examined by various Committees and authorities prescribed under the DP&T instructions before a final decision is taken. Every attempt is made to follow the built-in safeguards in the system to ensure that the provisions of FR 56(J) do not become a tool for victimisation of officers

for any extraneous consideration. Nevertheless the observations of the committee would be borne in mind while dealing with such cases in future.

[Ministry of Finance, O.M. No. 162/23/87—T.C. Dated 7th December, 1987]

### **Recommendation (Sl. No. 17, Para 1.129)**

The Committee appreciate that with a view to finding a lasting solution to the problem of different interpretations of various provisions of tax laws by the officers responsible for administration of tax laws and various High Courts etc. Government are proposing to set up a National Court of Direct Taxes with all India jurisdiction and with branches at all places where there are High Court Branches at present. The Bill in this regard is likely to be introduced in Parliament during the current (1987) Budget Session. The Committee hope that expeditious steps will be taken to set up the branches of the proposed National Court of Direct Taxes soon after the enactment of the law so as to ensure uniformity in interpretation of law in respect of Direct Taxes.

### **Reply of Government**

The proposal to set up National Court of Direct Taxes has been sent to the Cabinet for approval, which is awaited. After the approval of the Cabinet, the Bill including the provisions in this regard can be introduced in the Parliament.

[Ministry of Finance, O.M. No. 162/23/87—T.C. Dated 7th December, 1987]

### **Recommendation (Sl. No. 18, Para 1.130)**

While various administrative and legislative measures are proposed to be taken by the CBDT to simplify tax laws and procedures and tax returns are proposed to be accepted without any limit, steps are also stated to be taken to computerise assessments so that large majority of tax payers need not have to come in routine contact with the officers. The Ministry also has an ambitious project for computerisation and before the end of March, 1987, computer centres are proposed to be set up at Delhi, Bombay, Madras and Calcutta. The Committee desire that the process of computerisation should be completed within the stipulated time frame. The Committee also desire that as a result of computerisation, man-power so released should be gainfully utilised for pursuing cases where search, seizures and prosecutions are involved.

### **Reply of Government**

Regarding the progress made to computerise assessments it is stated that computers have already been installed at Madras, Delhi, Calcutta, Ahmedabad, Bangalore and Hyderabad. Computers are expected to be installed at Bombay, Amritsar, Patna, Nagpur, Agra, Madurai, Coimbatore



and Meerut by November, 1987. Computerisation of Income-tax returns under summary Assessment Scheme is being implemented at Madras.

[Ministry of Finance, O.M. No. 162/23/87-T.C., Dated 7th December, 1987]

#### **Recommendation (Sl. No. 20, Para 1.141)**

The Committee welcome the proposal of the Government to incorporate Rule 1-BB of the Wealth Tax Rules, which provides standardised valuation of all properties in the statute itself. For this purpose, the Government are stated to have published draft valuation rules in March, 1986 to invite public opinion thereon. The draft valuation rules have been modified in the light of public response and as a result of simplification exercise, these rules now envisage standardised valuation of all properties, shares and jewellery etc. and not the market value thereof. Chairman, CBDT indicated during evidence that a Bill for incorporation of these rules in the Wealth Tax Act is likely to be introduced in Parliament during the current (1987) Budget Session. The Committee take this measure to be a step in the right direction and desire the Ministry to bring it before Parliament at the earliest.

#### **Reply of Government**

The recommendations made by the Committee has been noted and will be implemented as early as possible.

[Ministry of Finance, O.M. No. 162/23/87-T.C., Dated 7th December, 1987]

#### **Recommendation (Sl. No. 21, Para 1.142)**

The Committee are aware that the Finance Bill, 1987 has a provision which removes the distinction between the real and legal owners of properties and makes all owners of properties including those on the basis of power of attorney, liable to pay taxes on the properties in their possession. In this context the Committee drew the attention of the Ministry during evidence to large scale immovable properties being transferred in Delhi and other places on the basis of "power of attorney" but are constrained to observe that the Government have not taken any measures to check these transactions which led to underhand deals of crores of rupees resulting on one side in generation of black money and on the other depriving the Government of huge amount of valid taxes which normally would have accrued if these properties were transferred through proper sale deeds. The Committee desire the Government to take urgent steps to curb misuse of the provisions of "power of attorney" in the law as applicable to transfer of property and also impress on the State Governments to check generation of black money by curbing such underhand deals.

### Reply of Government

The recommendations of the Estimates Committee in the above para is essentially for the amendment of the Transfer of Property Act, 1882 and other laws enforced by the State Governments the provisions of which should apply in the case of transfer of immovable properties through "power of attorney". As far as Central Board of Direct Taxes, Department of Revenue is concerned, no action is to be taken. The Finance Act, 1987 has already inserted a new sub-clause (vi) in Clause (47) of section 2 (which defines the word transfer in relation to a capital asset). This amendment brings the transactions through "power of attorney" within the ambit of the term 'transfer' and hence they would be liable to capital gains tax. Finance Act, 1987 has also amended section 27 of the Income Tax Act, which defines the owner of a house property; by inserting a new clause (iiib) therein. Clause (iiib) provides that any person who acquires any right (excluding any right by way of lease on monthly basis or for a period not exceeding one year) in or with respect to any building or part thereof shall be deemed to be the owner of that building or part thereof. Similar amendment has been carried out in section 2(m) of the Wealth Tax Act by providing that such persons will also be treated as the owner of such building or part thereof for the purposes of levy of Wealth Tax. Chapter XXC of the Income-tax Act also gives right to the Government to make pre-emptive acquisition of such property under agreement for transfer under the power of attorney if the apparent consideration for such transfer exceeds Rs. 10 lakhs and the property is located in the metropolitan cities of Delhi, Calcutta, Bombay and Madras.

[Ministry of Finance, O.M. No. 162/23/87-T.C., Dated 7th December, 1987]

### Recommendation (Sl. No. 22, Paras 1.151 & 1.152)

The Committee take note of enlargement of the scope of the Summary Assessment Scheme by increasing its limit to include assesseees with income upto Rs. 1 lakh. They welcome the proposals for simplification and rationalisation relating to this scheme as spelt out in the "Discussion Paper" which provided that hereafter the assesseees covered under this scheme who file returns, will be issued a tear-off acknowledgement slip containing necessary details of the returns filed by them and this acknowledgement slip will serve the purpose of an assessment order and indicate that the returns filed by them have been accepted. The Committee desire that these proposals for simplification and rationalisation should be finalised and introduced at the earliest.

### Reply of Government

The proposals relating to simplification and rationalisation of assessment procedure, as outlined in the "Discussion Paper", are being taken up for legislative action in the proposed Direct Tax Laws (Amendment) Bill,

1987. Our note in this regard has already been submitted to the Cabinet for approval. Steps are being taken to introduce the Bill in the Winter Session of the Parliament.

The Committee, however, express concern over the large scale pendency in the finalisation of returns filed under this scheme. According to the Ministry the number of cases pending disposal as on 30-11-1986 is 26,82,863. Notwithstanding the increase by about 17 per cent of workload as compared to the preceding year, there is hardly any justification for such a huge pendency. In Committee's view the very purpose of 'Summary assessment' is defeated if the returns are not finalised and the assessee, informed of their acceptance by the Department within a reasonable time frame. The Committee would impress upon the Ministry to finalise these pending cases without delay. The Committee hope that the proposals for simplification and rationalisation of the summary assessment referred to in the preceding paragraph will go a long way in liquidating the pendency.

#### Reply of Government

The observations of the Estimates Committee have been noted. With a view to further speeding up the progress of disposal of assessments the scope of the Summary Assessment Scheme has been enlarged from 1987-88 to include all companies cases with returned income/loss upto Rs. 50,000/-. In other cases income/loss upto Rs. 2 lakhs is being accepted under this Scheme. There has been no change as regards cases of trusts and charitable institutions.

