

46

**STANDING COMMITTEE
ON FINANCE
(2006-07)**

FOURTEENTH LOK SABHA

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

*[Action taken by the Government on the recommendations contained in the
Thirty-seventh Report of the Standing Committee on Finance on
Demands for Grants (2006-07) of the Ministry of Finance
(Department of Revenue)]*

FORTY-SIXTH REPORT



सत्यमेव जयते

**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2006/Agrahayana, 1928 (Saka)

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(Department of Revenue)]*

*Presented to Lok Sabha on 14 December, 2006
Laid in Rajya Sabha on 14 December, 2006*



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December, 2006 / Agrahayana, 1928 (Saka)

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COMPOSITION OF STANDING COMMITTEE ON FINANCE — 2006-2007

Maj. Gen (Retd.) B.C. Khanduri — *Chairman*

MEMBERS

Lok Sabha

2. Shri Jaswant Singh Bishnoi
3. Shri Gurudas Dasgupta
4. Shri Shyama Charan Gupta
5. Shri Vijoy Krishna
6. Shri A. Krishnaswamy
7. Dr. Rajesh Kumar Mishra
8. Shri Bhartruhari Mahtab
9. Shri Madhusudan Mistry
10. Shri Rupchand Pal
11. Shri Prakash Paranjpe
- *12. Shri P.S. Gadhavi
13. Shri R. Prabhu
14. Shri K.S. Rao
15. Shri Magunta Sreenivasulu Reddy
16. Shri Jyotiraditya Madhavrao Scindia
17. Shri Lakshman Seth
18. Shri A.R. Shaheen
19. Shri G.M. Siddeshwara
20. Shri M.A. Kharabela Swain
21. Shri Bhal Chand Yadav

Rajya Sabha

22. Shri Santosh Bagrodia
23. Shri Raashid Alvi
24. Shri M. Venkaiah Naidu
25. Shri Yashwant Sinha
26. Shri Mahendra Mohan
27. Shri Chittabrata Majumdar
28. Shri S.P.M. Syed Khan
29. Shri Mangani Lal Mandal
30. Shri C. Ramachandraiah
31. Vacant

*Nominated to this Committee *w.e.f.* 31.8.2006 *vice* Shri Raosaheb Danve Patil.

SECRETARIAT

1. Smt. (Dr.) P.K. Sandhu — *Additional Secretary*
2. Shri A. Mukhopadhyay — *Joint Secretary*
3. Shri S.B. Arora — *Deputy Secretary*
4. Smt. Anita B. Panda — *Under Secretary*
5. Shri M.L.K. Raja — *Committee Officer*

INTRODUCTION

I, Chairman of the Standing Committee on Finance having been authorised by the Committee to submit the Report on their behalf present this Forty-sixth Report on action taken by Government on the recommendations contained in the Thirty-seventh Report of the Committee (Fourteenth Lok Sabha) on Demands for Grants (2006-2007) of the Ministry of Finance (Department of Revenue).

2. The Thirty-seventh Report was presented to Lok Sabha/laid in Rajya Sabha on 22 May, 2006. The Government furnished the written replies indicating action taken on all the recommendations on 20 October, 2006. The Draft Action Taken Report was considered and adopted by the Committee at their sitting held on 11 December, 2006.

3. The Committee authorised the Chairman to make consequential changes arising out of factual verification and finalise the Report.

4. An analysis of action taken by Government on recommendations contained in the Thirty-seventh Report (Fourteenth Lok Sabha) of the Committee is given in the Appendix.

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

NEW DELHI;
11 *December*, 2006

20 *Agrahayana*, 1928 (*Saka*)

MAJ. GEN. (RETD.) B.C. KHANDURI,
Chairman,
Standing Committee on Finance.

CHAPTER I

REPORT

1. This Report of the Standing Committee on Finance deals with action taken by the Government on the recommendations/observations contained in their Thirty-seventh Report (Fourteenth Lok Sabha) on Demands for Grants (2006-2007) of the Ministry of Finance (Department of Revenue), which was presented to Lok Sabha/laid in Rajya Sabha on 22 May, 2006.

2. The Report contained six recommendations/observations. Action taken notes have been received from the Government in respect of all the recommendations contained in the Report. These have been analysed and categorised as follows:

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

Recommendation Nos. 3, 4, 6

(Total 3)

(Chapter II)

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

Recommendations Nos. 1, 2

(Total 2)

(Chapter III)

- (ii) Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee:

Recommendation No. 5

(Total 1)

(Chapter IV)

- (iv) Recommendations/Observations in respect of which final replies of the Government is still awaited:

Nil

(Chapter V)

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

REFUND – DIRECT TAXES

Recommendation (Sl. No. 1, Para No. 18)

4. In their original recommendation, the Committee were perturbed to find that bogus income-tax returns claiming large amounts of refunds on the basis of bogus TDS certificates were filed by some unscrupulous persons. The point of serious concern was

the forgery committed by the tax officials themselves who connived with these persons, resulting in such fraudulent issue of refunds. The Committee felt that this was an ample proof of the extent of corruption in the tax machinery which could have been avoided, had the internal vigilance mechanism of the Department been more alert. In Committee's view, lack of efficiency and integrity in the tax machinery leads not only to leakage of tax revenue but also to tax evasion. Although the Department had stated to have issued instructions/circulars to the field formations, yet the fact could not be ignored that this had been done only after receiving communication from the Reserve Bank of India (RBI) pointing towards irregularities in the issue of refund orders. The Committee noted that the system of issue of refunds was to be streamlined by making ECS applicable for all refunds in future, making it mandatory to quote the assessee's bank account details in the refund orders and immediate reporting of any loss / theft of refund orders to the higher authorities, the clearing bank and the police etc. However, the Committee were constrained to observe that corrupt officials succumbing to avarice had become bane of Income Tax Department. Further, there had been a systemic failure in the form of lack of proper checks and balances and a deficient supervision by the senior officials and the internal vigilance mechanism on such officials. The Committee took strong exception to such failures in the Department and desired the Government to furnish complete details of the extent of such fraud in terms of Revenue loss and the penal action taken against the tax officials found to be involved. The Committee also recommended that the instructions of the Department on issue of refunds should be followed scrupulously and diligently with supervision at senior level in all their field formations.