[Ministry of Finance, O.M. No. 162/23/87—T.C. Dated 7th December, 1987]

#### Recommendation (Sl. No. 23, Para 1.159)

The Committee do not find any logic in different procedures being available for refunds upto Rs. 999/- and refunds of Rs. 1000/- and above. In the cases of refunds upto Rs. 999/- the refund order alongwith advice note is sent to the assessee who is able to encash the refund order without delay from the Reserve Bank/State Bank etc. In cases of refunds above Rs. 1000/-, while the refund order is sent to the assessee, the advice note is sent by the Department to the Bank and the assessee cannot encash the order until the advice note is received by the bank. In the latter case assessee usually experience difficulty. The Committee do not see any reason why uniform procedure cannot be introduced for all cases of refunds irrespective of the amount involved. They would, therefore, like the Ministry to consider feasibility of introducing uniform procedure in respect of refunds. In cases where delay occurs for sending refund vouchers to the assessee it may be ensured that amount of interest due thereon is included in the refund voucher itself.

### Reply of Government

The observations of the Committee have been noted. The Department is examining the feasibility of introducing a uniform procedure for issuing refunds.

[Ministry of Finance, O.M. No. 162/23/87-T.C., Dated 7th December, 1987]

### Recommendation (Sl. No. 24, Para 2.33)

The Committee are alarmed that according to the findings of the National Institute of Public Finance and Policy the estimated magnitude of black money in the country for the year 1983-84 ranged between Rs. 31,584 crores to Rs. 36,786 crores. The Committee find that the Department of Revenue in the Ministry or the Central Board of Direct Taxes, who are responsible not only for curbing leakages in revenue but also combating and liquidation of black money in the country, have so far been able to achieve 'precious little' and have dealt with the matter rather in a routine way. The Ministry/CBDT, throughout the course of examination of the subject by the Committee, have been referring to various administrative and legislative measures taken/proposed to be taken to curb revenue leakages, including a comprehensive Bill for bringing about rationalisation, simplification and improvements in the tax laws and quality of administration of tax laws, which is likely to be brought before Parliament in the near future. The Ministry has been trying to project as if the proposed comprehensive Bill when passed by Parliament will prove to be a panacea for all ills relating to collection of revenues, curbing of leakage and liquidation of black money. The Committee are, however, not very sanguine about the outcome of various measures taken/proposed to be taken by the Government keeping in view the past experience and in the light of the observations of the Institute of Public Finance and Policy in their report that "...our qualitative judgement is that the making of black income has become a very integral, and even "routine" dimension of Indian Society encompassing pervasive tax evasion on legal source, economic activities and widespread corruption and abuse of all forms of public discretionary authority". The Committee feel that for liquidating black money, a vigorous and multipronged action on the part of the functionaries at all levels can only bring about tangible results. They would, therefore, desire that after the comprehensive Bill on reforms in tax laws and tax administration is enacted Government should lose no time in its implementation. Administrative measures provided thereunder, should also be given effect to expeditiously and constraints of resources and man-power not be allowed to stand in the way.

### Reply of Government

As identified in the above report on "Aspects of the black economy in India" the generation of black money has been attributed to various factors including economic controls, government spending, fall in moral standards, inflation and weak deterrence. The Central Board of Direct Taxes in the Department of Revenue has taken a number of administrative and legislative measures to increase the cost of avoidance of tax and to provide effective deterrence against tax evasion. No single legislation or administrative step by the Department of Revenue could therefore, be claimed to be a panacea for all the ills associated with black money considering the nature and ramifications of this malady. In fact, no such claim has been made. What this Department has stated in that several anti-tax evasion measures— administrative and legislative have been taken recently. Tax evasion and measures for combating this evil are a constant concern of this department.

[Ministry of Finance, O.M. No. 162/23/87-T.C. Dated 7th December, 1987]

### Recommendation (Sl. No. 26, Para 2.35)

Since impact of "controls" has been identified as another area in the Report on Aspects of Black Economy for giving fillip to black income and CBDT has conceded that controls or regulation of prices have given rise to anti-social activities such as black marketing and profiteering etc., the Committee desire that the policy of regulation, distribution and control on prices should be kept under constant review, and recommend that Government should evolve a policy of graduated decrease in controls, regulations, distribution and pricing of essential commodities so that anti-social elements are not allowed to create artificial shortage and take advantage by indulging in black-marketing and profiteering.

### Reply of Government

The recommendation of the Committee has been communicated to the Ministry of Commerce. The distribution of essential commodities is generally within the jurisdiction of State Governments and hence the recommendation of the Committee has also been forwarded to the Chief Secretaries/ Administrators of the State Governments/Union Territories.

[Ministry of Finance, O.M. No. 162/23/87-T.C. Dated 7th December, 1987]

### Recommendation (Sl. No. 27, Para 2.36)

The Committee note that at present an entrepreneur has to approach numerous Government agencies involved in clearing projects and issue of various types of licences and permits and has to move from pillar to post for getting a project cleared. To obviate this the Committee comment the

CBDT's proposal to set up a 'Single Window Clearance System' through joint bodies for obtaining all kinds of clearance relating to different agencies and Departments. They are sure that this system will help the people in getting their projects/schemes approved at a single point in a particular Ministry/Department and also reduce the scope of their harassment at the hands of unscrupulous officials, besides acting as a damper on generation of black money. The Committee would impress upon the Government to have a uniform policy of rotation of officers/staff in the matter of their postings so that no official is allowed to stay on a sensitive position for more than 3 years. They desire that vigilance machinery should also be strengthened in such areas to keep a close watch on the functioning of officials in the interest of combating element of corruption.

### **Reply of Government**

The Income-tax Department has formulated a transfer policy in March, 1986 according to which all the Group-A and B officers are liable for transfer from one place to another once in 3 years within the same charge and in big cities from one circle to another *once in three years*. Otherwise also an officer is liable to transfer on administrative grounds at any time to any part of the country. Such a policy of rotation is in vogue for the non-gazetted officers also.

2. A close watch is kept on the officer and staff posted on sensitive posts for which purpose there is a separate Directorate of Inspection (Vigilance) headed by Director of Inspection (Vig.) who is also the Chief Vigilance Officer for Income-tax Department. All complaints relating to corruption or misuse of powers are examined by the Commissioners of Income-tax/Director of Inspection (Vig.) and appropriate action under the rules is taken. In the past couple of years a number of officers of doubtful integrity have been retired under FR 56(J). To strengthen the administration vigilance machinery officers have posted as IAC (Vig.), ITO (Vig.) to pay attention to the vigilance work exclusively.

[Ministry of Finance, O.M. No. 162/23/87-T.C. Dated 7th December, 1987]

### **Recommendation (Sl. No. 32, Para 3.36)**

The Committee find that inspite of close liaison/co-ordination with various International agencies for exchange of information of offences which have international ramifications and arrangements of exchange of information with neighbouring countries, here is hardly any discernible impact on smuggling of contraband goods including narcotics and the menace continues unabated. The Committee feel that there is still a tremendous scope for strengthening the existing arrangements, particularly with the neighbouring countries. If there are some difficulties in holding

Government level talks, official level talks and exchange in views could be intensified and coordination amongst officials responsible for carrying out operations increased.

### Reply of Government

The co-operation with international agencies or with neighbouring countries is likely to have an impact on seizures of contraband rather than on reduction of smuggling, which is actuated by economic factors.

In the area of repression of drug smuggling, there is co-ordination with the Drug Enforcement Administration of the United States and Drug Liaison Officers of U.K., U.S.A., Canada and West Germany are posted in India for co-ordination relating to smuggling of narcotics. Also, there is co-ordination with Interpol.

It was decided during the SAARC summit at Bangalore (November, 1986) and the SAARC Technical Committee meeting held in Islamabad (April, 1987) to have periodical meetings under the umbrella of SAARC regional co-operation to combat drug trafficking in the region.

India also has institutionalised arrangements for periodical meetings with Sri Lanka, Nepal and Pakistan for exchange of information relating to cases of smuggling which have bilateral international ramifications. This is in addition to meetings that take place between officials at the border.

[Ministry of Finance, O.M. No. 162/23/87-T.C. Dated 7th December, 1987]

### Recommendation (Sl. No. 34, Para 3.55)

The Committee are informed that the personnel belonging to the Central Intelligence Units (CIU), the Dock Intelligence Units (DIU) and Air Intelligence Units (AIU) are posted at various Customs Houses, docks and major international airports, to maintain close surveillance on the Customs Officials so as to detect their collusion with exporters, importers and passengers indulging in smuggling malpractice and other customs frauds. The Committee, however, express surprise that according to the CBEC, during 1986, only 5 cases of collusion/involvement in fraud on the part of 11 Customs/Excise personnel have been detected by these Units although it is a matter of common knowledge that these are areas which are most corruption infested. Chairman, CBEC also conceded during evidence that "some sort of collusion, however, can succeed. Our arrangements may not be foolproof." The Committee recommend that officials with known honesty and unquestionable integrity be posted in these units.

### Reply of Government

The observations/recommendations of the Committee are noted. These observations and recommendations have been communicated to the concerned Collectors for note and necessary action.

[Ministry of Finance, O.M. No. 162/23/87-T.C. Dated 7th December, 1987]

### Recommendation (Sl. No. 36, Para 3.57)

The Committee are disappointed to find that 2103 prosecution cases relating to Central Excise and 620 cases relating to Customs are pending decision in the Supreme Court and the revenue locked up in these cases is Rs. 740.35 crores and 41 crores respectively. Similarly, 4,806 cases relating to Customs and 6,878 cases relating to Central Excise are pending decision in various High Courts and revenue locked up in these cases is to the tune of Rs. 1,206.95 crores and 228 crores respectively. It is painful to know that pendency of these cases in various High Courts and Supreme Court is stated to be since 1971. The Committee would like the Ministry to pursue these cases vigorously so as to get them decided at the earliest.

### Reply of Government

The observations/recommendations of the Committee are noted.

The concerted efforts are being made to pursue the pending cases vigorously and instructions in this connection have already been issued to all the Collectors of Customs and Central Excise.

[Ministry of Finance, O.M. No. 162/23/87-T.C., dated 7th December, 1987]

### Recommendation (Sl. No. 37, Paras 3.71 and 3.72)

The Committee are informed that in view of Government's new thrust towards mobilisation of additional resources for developmental plans, urgent measures are to be taken to streamline and modernise different tools and procedures of Customs and Central Excise Departments. It became apparent that computerisation of various processes and procedures in these departments is essential to obtain proper scrutiny with speed and accuracy and to build up a data bank with a view to bringing about uniformity in assessments, reduction in disputes and containment of duty evasion. The existing administrative pattern in these departments, which involves frequent physical contacts between the assesseees and the officers at lower levels, with consequential growth of corrupt practices, also calls for a change. It has, therefore, been decided to redesign the structure of both these departments, to inforce manpower at certain levels, to upgrade certain posts with reference to their job contents and project higher res-



possibilities. Keeping these considerations in view, proposals for restructuring of Customs and Central Excise Departments are presently under final consideration stage of the Department of Personnel.

The Committee express satisfaction that at long last the proposals for modernisation and restructuring of these Departments, which were overdue, have reached a final stage of their approval by the Department of Personnel. The Committee hope that the proposals will be approved by the Department of Personnel at the earliest and restructuring of these Departments would be carried out and accomplished within a stipulated time frame.

### Reply of Government

The observations of the Committee have been noted.

The proposals for restructuring the Customs and Central Excise Departments are being pursued with the Department of Personnel.

[Ministry of Finance, O.M. No. 162/23/87-T.C. Dated 7th December, 1987]

### Recommendation (Serial No. 38, Paras 3.85 to 3.87)

The Committee commend the setting up of the Central Economic Intelligence Bureau to co-ordinate and strengthen the intelligence gathering activities of all the intelligence and enforcement agencies both at the Central and State Level, concerned with various economic offences and for overall direction and control of the activities of these agencies. The Bureau which is also responsible for working out institutional arrangements for sharing of economic and commercial intelligence with various State Governments and foreign Governments is headed by a Director General of the rank of Additional Secretary and has a total sanctioned staff strength of 131. Against this the working strength as on 25th February, 1987, was only 86.

The Committee appreciate that within the short span of its inception, the Bureau has made its presence felt and made commendable achievements in various fields viz., seizure of gold, foreign and Indian currency and narcotics worth Rs. 5 crores in Bombay in September, 1985; seizure of incriminating documents in October, 1985 which disclosed evasion of Central Excise Duty of over a crore of rupees by a firm in Haryana; organising the first even co-ordinated operation 'KAL BHAIKAV' in December, 1985; action in May, 1986 against a notorious gang of smugglers believed to be smuggling arms and ammunition across the Indo-Pakistan border; and operation 'RUDRA' against tax evaders in the State of Jammu and Kashmir in July, 1986.

The Committee recommend that all the vacant sanctioned posts in the Bureau be filled without delay, and it should be provided with latest modern equipment/gadgets for carrying out meaningful operations smoothly.

### **Reply of Government**

The observations/recommendations of the committee have been noted.

As regards filling up of vacant sanctioned posts, 95 posts out of 131 sanctioned have already been filled up (as on 27-10-1987). Efforts are being made to fill up the remaining posts as early as possible. After the remaining posts, particularly those in the cadre of Intelligence Officers, are filled up and the Bureau becomes fully operational, necessary gadgets will also be procured for the Bureau so as to make its operations more effective.

[Ministry of Finance, O.M. No. 162/23/87-T.C. Dated 7th December, 1987]

### **Recommendations (Sl. Nos. 39 and 40, Paras 3.115 and 3.116)**

The Committee are informed that to detect cases of invoice manipulation the appraising groups in the Customs Houses are maintaining invoice registers indicating the value at which goods of a particular quality are imported from the source of origin. They are also maintaining international catalogues of various commodities and price lists for reference. The Committee, however, doubt whether the invoice registers and catalogues or price lists are kept up-to-date which could be a cause of undue harassment to the importers or loss of revenue to the Government. The Committee would, therefore, like the CBEC to evolve a system whereunder latest catalogues/price lists are obtained and the invoice registers etc. are updated and periodically reviewed and inspected by a senior officer in the Customs Department.

The Committee understand that prohibited/restricted goods are attempted to be imported either by mis-declaration of description or by concealment with other imported goods. Such cases are unearthed by careful scrutiny of documents or thorough examination of goods in the docks. Effective control over import of goods under Duty Exemption Entitlement Certificate (DEEC) is also exercised by resorting to 25% to 30% examination of the finished products and 100% examination in the doubtful cases. The Committee emphasise that intelligence and other arrangements should be strengthened and made foolproof so as to check all types of malpractices. In cases where some importers resort to malpractices repeatedly, appropriate punitive action including cancellation of import licences, should be taken against them in consultation with the Controller of Exports and Imports.