5. The Government, in their action taken reply, have stated as follows:

- “(i) The Department has already laid down guidelines/ instructions on procedures and safeguards to be followed for securing refunds. Whenever non-observance of such procedures and safeguards is found out, the guidelines/ instructions are re-iterated or revised, as the case may be. Accordingly, when RBI pointed out certain commonly committed irregularities noticed by them during the course of clearing of refund cheques by them; those were immediately brought to the notice of the field formations for compliance.
- (ii) ECS has already been made applicable for all refunds, regardless of the class of taxpayer and the amount of refund. However, presently the facilities of ECS are available only in 12 cities. The Government is taking necessary steps to extend ECS facilities in another 24 cities in about a year's time. The Board has made it mandatory to issue refunds through ECS in such centres where ECS facilities are available. Similarly, quoting of bank account details on the refund cheque has also been made mandatory with effect from 01.01.2006. Moreover, the Government is also examining the feasibility of appointing a “Refund Banker”, which would be entrusted with the work of printing and issue of refunds or ECS of refunds to the bank account of the taxpayer, so as to prevent frauds taking place by way of claim of refund by wrong person, issue of refund on stolen refund stationery, forging of signature, duplicate issue of refunds etc.

(iii) A Committee appointed by the Board, which examined the nature and extent of refund frauds, has submitted that incidents of refund frauds have been reported from Delhi, Chennai, Bangalore and Bhubaneshwar. The following are the details of the cases of fraud so noticed by the Committee:

- a. In one CCIT charge in Delhi, 158 refunds were found to be bogus involving an amount of Rs. 56.54 lakh. Involvement of two officers is suspected.
- b. Bogus refunds aggregating to Rs.1.07 crore were found to have been issued to 25 fictitious companies in another CCIT charge in Delhi.
- c. Refunds worth Rs.1.66 crore were found to have been issued from one Circle in Delhi, which actually has no jurisdiction over those cases in whose favour the refunds were issued.
- d. In 28 cases at Chennai, refunds were issued in cases where either refund was not due or has already been issued before.
- e. In 22 cases reported from Chennai, higher than actual refunds were claimed on the basis of forged tax payment challans or certificates.
- f. In 110 cases, refunds were found in Chennai to have been issued without jurisdiction or to fictitious assesseees.
- g. A retired employee of I-T Department at Bangalore was found involved in forging tax payment challans for claiming fraudulent refunds.

Sporadic instances of claim of refund on the basis of fictitious TDS certificates have been reported from Bhubaneshwar.

(iv) The Income Tax Department has already initiated action against officials involved in a few refund fraud cases detected during the last couple of years. The extent of refund frauds in terms of revenue loss and penal action taken against the tax officials found to be involved in the various refund frauds brought to light is as below:

- (a) A refund scam was detected in CIT-XVI, Delhi Charge wherein it was found that refunds were fraudulently encashed by credit into accounts bearing the same names as that of the assessee but in the account of different persons using that name, to accounts of persons having different names than the assessee and even to accounts of fictitious persons filing returns with bogus TDS certificates and challans. A total of 18 refunds aggregating to Rs. 23,29,101/- had been fraudulently encashed by credit by the banks to accounts held by the persons other than the genuine assesseees or refunds had been issued on the basis of bogus TDS certificates and challans and deposited in accounts of fictitious persons. The involvement of two Income Tax Officers, namely, Shri S.M. Budhiraja and Shri Inder Kalra, who were on the verge of their retirement during the period, along with certain Group C officials was detected. Involvement of certain outsiders namely (i) Shri Anil Kumar Srivastava, CA; (ii) Shri Mahipal Negi, Computer Operator with Shri A.K. Srivastava; (iii) Shri Yogesh Sharma, earlier Branch

Manager of Central Bank, Gulmohar Park; and (iv) Shri Ramesh Dewan was also detected.

(b) F.No. DGIT (V)/NZ/COM/73/05

While verifying the refunds debited in his circle by the CIT (CO), the DCIT, Circle-4(1) found that 4 refunds totaling to an amount of Rs. 1,87,40,666/- did not pertain to his circle. An FIR was registered with the Economic Offences Wing of the Delhi Police and the concerned CIT also initiated departmental enquiries to investigate the fraud which suggested the possibility of the involvement of certain officials such as Sh. Amit Chawla in whose bank account a pay order of Rs.1,75,000/- dated 12.01.2005 was found credited from one of the bank accounts of the alleged bogus beneficiaries. Subsequently, other refunds were found to have been credited into bogus accounts. The Economic Offences Wing of the Delhi Police have arrested Sh. Amit Chawla, TA and the official has been suspended. Final investigation report of the Economic Offences Wing is awaited.

(c) F.No. DGIT(V)/NZ/COM/83/05

One CA by the name Sh. S.K.Bajaj, a Sr. TA Sh. V.K. Tomar, and a Daftry Sh. Sanjay Prasad, were detected trying to present a forged advice for refund of Rs. 17,62,786/- by officials of the RBI. The advice was forged under the signatures of Sh. Shri Krishan, ITO, Ward 37(1). The three individuals were arrested by the Delhi Police after an FIR was lodged against them.