### Reply of Government

The observations/recommendations of the Committee have been noted. Appropriate instructions are being issued to the Custom Houses to ensure compliance with the recommendations and observations of the Committee. However, the Customs authorities do scrutinise declared values by the importers and exporters in the invoices presented by them. In suitable cases, enquiries are also instituted to verify the declared values. Appraising Officers in Custom Houses maintain invoice registers and price catalogues which aid them valuing goods on import and export. They are expected to keep the registers upto date and the Assistant Collector in-charge of the appraising group is expected in the course of his supervision over the work of the appraisers in the Group to check the invoice value registers to see that they are maintained properly and upto date. Price catalogue are also available and these are upto date. Upto date and plentiful data on prices/invoice values will be available soon as computerisation of import and export assessments is proceeding apace. The Special Investigation and Intelligence Branches and the Special Valuation Branches in the Custom Houses target their intelligence on organised attempts at invoice manipulation and concentrate on investigation of such cases.

The Committee's instructions for strengthening intelligence and other arrangements are noted. Cases of misuse of DEEC Scheme are being reported to the Chief Controller of Imports and Exports for taking action against the errant importers.

[Ministry of Finance, O.M. No. 162/23/87-T.C. Dated 7th December, 1987]

### Recommendation (Sl. No. 41, Para 3.117)

The Committee find that though the number of Customs seizures made during 1985 and 1986 have shown a declining trend, there has been a qualitative improvement in the overall working as reflected by the rising trend in the average value of goods seized per seizure. While the value of goods seized during 1984 was Rs. 101 crores, it was Rs. 195.60 crores and 216 crores during 1985 and 1986 respectively. According to CBEC efforts are made to detect major cases of smuggling/tax evasion instead of booking large number of petty cases. The Committee, however, do not subscribe to the view that due attention should not be paid to the smaller cases of smuggling/tax evasion. According to them petty smugglers who are not booked or punished at the initial stages of their committing offences get encouraged to expand their unlawful activities with the passage of time. The Committee, therefore, emphasise that no leniency should be shown to the offenders involved in smuggling or evasion of revenue irrespective of quantum or value involved and they should be booked for appropriate action under the law.

### Reply of Government

Stringent action is taken departmentally as well as through prosecutions in a Court of Law against those involved in smuggling activities. Apart from confiscation of contraband goods and imposition of penalties preventive detention under COFEPOSA is also resorted to in suitable cases.

The observations/recommendations of the Committee in this regard have been communicated to the field formations.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

#### Recommendation (Sl. No. 48, Para 3,133)

The Committee find that although most of the cases of evasion of excise duty are decided departmentally, in cases where clear connivance and mensrea are adjudged, apart from personal penalty imposed by way of adjudication of the case, an offender can also be prosecuted in the Court of Law for which sanction is given by the Collector. Repetitive offences usually lead to suspension of licence for manufacture of excisable goods. However, the Department is generally stated to be selective in launching prosecutions in view of the guidelines on the subject. The Committee desire that the Ministry should suitably modify the guidelines so as to completely reduce if not altogether eliminate, the element of subjectivity involved in the matter of launching prosecutions.

### Reply of Government

The existing guidelines relating to prosecutions by themselves reduce the element of subjectivity to the minimum in matters of launching prosecution. However, these guidelines are being examined afresh to see whether they need any further modification to further reduce the element of subjectivity in launching of prosecutions.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

#### Recommendation (Serial No. 50, Para 3.154)

The Committee note that in 1985 multi-pronged operations in various metropolitan and major cities in the country, were organised by the Director General of Revenue Intelligence in coordination with various intelligence and enforcement agencies, code named "KETJ" and "KLF", which resulted in unearthing large scale contraband goods, cases of foreign exchange racketeering, invoice manipulation in foreign exchange, and export/import frauds through mis-declaration etc. Encouraged by the success of these operations two more such operations named "RANA" and "BURMÁ BAZAR" were organised in 1986 which were equally successful in achieving targets set out for them.

The Committee express happiness over the conception and success of these operations and recommend that more such operations should be organised in future also to unearth major cases of economic offences and frauds being perpetrated by smugglers and anti-social elements. The Committee would, however, caution that utmost secrecy should be maintained in planning, organising and the timing of these operations. The Committee desire that officers who undertake these operations, even at the risk of their lives, should be considered for suitable rewards/commendation certificates etc. on achieving success.

#### **Reply of Government**

Observations/recommendations of the Committee have been noted.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

### CHAPTER III

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

### Recommendation (Sl. No. 12, Para 1.69)

A factor responsible for huge pendency is stated to be that almost 100 per cent of the offenders take advantage and protection under the provision of Section 482 of the Criminal Procedure Code which allows them to obtain stay orders from various High Courts on the proceedings launched against them. The Committee suggest that the Ministry of Finance should approach the Ministry of Law and Justice without delay to consider the feasibility of amending Section 482 of the Cr.P.C. so that it may not apply to *prima facie* prosecutions launched under the Income Tax Act against the economic offenders.

### Reply of Government

The suggestion to consider the feasibility of amending section 482 of the Cr.P.C. to exclude the cases of prosecution launched under the Income-tax against economic offenders has since been examined. The Supreme Court in its decision in the case of Pratibha Rani *V.s.* Suraj Kumar, 155 ITR 190 has already laid down the jurisdiction of the courts under section 482 of the Cr.P.C. In view of that no further action appeared to be necessary.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

### Recommendation (Sl. No. 19, Para 1.131)

The Committee are informed that there are Direct Taxes Advisory Committees with Members of Parliament, among others, as their members, which are stated to be functioning in each Commissioner's office to look into cases of harassment to tax-payers and to take action in cases brought before them. These Committees are stated to be not very active as people do not go to them readily with their complaints. The Committee would like the CBDT to take steps to activate these Committees so that genuine complaints of tax-payers are brought before them and looked into for quick redressal. The Committee would also like the CBDT to publicise through their tax education programmes in the mass media like radio and television particularly that such Committee function for redressal of grievances of the tax-payers.

### Reply of Government

The above para speaks about the Regional Direct Taxes Advisory Committee. There appears to be an impression that RDTACs exist for looking into the complaints of harassment. This is not correct in as much as these Committees are precluded from looking into or discussing individual cases. The objectives of these Committees are given below :—

- (a) The Committee will be an *advisory body* and will deal with matters relating to Income-tax, Wealth-tax, Gift Tax and Estate Duty.
- (b) The Committee will *discuss* measures for developing and encouraging mutual understanding and cooperation between the tax-payers and the IT Department and measures for removing administrative and procedural difficulties of a general nature.
- (c) The Committee will be concerned with the problem of regional interest only.
- (d) It shall not *discuss individual cases*, nor shall it discuss matters relating to the taxation policy of the Government.

About the reactivation of the Regional Direct Taxes Advisory Committees, circulars were issued for holding of the meetings. In the last six months a number of RDTACs were re-constituted in different charges of the Commissioners of Income-tax. The minutes of the meetings of these Committees received are being studied and thereafter follow-up actions are taken by the various concerned Sections of the Board.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

#### Recommendation (Sl. No. 25, Para 2.34)

The report on Aspects of Black Economy has identified various causes leading to generation of black money which include the level and structure of taxation; effectiveness of tax administration, controls on economic activity, general laws and regulations; political finance; Government spending and scale of its accountability; standard of public morality and inflation. The Committee are not happy over the remarks of Revenue Secretary during evidence referring to implementation of various recommendations made in this report that "this is a very difficult report to implement. It has wide ranging philosophical conclusions. We have acted routinely and identified which are the Ministries. . . . But to say that they would be able to do something which would finish off (the black money), the implementation of the recommendation is not feasible." The Committee feel that it is a pessimistic approach expressing helplessness, and expressing justification for "acting routinely" in the matter by simply writing letters to various authorities

to take action without any follow-up action or monitoring by Ministry of Finance who are responsible for plugging revenue leakages and liquidation of black money. The Committee deplore this apathetic approach and desire the Ministry of Finance to evolve a machinery to exclusively deal with this matter and coordinate with concerned Ministries for monitoring progress in implementation of various recommendations contained in the Report on Black Economy so as to achieve the desired results underlying these recommendations.