In view of the spate of refund frauds, a D.O. letter was issued to the CCIT, Delhi by the DGIT(Vig.) to constitute a team of officers of the rank of Addl. CIT/JCIT for carrying out periodic checks and inspections on the issuance, dispatch and encashment of refunds. Some points that may serve as a check list for inspections, were enumerated as below:

- All refund vouchers should be in personal custody of the officers. Used/unused refund voucher books should be handed over to the successor at the time of handing over charge.
- Dispatch of refunds should be through centralized dispatch unit either in the Range or the CIT charge. Periodic inspection may be made of timely dispatch of refunds.
- Proper refund dispatch register may be maintained.
- Refunds should be sent by RPAD/Speed Post only and should not be delivered by hand/through notice server.
- AO/Range Head may periodically do random cross checks with assesseees to ensure proper delivery and with RBI officials to prevent encashment of bogus refunds.
- The Zonal Directors of Income-tax (Vig.) were also requested to conduct periodic and surprise inspections in the CCIT Regions of their Zones.

(d) F.No. DGIT (V)/NZ/COM/33/05

During the course of an enquiry conducted by the CIT, Meerut, it was found that in certain cases, refunds were being issued on the next day of filing of return. Also some returns were being received without jurisdiction. Different types of bogus refund claims detected are as under:

- Bogus receipt with reference to the investment made in the tax saving bond;
- Photocopies of bogus NSCs;
- Bogus certificate of interest on Housing loan to claim deduction u/s 24(1)(v) of the IT Act;
- Bogus claiming of loss on account of running of truck/taxies/doing tuition and some business activities.

Enquiry u/s 133(6) was conducted in all such cases of fraud detected, assessments were completed and penalty u/s 271(1)(c) was levied. Prosecution proceedings were launched in majority of the cases, compounding was done and amounts were collected towards revenue.

Since three Advocates were found to be involved in the refund fraud, the case was handed over to the CBI. After completion of the investigation the CBI registered a case No.RC-7(A)/2003/DAB under sections 120B, 420, 467, 471 of the IPC and 13(2) r/w 13(1)(d) of the PC Act against Sh. S.P. Verma, ITO and others. The three Advocates Sh. Rajeev Dhall, Sh. Mahesh Bansal and Sh. Kaushik were arrested along with Sh. Munna Lal Paul, TA of the department. Sh. Munna Lal Paul, TA has been suspended and CBI has filed a charge sheet in the trial court. The Bar Council of UP, Allahabad has been informed regarding filing of charge sheet and arrests made against the three Advocates.

(e) F.No. DGIT(V)/WZ/COM/115/05

A refund fraud was detected in CIT-V, Pune's charge as a result of misuse of refunds vouchers. An FIR was lodged with the Economic Offences Wing, Crime Branch, Pune by the concerned assessing officers on the missing/misused refund vouchers. A search was made in the Online Tax Accounting System (OLTAS) which revealed that about 33 advices amounting to Rs. 26,24,828/- have been presented before State Bank of India, Treasury Branch, Pune, which have been encashed by transfer to individual accounts. Out of this, a sum of Rs. 24,15,984/- has been recovered so far due to follow-up action taken by the Department. The Economic Offences Wing, Pune conducted a search and arrested three Income Tax Practitioners along with Sh. Sanjay N. Misal, Income Tax Inspector. Final report of the Economic Offences Wing, Pune is awaited.

(f) F.No. DGIT(V)/WZ/COM/8/06

Another refund fraud to the tune of Rs.75,90,115/- was brought to light during the course of a survey action u/s 133A of the IT Act in Mumbai against an assessee Sh. N.V. Sharma. The bogus refund claims were made on the basis of bogus TDS certificates. The matter is under investigation by the Economic Offences Wing, Mumbai.

(g) F.No. DGIT(V)/NZ/COM/13/06

Based on an enquiry conducted by the CIT-II, Amritsar, it was brought to light that in some cases, refunds appear to have been issued twice in the case of the same assessee for the same Assessment Year. Further it was found out that in nine cases, refunds appear to have been issued on the basis of forged TDS certificates in CIT-I, Amritsar Charge and another 39 bogus refunds were issued in CIT-II, Amritsar Charge. In four cases, refunds were found to be issued by the fraudulent revalidation and encashment by some officials in connivance with outsiders. The three income tax officials; Sh. Amarjit Singh Chawla, Office Superintendent, Sh. Sham Singh, Peon and Sh. Pardeep Kumar, Peon have been placed under suspension and the CCIT, Amritsar have been requested to lodge an FIR with the CBI, North Zone, Chandigarh in respect of the involvement of outsiders. Investigation report is awaited.

(h) F.No. DGIT(V)/SZ/COM/14/06

A case of fraudulent encashment of income tax refund orders relating to Vijayawada was noticed by the bank authorities who alerted the local officials at Vijayawada. An FIR was lodged against Sh. P.D.N. Prasad, Income Tax Officer and Sh. K. Devendra Prasad, TA, both of whom were arrested and have been placed under suspension. The refund fraud has been referred to the CBI for investigation and their report is awaited.

- (v) Instructions relating to strict compliance with guidelines on issue of refunds are periodically issued by the Board. Moreover, improvement in the system of determination and issue of refunds is also brought about to enhance the security of the refund, as discussed in sub-para (i) and (ii) above.

The Board has also put in place a mechanism of administrative approval by Commissioner of Income Tax before issuance of refunds of high denomination (Rs. 1 crore and above in the case of Delhi, Mumbai, Chennai, Kolkata, Bangalore, Hyderabad, Ahmedabad and Pune and Rs. 25 lakh and above for other stations).

The Government is constantly making endeavours to make the system of issue of refund a fool-proof one under which no fraud can be committed. Suitable administrative and criminal action is taken against the officials/assesseees/others found to be involved in any refund fraud and the system is further improved to prevent such frauds in future.”

6. In response to their recommendation expressing serious concern over the fraudulent issue of refunds with the connivance of income tax officials, the Committee have been informed that the Income Tax Department have been routing the refunds through ECS to reduce possibility of frauds. Presently, the facility of ECS is available only in 12 cities and efforts are being made to extend the facility in another 24 cities in about a year's time. Further, the Committee have been given to understand that the Government is also examining the feasibility of appointing a "Refund Banker", which would be entrusted with the work of printing and issue of refunds or ECS of refunds to the bank account of the taxpayer so as to prevent frauds. The Committee feel that the idea of appointing a "Refund Banker" is a step in the right direction and thus, desire to have more details on the same. At the same time, they urge the Government to expedite the appointment of such a banker as well as bring as many cities under the ECS Scheme as possible; at the earliest, the present coverage is totally inadequate. Thus, the Committee hope, would bring down to a great extent the possibility of such refund frauds in the future.