### **Reply of Government**

Concrete steps for examining the possibility of taking any 'follow up action or monitoring by the Ministry of Finance, of the recommendations contained in the Report on Black Economy which apply to various other Ministries of Government of India, are being taken.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

### **Further Reply of Government**

The recommendation regarding setting up of a separate machinery under the Ministry of Finance for co-ordinating with other Ministries of Government of India was referred to Chief Economic Adviser, Ministry of Finance, Department of Revenue for their advice. They are of the opinion that setting up of such a machinery may not serve any useful purpose for the following reasons :—

(i) It is ultimately evasion of taxes that leads to generation of black money. The Department, being fully aware of the problem of tax evasion has taken appropriate measures like reduction in tax rates, rationalisation of tax laws, strengthening of intelligence and enforcement machinery to check tax evasion.

(ii) A cell, namely, Central Economic Intelligence Bureau already exists, whose main function is to detect major economic offenders.

(iii) In a planned economy and for its efficient management certain controls and regulations become unavoidable. However, it is the policy of the Government to resort to minimum of controls and regulations and confine these to only essential economic activities and commodities as well as to adopt appropriate forms and systems of regulation keeping *inter alia* in view of the need to avoid generation of black money.

(iv) Implementation and follow-up action in regard to certain other recommendations fall primarily within the perview of State Governments such as relating to rent control laws, changes in Stamp Duty, State funding of election expenses etc. In such cases, the proposed machinery can at best urge upon the State Governments through the concerned Ministries.



(v) Even if a separate machinery is established, it would not be easy for the machinery to assess the out-come or the impact of the implementation of the recommendations as the problem of black money is multi-dimensional and estimation of black money, as also observed in the report, is beset with a number of complexities.

[Ministry of Finance, O. M. No. 162/23/87-T.C. dated the 14th January, 1988]

### **Recommendation (Sl. No. 45, Para 3.12)**

The Committee are informed that the confiscated/seized goods become ripe for disposal after completion of appeal period or appeals filed. The Committee feel that Customs authorities have wide ranging discretionary powers for fixation of sale price of confiscated goods. The Committee would like the CBEC to modify the guidelines in this regard so as to reduce discretionary powers of the officers to the minimum.

### **Reply of Government**

The Ministry has issued instructions as early as in September, 1961 and subsequently in January, 1967 prescribing the guidelines for fixation of reserve/fair and retail price. A copy each of the instructions is annexed. From these instructions, it would be seen that there is no scope of discretion for the officers in the fixation of sale price of confiscated goods.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

### **ANNEXURE**

Copy of Board's F. No. 4/63/57-CUS.III/CUS.IV dt. 7-9-1961.

*SUB :—Disposal of confiscated, detained and uncleared goods by Custom Houses or Port Trust/Port Commissioners—Fixation of reserve/fair prices.*

Reference is invited to paragraph 2 of the Board's letter F. No. 11/6/61-Cus.IV dt. 13-6-61.

The Board considers that the method adopted by some Custom Houses for determining the Reserve Price of all goods on the basis of duty, fair value and Customs Port Trust charges as the case may be, is not correct, because it ignores the fact that in a free auction the amount realised would be based on the price which the articles are expected to fetch when resold in the market and not on any theoretical considerations concerning the departments liability in respect of Port Trust levies or its claims in respect of its own warehouse and other charges. The Board, in fact does not consider it necessary that there should be any "reserve

price" as such in respect of goods which are assessed on *ad valorem* basis. It will be enough in the case of such goods if a fair price is determined as correctly as possible after taking into consideration the saleable values of the goods in question in the market, i.e. the price which the goods are expected to fetch when resold in the market by the purchaser in auction, taking into consideration the condition in which they are at the time of sale.

3. It is observed that some confusion exists regarding the exact significance of the expressions "Reserve Price" and "Fair Price". The "Reserve Price" should be the absolute minimum price below which, for legal or other reasons a consignment cannot be sold. (Ordinarily goods should fetch appreciably more than the reserve price). A "Fair Price" on the other hand should be regarded as the best price at which the Custom House can sell the goods under normal conditions. This fair price can be expected to be somewhat lower than the price at which goods of the same kind and in the same condition could be sold by the purchaser in the wholesale market, the difference representing the profit which the buyer at the auction expects to make and/or the margin to cover him against the risk of possible loss. The Board considers that fair prices should be fixed by ascertaining the probable sale price of such goods in the market, and subtracting from it a "discount" which will represent the margin of the buyer at the auction. This discount will vary with the nature of the goods, and the rates of discount for different categories of goods should be fixed periodically (say once in six months) by the Auction Committee of each Custom House, taking into account the local conditions. The discount may be 5 to 10 more than the estimated reasonable profit which the buyer at auction can expect to make on resale this increase is intended as an additional incentive to the prospective purchasers.

4. As an example if certain goods in their present condition can be expected to fetch Rs. 100/- in the wholesale market, and the usual profit margin for wholesale transactions in such goods is approximately 20% the discount may be fixed at say 25% or 30%. The fair price of the consignment, that is the price below which it should not normally be sold, would then be Rs. 75/- or Rs. 70/-.

5. Similar considerations would apply to the fixation of a fair price for goods assessable to specific rates of duty or on tariff values. In such cases, however, it will be necessary to ensure in addition that the price fetched at the auction is at least equal to the duty leviable thereon.

6. The Board would also like to emphasise that the goods should not be withdrawn from auction for flimsy reasons, e.g. because it is considered that a slightly higher price might be fetched at a later auction. Where, however, on account of a clique having been formed during the auction,

the goods have to be withdrawn at the first auction, the Board considers that it would be more appropriate to dispose of them by tender on terms most advantageous to Government rather than by putting them up again at a subsequent auction. Sale by private negotiation, to guard against allegations of favouritism or underselling. Such sales should be effected under the orders of the Collector or Additional Collector as the case may be after he has personally satisfied himself that every thing is in order, and the sale is in the best interests of the Government. Statutory requirements should also be taken into account, e.g. in the case of abandoned goods, Section 88 S.C.A. does not permit sale by tender.

7. The Board's orders on the points mentioned above and contained in any of its earlier letters should be deemed to be modified in the manner and to the extent stated above. The instructions should be deemed to be applicable both to the goods disposed of by the Custom Houses and to those disposed of by the Port Trust/Port Commissioners in respect of which the Customs Department is required to indicate the price at which the goods are to be sold by the Port Authorities.

Copy of Ministry of Finance (Department of Revenue & Insurance)  
F. No. 30/51/66-LCI dated 7-1-1967.

Customs—Disposal of confiscated, detained and uncleared goods—  
Fixation of fair and retail prices.

The pace of disposal of confiscated, detained and uncleared goods has been engaging the attention of the Board for some time and after a careful analysis of the factors that have contributed towards delay in the disposal of goods either through public auction or retail sales in departmental retail shops, the Board is of the view that one of the major reasons for delay is the unrealistic fair price/retail price fixed.

2. It is no doubt true that as public servants, Customs official are answerable to various authorities for every action of theirs and in so far as disposal of confiscated goods are concerned they should not expose themselves to the possibility of allegations of collusion, favouritism or underselling being levelled against them. All the same it is equally incumbent on them to ensure that goods confiscated to Government are disposed of at the earliest opportunity after such goods become ripe for disposal and at the best possible price so that the interests of the Government are adequately served.

3. The earliest stage of valuation of goods that are ultimately confiscated being at the time of seizure/detention of goods, it is necessary to ensure correct appraisal of the market value of the goods even at that stage. The tendency, if any, to inflate the value of seized/detained goods on account of extraneous considerations, should be severely curbed. This

is necessary not merely to avoid the book value of the goods in the custody of the Department totalling upto an unrealistic figure but also to remove one of the major impediments in arriving at a reasonable price for purposes of disposal.