7. The Committee observe from the facts furnished by the Government that the fraudulent ways of obtaining refunds include bogus refunds, issue of refunds by officials, who have no jurisdiction over those cases in whose favour the refunds were issued, cases where either refund was not due or has already been issued before, and refunds issued to fictitious companies/assesseees. The Committee view these lapses very seriously and wish to be apprised of the specific penal action taken against person responsible for these lapses as well as corrective steps taken by the Department to overcome lacunae in such future cases.

8. The Committee would also like to reiterate their recommendation in one of their earlier reports on the Demands for Grants that the Department should ensure that the refunds are issued within the stipulated time frame of three months from the date of filing of refunds claims. Further, they would urge the Government to ensure that the refund cheques invariably reach the assesseees within 10 days from the date of issue of the cheques, in order to prevent any chances of corrupt practices on this account and reduce the difficulties faced by the assesseees.

9. The Committee further note from the Government's reply that certain bogus claims under the charge of CIT, Meerut were detected and the types of such bogus claims included bogus receipt with reference to the investment made in the tax saving bond, photocopies of bogus NSCs, bogus certificate of interest on housing loan etc. Similarly, a refund fraud to the tune of Rs. 75,90,115/- was found during a survey in Mumbai. From the foregoing, the Committee wonder whether any mechanism/procedure exists at all to cross-verify the genuineness of loans/savings certificates with the agencies concerned with the issue of such certificates. In case such a mechanism already exists, the Committee desire that the I.T. Commissionerates should devise a mechanism urgently to cross-check such certificates, submitted by assesseees, with these institutions/issuing authorities so that a fraud, if any, could be detected at the initial stage itself. In so far as the Committee's recommendation on the penal action taken against the tax officials

found to be involved in forgery and fraudulent issue of refunds is concerned, the Committee find from the reply of the Government that more than 16 income tax officials, alongwith certain outsiders viz. Advocates, Chartered Accountants and an assessee, have been found to be involved in Delhi, Chennai, Bangalore, Mumbai, Meerut, Pune, Amritsar and Bhubaneswar. Though, the Committee note that in CIT Delhi Charge, four officials have been arrested by the police, criminal action is yet to be taken against other income tax officials as the matter is either under investigation in those cases or the final reports of investigation are awaited. As per the reply of the Government, two income tax officers found to be involved in the refund fraud in Delhi charge were on the verge of retirement. The Committee desire that these officials must not be spared and criminal action must be taken against them. The Committee further desire that the Department must complete their investigations and inquiries in connection with the involvement of their own officials in fraudulent claims of refunds and initiate criminal action against all of them at the earliest. The Committee expect the Government to apprise them of details thereof at the action taken stage positively.

10. Also, the Committee are particularly concerned about the fact that apart from Income Tax Officials, certain outsiders have also been found to be hand-in-glove with them in facilitating refund frauds. From the information furnished to them, they note that some Chartered Accountants and advocates have been found guilty by the CIT-XVI, Delhi charge and the CIT Meerut charge for forgery and fraudulent encashment of reunds. The Committee desire that apart from initiating penal action against them as per the law, such cases need to be reported also to the ICAI and the Bar Council of India respectively urging them to take stringent possible action against such persons, who bring a bad name to their professions.

EXEMPTIONS

Recommendation (Sl. No. 3, Para No. 62)

11. The Committee in their Thirty-Third report had conveyed their apprehension on the possible misuse of exemption provisions by research institutions. They noted that the Government had now formed a Committee of secretaries to review existing incentives for scientific research, including research and development in the pharmaceutical industry. The Committee hoped that the review would be completed in a time bound manner and the Government would strive its best to consider and implement the recommendations at the earliest so as to prevent the misuse of exemption provisions to the extent possible. The Committee desired to be apprised of the position in this regard.

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

“In the meeting of the Committee of Secretaries held on January 30, 2006, Secretary (Revenue) expressed the view that the Government was keen to have a clear, transparent and quick mechanism evolved through a budgetary route, instead

of allowing deductions under the Income-tax Act, to ensure that funds for research and development were made available in a controlled and effective manner. In the meeting, Secretary, Expenditure added that a short, medium and long-term plan was needed to be laid down by Secretary, DSIR with contributions from experts in his Department. The Department of Revenue in its last communication dated 30.5.2006 to DSIR have reiterated the need to work out a suitable medium-term plan which would minimize the scope of misuse, ensure minimum bureaucratic intervention and a more simplified R&D support system through discussions in the Committee. A request has been made to DSIR to urgently convene the meeting of the Committee of Secretaries for discussion on these aspects.”

13. Misuse of exemption provision by research institutions have quite often been noticed, which, in the opinion of the Committee, need to be reviewed urgently as this trend is not only defeating the very purpose of such exemptions but is also causing loss of tax revenue to the Government exchequer. In their earlier recommendation, the Committee had taken note of the fact that the Government had formed a Committee of Secretaries to review incentives for scientific research and thus had expected that the review would be completed in a time bound manner and the Government would strive its best to consider and implement the recommendation at the earliest. In this regard, the Committee have now been informed that the Government is keen to have a clear and quick mechanism evolved through the budgetary route to ensure that funds for research and development were made available in a controlled and effective manner. The Committee have also been made to understand that in a meeting of the Committee of Secretaries held in January 2006, it was agreed that a short, medium and long term plan was needed to be laid down by the DSIR with contributions from experts in their Department. However, they are dismayed to note that even after a lapse of more than six months, DSIR have not even bothered to respond to the communication sent by the Department of Revenue with regard to formulating a suitable medium-term plan as well as convening a meeting of Committee of Secretaries for discussion on the aspects that are to be covered under the plan. They feel that this is one typical instance of the bureaucratic delay which causes many innovative ideas to ultimately lose their steam. They, hence, desire the Ministry to convey their sentiments to the DSIR with a view to set in motion the desired efforts on their part, in the interest of augmenting the revenues to the Government.