4. While the "fair price" of goods ripe for disposal through auctions should continue to be fixed with reference to instructions contained in Board's letter F. No. 4/63/57-Cus. III/Cus.IV dated 7-9-61 (CBR Bulletin Cus. Tech. Vol. VII No. 3 P325) due considerations should be given to the size of the consignment, condition of the goods, type of packing etc. in arriving at the "fair price". Similarly in fixing the quantum of "discount" representing the margin of profit for the buyer at the auction on resale of the goods, the fact that no warranty as to quality is attached to the goods, sold should be given its due importance. Once all these aspects are taken note of and a realistic fair price is fixed, normally there will be little scope for withdrawal of lots once offered in auction sales on the sole ground of lack of proper bids.

5. Now that some months have elapsed since revision of the par value of the rupee, it is reasonable to assume that the effect of devaluation will be fairly reflected in the retail market price of consumer and luxury articles offered for sale to consumers through departmental retail shops. The retail price of such articles may therefore be fixed by conducting market enquiries to ascertain the price at which goods of like kind, quality, shape, design etc. are available in the retail market and deducting therefrom a "discount" representing the compensation for the buyer in the retail shop for (i) absence of guarantee regarding quality, workmanship and the like (ii) lack of provision for after-sale-service facilities, and (iii) the fact the goods may not always be in their original packing and condition. The quantum of such discount may be varied depending upon whether they are fast selling popular brands or otherwise.

6. The instructions contained in para 5 above superseded those conveyed in Board's letter of even number, dated 1-10-66. Instructions contained in any of the Board's earlier letters on the subject are modified in the manner and to the extent stated in this letter.

#### **Recommendation (Sl. No. 47, Para 3.132)**

The Committee understand that penal provisions of law for evasion under the Central Excises and Salt Act are constantly reviewed by the Ministry in the light of experience. By an amendment of the Act in December, 1985, the Directors of Companies have been made responsible for offences committed by the Company unless they could prove that the offence had been committed without their knowledge or that they had exercised all due diligence to prevent the commission of such offence. Accordingly, Directors of companies have been made liable to prosecution for evasion of Central Excise duties. The Committee would like the Ministry

to conduct a review to adjudge its impact and effectiveness in curbing evasion of Central Excise duty by large manufacturing companies.

### **Reply of Government**

The observations/recommendations of the Committee have been noted.

Inasmuch as the provision making the Directors responsible for offences committed by the Companies was inserted in the Central Excise and Salt Act less than two years ago, it is rather early to make an adequate assessment of its impact and effectiveness on an all-India basis in curbing the evasion of excise duty by large manufacturing Companies. However, it is expected that the provisions would have the desired effect on the minds of Directors of Companies.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987].

## CHAPTER IV

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

#### **Recommendation (Sl. No. 8, Paras 1.49 & 1.50)**

The Committee are informed that an assessment in a search and seizure case is completed after examining the assets seized and incriminating documents/books of accounts found during the course of the search after confronting the assessee with the entire incriminating evidence collected in the search and after giving the assessee an opportunity to rebutt any adverse inference drawn against him. The preliminary assessment of a case is required to be completed within 120 days while it could be statutorily completed within 2 years. Launching of prosecutions in such case is generally advised after the assessment has been decided in the appeal. Depending on the facts of each case the Commissioners of Income Tax send proposals of prosecution to CBDT which issues approval after proper examination. The Committee are surprised to be informed that no time limit whatsoever has been provided in the Income Tax Act, for filing prosecution after the approval by the CBDT.

The Committee have further been informed that while yearwise figures of number of search and seizure assessments completed and the number of prosecutions launched are available with CBDT, their co-relation in so far as assessment completed and prosecution launched with specific search and seizure operations is stated to be not possible. From the procedure as explained by the Ministry the Committee draw an inevitable inference that case of search and seizure in which ultimately prosecutions have to be launched are allowed to hang on for years rendering the very objective behind searches and seizures futile and infructuous. The Committee express serious concern over the matter and desire the Ministry/CBDT to initiate very early action for amending the Income Tax Act so as to provide time limit in the Income Tax Act for filing prosecution complaints.

#### **Reply of Government**

The matter has been examined. No time limit has been provided under the Income Tax Act for filing prosecutions. It may be noted that under Chapter XXXVI of Cr.P.C. limitation, for taking cognisance to offence has been provided under section 46B which ranges between six months to three years depending upon the nature of the punishment. However, there is no limitation prescribed under Cr.P.C. also for offences

with punishment of imprisonment exceeding three years. Power is also given to the courts to take cognizance of an offence after the expiry of the period of limitation if it is satisfied on the facts and in the circumstances of the cases that the delay has been properly explained or that it is necessary so to do in the interest of justice. Economic offence (inapplicability of Limitation) Act, 1974 provides w.e.f. 1-4-74 that for economic offence this period of limitation would not be applicable.

In view of the gravity of offences under the Income-tax and Wealth-tax Acts, the legislature in its wisdom raised the prison sentence to three years for most of the offences so as to remove nay time limit for filing of prosecution and thus to prevent the tax evaders from escaping punishment.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

#### **Recommendation (Sl. No. 10, Para 1.66)**

The Committee find that the number of prosecution cases pending till March, 1986 in various Courts was 9,303 whereas the convictions and acquittals during 1985-86 was 70 and 43 respectively. Sharing the concern of the Committee in regard to heavy pendency, the Revenue Secretary stated during evidence that "the pendency of cases is about 9000 and the disposal is about 200 to 300 cases. So this is a very serious thing." Referring to the pace of disposal of such cases, Revenue Secretary drew a very ironic comparison by stating that "Here the culture is quite different. I find that tax cases in England or America are disposed of very fast. Customs cases are disposed of in 15 days. Perhaps for 15 years, it goes on here." The Committee note that the setting up of Special Courts dealing with 12 Central Acts including the Direct Taxes Acts at 10 places, is also a recent development and such Special Courts have not so far been set up at metropolitan cities like Bombay, Calcutta and Ahmedabad where a large number of cases are piling up.

#### **Reply of Government**

Kindly see reply to Para 1.68 (Sl. No. 11).

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

#### **Recommendation (Sl. No. 11, Paras 1.67 and 1.68)**

The Committee are informed that administration of law and justice being a State subject the Ministry is in 'dialogue' with various State Governments for providing Magistrates who should exclusively attend to the cases arising out of economic offences. The Committee are in complete agreement with the proposal that cases belonging to Income Tax, Central Excise and Currency Acts etc. should be tried by exclusive Magistrates, so that they

develop knowledge and expertise on the subject and that their number should also be sufficient to cope with the cases entrusted to them.

The Committee are distressed to observe that the Ministry/CBDT have miserably failed in carrying out their responsibility in taking timely and appropriate steps for improving the position with regards to disposal of pending cases relating to economic offence which arise mainly out of the searches and seizures carried out by them to detect concealment of unaccounted income which in turn generates black money. While the pendency has been rising year-after-year, Ministry/CBDT have not taken up the matter with the seriousness it deserves with the result that pendency is gradually going up. The Committee recommend that the Ministry/CBDT should take up the matter urgently at the highest level of the Government for setting up of the Special Courts at three metropolitan cities namely Bombay, Calcutta and Ahmedabad. They should also formally take up the matter regarding provision of 'exclusive Magistrate' for dealing with cases of economic offences with the State Governments, through the Union Ministry of Law and Justice and analyse the feedback for immediate appropriate action so that exclusive Magistrate trying economic offences does not remain on paper and becomes a reality at the earliest.

#### **Reply of Government**

The matter relating to the setting-up/earmarking of the courts for economic offences exclusively was taken up with the State Governments of Gujarat, Maharashtra and West Bengal. It is responsibility of the State Governments to set up special courts and provide adequate number of Trial Magistrates.