COMPUTERISATION

Recommendation (Sl. No. 5 , Para Nos. 91, 92 & 93)

14. The Committee observed that so far as the computerization projects taken up by the Central Board of Direct Taxes were concerned, implementation of many small projects that would enhance the effective functioning of the department like computerized processing and country-wide matching of TDS claims, matching of data compiled in

the Annual Information Returns (AIRs) with that of tax returns etc. depend to a large extent, on the completion of the creation of a single National database. They noted that as per the original target, the database was to be completed by June 2006. However, the target date for completion was shifted to September 2006. The Committee were of the strong view that the Government should take all-out efforts to complete the project within the rescheduled target *i.e.*, by September 2006 to reap the designated benefits that would accrue from the database. Further, the Committee felt that there existed a gap between the information obtained through Annual Information Report (AIR), which was fully computerized, and the information coming from returns of income, which was partly computerized. The Government had assured that the gap would be filled and they would be able to complete all processing, data matching and select on of cases for scrutiny on computers by the end of the current Financial Year *i.e.* 2006-07. The Committee expected that the whole process would be completed within the stated time. Further, the Government had stated that the work relating to appointment of system integrator was still at the stage of evaluation of technical bids. The Committee urged the Government to expedite the process without further delay so that this should not adversely affect the project.

15. In so far as the overall computerization of the Department was concerned, the Committee were given to understand that expenditure sanction for the third phase of Computerization Plan of the Income Tax Department had been approved by the Cabinet way back in December, 2002. The plan had included networking of IT offices in remaining 440 cities out of the proposed 510 cities. The original target date for the same was 31.01.2006. The Committee further noted that the Department sought fresh sanction for additional requirements from the Committee of Secretaries on Non-plan Expenditure on 11.5.2005. In the Committee's view, the pace of work with respect to computerization project had been slow. Despite urging the Government to expedite the various computerization projects repeatedly in their earlier reports and the assurances given by them that it would be completed in time, the Committee were dismayed to note that certain components of the project like linking of cities under a single national database and setting up National Data Centre were yet to be completed. The Committee noted that as per the revised schedule, the dates of completion of the above two components of Phase-III of the computerization projects were 31.05.2006 and 30.09.2006 respectively. The Committee hoped that the Government would not extend the date furthermore and take all out efforts to complete the project as per the revised schedule.

16. The Committee noted that so far as the computerization projects under the Central Board of Excise and Customs (CBEC) were concerned, the Government had taken the stand that some of those were under implementation and some others were in the proposal and testing stages – the important ones being the creation of a National level Data Center, Automation of Central Excise and Service Tax (ACES), Risk Management System (RMS) and Electronic Accounting system in Excise and Service Tax (EASIEST). The Committee recommended that all the projects under implementation as well as under consideration should be followed up by the Government in the right earnest so as to avoid avoidable delay in their implementation.

17. The Government, in their action taken reply, have stated as follows:—

“As of now only 60 stations are on network where the processing is done through ITD application and in other stations the processing is done on stand alone basis. The IT department has utilized the information available in the AIR to the extent of about 65% of the total value of transactions for F.Y. 2004-05 relevant to A.Y. 2005-06 while selecting the cases for scrutiny using CASS during this year at the 60 network stations of the IT department. The balance information is being used for manual selection of cases for scrutiny. Department’s new network and the National Data Centre is expected to become fully operational during the F.Y. 2007-08. The new uniform processing software will then be implemented in all the 510 stations. Thereafter the data matching of all the income tax returns processed on the new system with the information from the Annual Information Returns can be done and used for selection of cases for scrutiny.

The original tender for appointment of Systems Integrator was cancelled by Government. New tender for appointment of Systems integrator has been floated and the bid submission date is 16.10.2006 As per the timelines, the tender is expected to be finalized by January 2007, and finally the National Data Centre is expected to be functional by June 2007.

The Status of project tracks for augmentation of computer infrastructure is given at Annexure I.

The Current status of various benchmark activities identified in the Project is given in the Annexure-II.

The delay in commissioning of the Single National Data Base and National Data Centre had occurred due to the elaborate government procurement procedures laid down for this scale of work. Due to the first tender ending up midway in an uncompetitive situation re-tendering became necessary.

The progress of projects under implementation as well as under consideration is being monitored closely by the Government. These projects are being executed under the supervision of an ‘Empowered Committee.’”

18. Though the Committee have been repeatedly urging the Department to expedite their various computerisation projects, they seem to be in no hurry at all. The Committee in particular, are very disappointed with the inordinate delay in setting up of National Data Centre as its targets are being constantly shifted. From original target of June 2006 it was shifted to September 2006. The Committee have now been informed that it has again been shifted to June 2007 due to cancellation of the original tender for appointment of Systems Integrator. They are not satisfied with the reply of the Ministry that the project got delayed due to elaborate Government procedures. The Committee are of the view that the Government should not try to justify their slow pace on the basis of such excuser since adequate time limits must have been set for the tendering process at the time

when the project was designed. They, therefore, recommend that the Government should refrain from further delaying the project and every effort should be made to complete it in the current financial year itself. For this, they desire that the Government should expedite the appointment of Systems Integrator as early as possible so that the project is not hindered on that account. They also desire that the Government should apprise them with the progress made in this regard at bi-monthly basis.

19. Regarding overall computerization of the Department, which was originally scheduled to be completed by 31st January, 2006, the Committee note from the reply furnished by the Government that Phase -1 of the project related to the networking of Income-Tax offices in 510 cities to single national database has been completed. Work on Phase - II is in progress and this project is scheduled to be completed by 31st January, 2007, which, the Committee hope, will be adhered to.

20. Overall, the Committee deprecate the snail's pace in which the computerization projects progressing, despite repeated recommendations of the Committee in this regard and assurances given by Government that it would be completed in time. This approach on the part of the Government, in the Committee's view, is nothing but regrettable. Therefore, they reiterate that the Government should expedite the work and complete the project within the revised schedule positively.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No. 3, Para No. 61)

The matter concerning exemptions given both under direct and indirect taxes had engaged the attention of the Committee earlier also. The Committee, in their Thirty-third Report (14th Lok Sabha) had recommended, *inter-alia*, that since prolonged continuance of exemptions may turn detrimental to the economy as they deplete considerable portion of tax base, leave tremendous scope for evading tax and prompt people to resort to unwarranted tax planning, there is a need for urgently withdrawing the exemption provision under the tax laws or reducing the list of exemptions and rationalizing the same. The Committee are in total agreement with the observation made by the Rustogi Committee that exemptions cause distortions, are prone to misuse and not always easy to implement. The Committee appreciate that the Government have taken right steps in this direction by withdrawing quite a few exemptions which are no longer justified. The Committee would further consider it to be a necessary and beneficial exercise to conduct a cost-benefit analysis on the tax exemptions, which would enhance the credibility of either extending or withdrawing an exemption. Therefore, the Committee recommend that a comprehensive exercise may be conducted by the Government to analyse the cost-benefit ratio on all the existing tax exemptions.

Reply of the Government

CBDT: It is proposed that a study to analyse the cost benefit analysis of existing exemptions and deductions under the Income-tax Act, 1961 be undertaken by the National Institute of Public Finance and Policy.

CBEC: The Government agrees with the recommendation of the Committee. However, it may not be feasible to have a cost benefit study of each and every exemption, Government is considering taking up a study in respect of following exemptions having major revenue implications:

Excise

- Small Scale Industries exemption
- Exemptions for Textile Sector
- Area-based exemptions

Customs

- Export related exemptions
- Exemption for Research Institutions
- Exemptions for Leather and Textile Sector

Agencies like National Institute of Public Finance and Policy (NIPFP), National Council of Applied Economic Research (NCAER), Indian Council for Research on International Economic Relations (ICRIER) are being approached to undertake such cost benefit analysis in respect of above-mentioned exemptions.

Recommendation (Sl. No. 3, Para No. 62)

The Committee in their Thirty-third Report had also conveyed their apprehension on the possible misuse of exemptions provisions by research institutions. They note that the Government have now formed a Committee of secretaries to review existing incentives for scientific research, including research and development in the pharmaceutical industry. The Committee hope that the review would be completed in a time bound manner and the Government would strive its best to consider and implement the recommendations at the earliest so as to prevent the misuse of exemption provisions to the extent possible. The Committee would like to be apprised of the position in this regard.

Reply of the Government

In the meeting of the Committee of Secretaries held on January 30, 2006, Secretary (Revenue) expressed the view that the Government was keen to have a clear, transparent and quick mechanism evolved through a budgetary route, instead of allowing deductions under the Income-tax Act, to ensure that funds for research and development were made available in a controlled and effective manner. In the meeting, Secretary, Expenditure added that a short, medium and long-term plan was needed to be laid down by Secretary, DSIR with contributions from experts in his Department. The Department of Revenue in its last communication dated 30.5.2006 to DSIR have reiterated the need to work out a suitable medium-term plan which would minimize the scope of misuse, ensure minimum bureaucratic intervention and a more simplified R&D support system through discussions in the Committee. A request has been made to DSIR to urgently convene the meeting of the Committee of Secretaries for discussion on these aspects.

[F.No. H-11012/1/2006-Parl. Dated 13.10.2006]

Recommendation (Sl. No. 4, Para No. 75)

The Committee observe that restructuring of the Department under the Central Board of Direct Taxes (CBDT) and Central Board of Excise & Customs (CBEC) had been undertaken resulting in perceptible difference in the performance of the departments. However, the Committee have been told on many occasions that shortage of manpower,

particularly at the level of Inspectors etc. is affecting the efficiency of the tax departments. In this regard, from the data submitted to them by the Government, the Committee note that the restructuring process in CBDT has resulted in an increase of 222.22 % of the posts of Chief Commissioner but a rather poor 17.07 % augmentation at the level of inspectors. In CBEC, the posts of Chief Commissioner have been increased by 123.80% and at the level of Inspector, there has been a decrease of 14.32%. This exercise, in the Committee's view, has made the top slots heavy, and negligible or even negative growth in the number of posts at the cutting edge levels like that of Inspectors, Income-Tax Officers, Superintendents and Custom Appraisers. This, the Committee feel, may further worsen the much-felt shortage of work force at these levels leading to serious problems in the overall functioning of the two departments. The Committee note that the Government have now started taking measures to fill up these gaps. Nevertheless, the Committee are led to the conclusion that the restructuring proposal was done in a manner, that chose to ignore the requirements at the middle and lower level of the functionaries, resulting in continuation of shortage of manpower. The Committee, therefore, recommend the Government to again assess the present structure of the department under both the Boards carefully and set right the anomalies that have crept up as a result of restructuring.

The Committee, therefore, recommend the Government to again assess the present structure of the Department under both the Boards carefully and set right the anomalies that have crept up as a result of restructuring.

Reply of the Government

CBDT: The Committee comprising Secretaries in the Departments of Expenditure, Personnel and Revenue assessed the additional manpower requirement of the department at 7,051 personnel in various cadres and 4,500 personnel by outsourcing under GFR-163 and GFR-178. After a presentation before the Committee of Secretaries on 15.9.2006, the Committee has concurred with the proposal and asked the Department to bring the entire proposal for additional manpower, including the phasing for filling up of posts and net intake of manpower into the system at various levels, before the Cabinet for approval.