[Ministry of Finance, O.M. No. 162/23/87-T.C., dated 7th December, 1987]

#### **Recommendation (Sl. Nos. 28, 29, Paras 3.9, 3.10)**

The Committee learn that for strengthening intelligence gathering agencies under the Directorate of Revenue Intelligence, modern sophisticated anti-smuggling electronic equipments and devices are being pressed into service. The Customs telecommunications network has covered the west coast, part of east coast and the Indo-Nepal border and coverage extended to Rajasthan sector of the Indo-Pakistan border and Indo-Bangladesh border in 1985. The Committee have been informed that while the work on the Indo-Pakistan border has been completed, it is still incomplete on the Indo-Bangladesh border and that the question of further expansion of the tele-communication network in this sector would depend on allocation of resources and trends in smuggling. The Committee are surprised as to why the work on the Indo-Bangladesh border which is equally vulnerable for smuggling and large-scale intrusion of people from across the border, has not been completed. They urge that the left-out work of providing the telecommunication network



on the Indo-Bangladesh border should be completed without delay and constraints of resources should not be allowed to stand in the way of such a vital task which relates to strengthening of intelligence agencies.

The Committee are informed that strengthening of preventive and intelligence set-up in the vulnerable areas under the Directorate of Revenue Intelligence, is kept under constant review. While 598 posts of various grades were sanctioned for strengthening P&I set up in the vulnerable areas of West coast, east coast, Indo-Nepal and Indo-Pak borders in 1983, further review of staff strength in these areas has not been taken up after 1983. According to the Committee it cannot be considered to be a "constant review" by any standards, particularly in view of fast changing situations in the vulnerable areas on our borders and increase in the smuggling activities from neighbouring countries. The Committee would like the CBEC to undertake a meaningful review of the requirements of the staff and equipment in these areas on a regular basis, preferably every two years and induct personnel and equipment wherever found wanting, without delay.

### **Reply of Government**

The observations/recommendations of the Committee have been noted. The Scheme for setting up a telecommunication network along the Indo-Bangladesh border was sanctioned in 1985. Action has been taken for procuring and positioning all requisite equipment and also about 35% of the posts have been filled. Out of 56 wireless stations along the Indo-Bangladesh border, 21 stations are fully operational. As soon as suitable personnel are available, the remaining posts will be filled and all the stations made operational.

[Ministry of Finance, O.M. No. 162/23/87-T.C., dated 7th December, 1987]

### **Recommendation (Sl. No. 35, Para 3.56)**

The Committee express serious concern at the huge pendency of Customs prosecution cases in various courts of law noting at the end of 1985, 2,462 cases relating to customs prosecutions were pending. According to the Ministry for expeditious disposal of these cases, 13 Special Courts, exclusively for trying cases of economic offences have already been set up. The Ministry is also stated to have mooted setting up of 18 more such Special Courts in January, 1986 and the matter for setting is still under consideration of the Ministries of Home Affairs and Law & Justice. The Committee would like the Ministry of Finance to take up this matter at the highest level of the Government so as to have it decided expeditiously. Matter should also be initiated and taken up with the State Governments for providing infrastructural facilities for setting up these courts simultaneously.

### Reply of Government

The observations/recommendations of the Committee have been noted. The matter was taken up with the Ministry of Home Affairs and the Ministry of Law at the Additional Secretary's level in March, 1987. The matter for setting up of Special Court at Ahmedabad was taken up with the State Government at Secretary (Revenue's) level in June, 1987. More Special Courts will be set up by moving the Central Government and the State Governments.

[Ministry of Finance, O.M. No. 162/23/87-T.C., dated 7th December, 1987].

### Recommendation (Sl. Nos. 42 and 43, Paras 3.118 and 3.119)

The Committee are distressed to find that as on 31st December, 1986, there are 3,106 prosecution cases filed under the Customs Act, which are at various stages of trial. These include 839 cases which are pending for more than 3 years. The Committee would like vigorous measures to be taken by the CBEC to liquidate pendency of cases so that the revenue locked up in these cases is released at the earliest.

The Committee find that there are 757 dormant cases under the Customs Act, pending for various periods exceeding 3 years, as the accused persons in these cases are not available for trial readily and many of them are absconding or are foreigners who have left the country. In Committee's view, these cases should not be allowed to hang on for years together for want of accused persons or evidence. If there is no provision under the law to close these cases after a lapse of specified period, the Committee recommend that the law should be modified for the purpose at the earliest.

### Reply of Government

The observations/recommendations of the Committee are noted.

[Ministry of Finance, O.M. No. 162/23/87-T.C., dated 7th December, 1987]

### Recommendation (Sl. No. 44, Para 3.120)

The Committee express serious concern over the fact that for storing seized/confiscated goods, the Customs Department is having hired godowns of large areas as compared to the departmental godowns in the metropolitan cities like Bombay, Calcutta, Madras and Delhi. While the quantum of seized/confiscated goods is on the increase, the department have not given any thought to increase its own storage capacity by acquiring/building godowns of its own. The Committee are sure that Government must be paying heavy amount by way of rent for the hired godowns. The Committee would, therefore, like the CBEC to give a serious thought to this matter and draw plans for acquiring/building godowns in all the metropolitan cities without delay.

**Reply of Government**

The Committee's observations regarding acquisition/construction of godowns for storage of seized and confiscated goods are noted.

[Ministry of Finance, O.M. No. 162/23/87-T.C., dated 7th December, 1987]

**Recommendation (Sl. No. 46, Para 3.122)**

The Committee learn that during the last 3 years, 28 officers of various levels were reported involved in wrongly giving benefits of Transfer of Residence facilities leading to evasion of Customs duty on baggage. While departmental action has been taken against 13 officers, departmental proceedings/enquiry are in various stages of progress in respect of the remaining officers. The Committee urge the Department to finalise these cases at the earliest. They would also like the C.B.E.C. to adequately strengthen its vigilance machinery so as to apprehend officers indulging in such malpractices.

**Reply of Government**

The observations/recommendations of the Committee have been noted for further guidance.

[Ministry of Finance, O.M. No. 162/23/87-T.C., dated 7th December, 1987]

**Recommendation (Sl. No. 52, Para 3.164)**

The Committee are informed that the cases of Group 'A' and 'B' Officers found in collusion with economic offenders in the Customs and Central Excise departments are referred to the Central Vigilance Commission for seeking their advice for taking appropriate disciplinary action against them. Cases of Groups 'C' and 'D' officers are decided in the Department itself. The Committee would like CBEC to take strict, deterrent and exemplary action against officers found in collusion with economic offenders so as to discourage others in indulging such malpractices. At the same time vigilance machinery should be strengthened to detect such collusions. The Committee would also like the CBEC to scrupulously follow its earlier recommendations with regard to rotation of officers so that no officer is allowed to continue at a sensitive position/station for more than three years. Exception to this rule may be made strictly in very rare cases only.

**Reply of Government**

The observations/recommendations of the Committee have been noted for further guidance.

[Ministry of Finance, O.M. No. 162/23/87-T.C., dated 7th December, 1987]

**Recommendation (Sl. No. 53, Para 3.175)**

The Committee take note of the fact that there are schemes for grant of awards/rewards to informers, officers and staff in the CBEC for providing information leading to apprehending smugglers and for unearthing evasion of customs and excise duty. There is also a provision for Presidential awards for meritorious services rendered by officers in these Departments even at the risk of their lives. The Committee would like these schemes to be reviewed periodically so as to keep them suitably attractive. They would also like that complete objectivity should be observed for arriving at decisions about these awards/rewards. The Committee are informed that the scheme of reward is not applicable to senior officers in these Departments. They would desire that some sort of incentive should be available to senior officers also so as to encourage them for devotion and dedication to their duties as also inculcating a sense of competition amongst them.

**Reply of Government**

The observations recommendations of the Committee are noted.

[Ministry of Finance, O.M. No. 162/23/87-T.C., dated 7th December, 1987]

## CHAPTER V

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

#### **Recommendation (Sl. No. 30, Para 3.11)**

The Committee find that for personal security of officers deployed in prevention and intelligence duties, they are permitted to purchase confiscated weapons at subsidised rates i.e. at pre-duty price and they are expected to keep these weapons with them till the end of their service or five years whichever is earlier. In Committee's view this is not a judicious arrangement. When an officer is deployed on duties which involve risk of his life, why he should not be provided weapons by the Government at its own expense. The Committee recommend that these officers should be provided with weapons free of cost and be allowed to retain them till they are in service. After their service, they may be given the option to retain them by paying a subsidised price i.e. the pre-duty price minus depreciation, or surrender them to the Government.

#### **Reply of Government**

The recommendations of the Committee has been noted. The entire policy regarding disposal of weapons and ammunition is being reviewed. The recommendation of the Committee in this regard is also taken into consideration.

[Ministry of Finance, O.M. No. 162/23/87-T.C., dated 7th December, 1987]

#### **Recommendation (Sl. No. 31, Para 3.35)**

Considering its crucial importance in the field of combating smuggling/revenue evasion and the results achieved by it, need for strengthening the Directorate of Revenue Intelligence has been long felt. A proposal is stated to be under consideration of the Government to place the Zonal units of the DRI under a senior officer of the rank of Collector at Bombay, Calcutta, Delhi and Madras to maintain liaison/coordination with regional Collectors and other concerned Police and Intelligence agencies. It is, however, learnt that this proposal forms part of a comprehensive proposal to re-organize the Customs and Central Excise departments, which is under consideration of the Department of Personnel. The Committee would emphasise that after the comprehensive proposal with the Department of Personnel is finally approved and implemented, an institutional arrangement should be evolved at the CBEC level to review the functioning of

DRI on regular basis, preferably every two years, with a view to augmenting its staff strength as also replacement and modernisation of equipments.

### Reply of Government

The observations and recommendations of the Committee have been noted and appropriate action will be taken after the comprehensive proposal for re-organising and re-structuring the Customs and Central Excise Department has been approved and implemented.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

### Recommendation (Sl. No. 33, Para 3.54)

The Committee are unhappy to find that although the existing five customs preventive collectorates set up at Bombay, Calcutta, Ahmedabad, Patna and Bangalore are unable to cope with the smuggling activities across the vast coastline and long stretch of our land borders, yet the proposal for setting up four more preventive collectorates at Amritsar, Lucknow, Jodhpur and Shillong is hanging fire and according to Revenue Secretary. "These are under examination. It will take some time". While the Ministry claims that the 'position is constantly kept under review' and proposals for further augmentation considered subject to constraints of resources etc. the proposals for augmentation of staff strength was last considered and sanctioned only in 1983. The Committee cannot but deprecate lukewarm approach of the Ministry/CBEC in matters of such vital importance. The Committee can well imagine the loss of revenue the Government is suffering due to delay in taking decisions in matters like augmentation of machinery responsible for containing smuggling activities apart from irreparable damage being done to the country by the delay in bringing the smugglers to book. The Committee would urge the Government to take expeditious decision on all such proposals for strengthening of intelligence/enforcement agencies which are instrumental in plugging revenue leakages. The Committee emphasise that constraints of resources should not be allowed to stand in the way of such proposals.

### Reply of Government

The proposals for creation of new Preventive Collectorates with Headquarters at Amritsar, Lucknow, Jodhpur and Shillong are part of a comprehensive proposal for re-organising and re-structuring the Customs and Central Excise Department which is pending before the Department of Personnel.

The observations/recommendations of the Committee in this para are noted.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

**Recommendation (Sl. No. 49, Para 1.42)**

The Committee find that under the Advance Licensing Scheme, certain abuses relating to import of items which carry a high rate of tariff or which have a high premium in the local markets, were detected by the CBEC recently. As a result thereof, relevant notifications were amended so as to regulate import of certain sensitive raw materials and export of finished products through such major ports and airports where officers with suitable technical qualifications/expertise have been posted and where facility for expeditious testing of samples is also available. During evidence, Chairman, CBEC, conceded that possibility of export of such items from minor ports by mis-classification of the commodities cannot be ruled out. Such a possibility will, however, be obviated when Customs computer networks becomes operational. The Committee cannot but emphasise that the customs computer network should be completed without delay to check loss of revenue on account of misclassification etc. by unscrupulous importers, exporters who clandestinely push through their commodities which are prohibited to be imported/exported from minor ports.

**Reply of Government**

The observations/recommendations of the Committee are noted.

The computerisation project relating to major Customs Houses i.e. at Bombay, Calcutta, Delhi, Madras and Cochin has already been given effect to and computers are in position at all these places and are under various stages of trial runs and completion of net working. The extension of computerisation projects to minor ports, Land Customs stations and international airports and its consequential linkages with the major Customs Houses is under consideration of the Government.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

**Recommendation (Sl. No. 51, Para 3.156)**

The Committee express serious concern over large scale smuggling and trafficking in narcotics and drugs in our country. Although a law has been enacted, recently providing very harsh punishment for drug trafficking, its impact is yet to be seen. A new Directorate is also stated to have been set up recently to evolve measures to check this menace. According to the Ministry harmful drugs/narcotics are mostly smuggled into India, through neighbouring countries including Pakistan. The Committee would like CBEC to strengthen its intelligence machinery on the Indo-Pak border to check smuggling of such drugs. All incoming passengers from these countries by whatever means of transportation should be subjected to thorough check of their person and baggage to detect smuggling of drugs and narcotics without of course causing harassment to innocent persons. According to the Committee drug trafficking has assumed alarming proportion in

the country and the menace is particularly affecting the youth. In case this menace is not rooted out at the earliest it will put the posterity of our country into jeopardy. The Committee would, therefore, urge on the Government to make all out efforts for eradicating this menace without any loss of time.

### Reply of Government

Observations/recommendations of the Committee have been noted. Proposal for strengthening of Narcotics Control Bureau is under consideration. The proposal, *inter alia* envisages the creation of two additional Zonal units, one at Jodhpur and the other at Amritsar and also the regional unit each at Jammu and Sri Ganganagar. These would all be on Indo-Pak border and effectively cover to the vulnerable sectors of the border.

[Ministry of Finance, O.M. No. 162/23/87-T.C. dated 7th December, 1987]

CHANDRA TRIPATHI,  
*Chairman,*  
*Estimates Committee.*

NEW DELHI;  
4 April, 1988  
15 Chaitra, 1910 (S)



## APPENDIX

(Vide Introduction)

### *Analysis of Action taken by Government on the 48th Report of the Estimates Committee (8th Lok Sabha)*

I.	Total number of Recommendations . . . . .	53
II.	Recommendations/Observations which have been accepted by Government (Nos. 1, 2, 3, 4, 5, 6, 7, 9, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 26, 27, 32, 34, 36, 37, 38, 39, 40, 41, 48 and 50.) . . . . .	31
	Percentage to total . . . . .	58%
III.	Recommendations/Observations which the Committee do not desire to pursue in view of Government's reply (Nos. 12, 19, 25, 45, and 47) . . . . .	5
	Percentage to total . . . . .	9.5%
IV.	Recommendations/Observations in respect of which Government's replies have not been accepted by the Committee (Nos. 8, 10, 11, 28, 29, 35, 42, 43, 44, 46, 52 and 53) . . . . .	12
	Percentage to total . . . . .	23%
V.	Recommendations/Observations in respect of which final replies of Government are awaited. (Nos. 30, 31, 33, 49 and 51) . . . . .	5
	Percentage to total . . . . .	9.5%