A note for consideration of the Cabinet for seeking sanction for creation of 7,051 posts at different levels is under process.

CBEC: It is observed that the main objective of the cadre restructuring in 2001 was creation of a tax administration, which is officer-oriented, technology-driven, responsive and assessee-friendly. It also aimed at reduction of interface of the taxpayer with the lower levels of staff by having more number of senior level officers in the field formations. The Department has achieved this objective by creating compact Zones and Commissionerates of Central Excise and Customs, having smaller span of control. Six exclusive Service Tax Commissionerates have since been created. Hence, it would not be correct to suggest that the last cadre restructuring has made the Department top heavy.

As regards shortage of staff strength in various cutting edge levels including the levels of Assistant Commissioner, Group 'B' Executive (Gazetted) and Group 'B' Executive (Non-gazetted), it is observed that the shortage of staff strength in various grades is due to various factors such as changes in indirect tax scenario after 2001 that could not be factored in at the time of last cadre restructuring, creation of many new Commissionerates and other formations, shortage of eligible officers in the feeder grades for promotion to higher grades etc., resulting in vacancies in different grades especially in Inspector and TA/ STA grades. To address the problem of shortage of staff strength in various grades, the process of recruitment against direct recruitment vacancies in different grades has already been initiated by the Department after getting approval of the Departmental Screening Committees for Annual Direct Recruitment Plans for the years 2002-03, 2003-04, 2004-05 and 2005-06. Once the process of recruitment gets completed and the selected candidates join the Department, the shortage of staff strength would get reduced to some extent.

As regards assessment of the present organizational structure under CBEC, a Committee was constituted under the Chairpersonship of Member (P&A), CBEC for preparation of a comprehensive report regarding restructuring / optimizing the overall manpower requirement of CBEC. The said Committee has submitted its report to the Government for consideration. In the said report, the Committee has assessed the additional requirements of 7229 posts at various levels, which would address the problem of shortage of manpower atleast for the time-being. The said report is presently under the active consideration of the Government.

[F.No. H-11012/1/2006-Parl. Dated 13.10.2006]

Recommendation (Sl. No. 6, Para No. 110)

The Committee take note of the fact that the extent of spot recovery of service tax—which works out to 66% of the total service tax evaded, as a result of detection of evasion of the tax by the Directorate General of Central Excise Intelligence (DGCEI) is a cause for serious concern, as it reveals the extent to which service tax evasion exists in the system. The trend shows that there is hardly any fear of detection and punishment in the minds of service providers, which the Committee feel is the result of the lighter punishment that is meted out to the offenders. Even if the fact remains that the Government is being cautious, as Service Tax is a relatively new concept, the Committee feel that having no legal provision that provides for conviction for such evaders will prove to be detrimental at a later stage. The Committee also take note of the fact that on the contrary, the law provides for an escape route in the sense that if the evader deposits 25% of the tax evaded in addition to the total tax to be paid, he is let free without any further action against him.

Reply of the Government

The provisions relating to payment of penalty equal to twenty five per cent of service tax liability stipulates that such penalty along with the service tax liability and

interest, as applicable, has to be necessarily paid within thirty days of receipt of notice by the assessee or date of communication of order by the Central Excise Officer, as the case may be. This condition of payment of dues within thirty days ensures speedier recovery of revenue / arrears of revenue. Therefore, this facilitation measure of settling dispute by way of deposit of reduced penalty is available only to compliant assessee who makes payment within the stipulated period. Similar provisions also exist in Central Excise and Customs Laws.

[F.No. H-11012/1/2006-Parl. Dated 13.10.2006]

Recommendation (Sl. No. 6, Para No. 111)

Further still, the minimum penalty fixed, if such a case reaches the adjudication level, is also fixed at 25% of the tax due. The Committee, taking the above into consideration, recommends the Government to bring in the necessary legal changes early for enabling conviction of the tax offenders as well as increase the rate of survey and searches in order to inculcate a sense of fear among the tax evaders.

Reply of the Government

It is the conscious view of the Government not to incorporate provisions relating to conviction in Service Tax Law at this stage and also to resort to searches and surveys only in such cases where these are essential, so that undue hardship is not caused to the assessee in this phase of exponential growth of service tax regime. At present, the stress is on facilitation to the taxpayer and revenue risk based scrutiny. However, it is also submitted that gradually Government is incorporating deterrent provisions in the law. In this regard two such provisions, namely, provisional attachment of property of persons against whom any proceeding for evasion of service tax is pending adjudication, and publishing of names of defaulters have been incorporated in the Service Tax Law.

[F.No. H-11012/1/2006-Parl. Dated 13.10.2006]

CHAPTER III

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

Recommendation (Sl. No. 1, Para No. 18)

The Committee are perturbed to find that bogus income-tax returns claiming large amounts of refunds on the basis of bogus TDS certificates were filed by some unscrupulous persons. The point of serious concern is the forgery committed by the tax officials themselves who connived with these persons, resulting in such fraudulent issue of refunds. The Committee feel that this is an ample proof of the extent of corruption in the tax machinery which could have been avoided, had the internal vigilance mechanism of the Department been more alert. In Committee's view, lack of efficiency and integrity in the tax machinery leads not only to leakage of tax revenue but also to tax evasion. Although the Department has stated to have issued instructions/circulars to the field formations, yet the fact cannot be ignored that this has been done only after receiving Reserve Bank of India (RBI)'s communication pointing towards irregularities in the issue of refund orders. The Committee note that the system of issue of refunds is going to be streamlined by making ECS applicable for all refunds in future, making it mandatory to quote the assessee's bank account details in the refund orders and immediate reporting of any loss/theft of refund orders to the higher authorities, the clearing bank and the police etc. However, the Committee are constrained to observe that corrupt officials succumbing to avarice has become bane of Income Tax Department. Further, there has been a systemic failure in the form of lack of proper checks and balances and a deficient supervision by the senior officials and the internal vigilance mechanism on such officials. The Committee take strong exception to such failures in the Department and desire the Government to furnish complete details of the extent of such fraud in terms of Revenue loss and the penal action taken against the tax officials found to be involved. The Committee also recommend that the instruction of the Department on issue of refunds should be followed scrupulously and diligently with supervision at senior level in all their field formations.

Reply of the Government

- (i) The Department has already laid down guidelines/instructions on procedures and safeguards to be followed for securing refunds. Whenever, non-observance of such procedures and safeguards is found out, the guidelines/ instructions are reiterated or revised, as the case may be. Accordingly, when RBI pointed out certain commonly committed irregularities noticed by them during the course of

clearing of refund cheques by them; those were immediately brought to the notice of the field formations for compliance.

- (ii) ECS has already been made applicable for all refunds, regardless of the class of taxpayer and the amount of refund. However, presently the facilities of ECS are available only in 12 cities. The Government is taking necessary steps to extend ECS facilities in another 24 cities in about a year's time. The Board has made it mandatory to issue refunds through ECS in such centers where ECS facilities are available.

Similarly, quoting of bank account details on the refund cheque has also been made mandatory with effect from 01.01.2006. Moreover, the Government is also examining the feasibility of appointing a "Refund Banker", which would be entrusted with the work of printing and issue of refunds or ECS of refunds to the bank account of the taxpayer, so as to prevent frauds taking place by way of claim of refund by wrong person, issue of refund on stolen refund stationery, forging of signature, duplicate issue of refunds etc.

- (iii) A Committee appointed by the Board, which examined the nature and extent of refund frauds, has submitted that incidents of refund frauds have been reported from Delhi, Chennai, Bangalore and Bhubaneshwar. The following are the details of the cases of fraud so noticed by the Committee:

- a. In one CCIT charge in Delhi, 158 refunds were found to be bogus involving an amount of Rs.56.54 lakh. Involvement of two officers is suspected.
- b. Bogus refunds aggregating to Rs.1.07 crore were found to have been issued to 25 fictitious companies in another CCIT charge in Delhi
- c. Refunds worth Rs.1.66 crore were found to have been issued from one Circle in Delhi, which actually has no jurisdiction over those cases in whose favour the refunds were issued.
- d. In 28 cases at Chennai, refunds were issued in cases where either refund was not due or has already been issued before.
- e. In 22 cases reported from Chennai, higher than actual refunds were claimed on the basis of forged tax payment challans or certificates.
- f. In 110 cases, refunds were found in Chennai to have been issued without jurisdiction or to fictitious assesseees.
- g. A retired employee of I-T Department at Bangalore was found involved in forging tax payment challans for claiming fraudulent refunds.

Sporadic instances of claim of refund on the basis of fictitious TDS certificates have been reported from Bhubaneshwar.

- (iv) The Income Tax Department has already initiated action against officials involved in a few refund fraud cases detected during the last couple of years. The extent of

refund frauds in terms of revenue loss and penal action taken against the tax officials found to be involved in the various refund frauds brought to light is as below:

(a) A refund scam was detected in CIT-XVI, Delhi Charge wherein it was found that refunds were fraudulently encashed by credit into accounts bearing the same names as that of the assessee but in the account of different persons using that name, to accounts of persons having different names than the assessee and even to accounts of fictitious persons filing returns with bogus TDS certificates and challans. A total of 18 refunds aggregating to Rs. 23,29,101/- had been fraudulently encashed by credit by the banks to accounts held by the persons other than the genuine assesseees or refunds had been issued on the basis of bogus TDS certificates and challans and deposited in accounts of fictitious persons. The involvement of two Income Tax Officers, namely, Shri S.M. Buidhiraja and Shri Inder Kalra, who were on the verge of their retirement during the period, along with certain group C officials was detected. Involvement of certain outsiders namely (i) Shri Anil Kumar Srivastava, CA, (ii) Shri Mahipal Negi, Computer Operator with Shri A.K. Srivastava (iii) Shri Yogesh Sharma, earlier Branch Manager of Central Bank, Gulmohar Park and (iv) Shri Ramesh Dewan was also detected.

(b) F.No. DGIT (V)/NZ/COM/73/05

While verifying the refunds debited in his circle by the CIT (CO), the DCIT, Circle-4(1) found that 4 refunds totaling to an amount of Rs. 1,87,40,666/- did not pertain to his circle. An FIR was registered with the Economic Offences Wing of the Delhi Police and the concerned CIT also initiated departmental enquiries to investigate the fraud which suggested the possibility of the involvement of certain officials such as Sh. Amit Chawla in whose bank account a pay order of Rs.1,75,000/- dated 12.01.2005 was found credited from one of the bank accounts of the alleged bogus beneficiaries. Subsequently, other refunds were found to have been credited into bogus accounts. The Economic Offences Wing of the Delhi Police have arrested Sh. Amit Chawla, TA and the official has been suspended. Final investigation report of the Economic Offences Wing is awaited.

(c) F.No.DGIT(VVNZ/COM/83/05

One CA by the name Sh. S.K.Bajaj, a Sr. TA Sh. V.K. Tomar, and a Daftry Sh. Sanjay Prasad, were detected trying to present a forged advice for refund of Rs. 17,62,786/- by officials of the RBL. The advice was forged under the signatures of Sh. Shri Krishan, ITO, Ward 37(1). The three individuals were arrested by the Delhi Police after an FIR was lodged against them.

In view of the spate of refund frauds a D.O. letter was issued to the CCIT, Delhi by the DGIT(Vig.) to constitute a team of officers of the rank of Addl. CIT/JCIT for carrying out period checks and inspections on the issuance,

dispatch and encashment of refunds. Some point that may serve as a check list for inspections were enumerated as below:

- All refund vouchers should be in personal custody of the officers. Used/unused refund voucher books should be handed over to the successor at the time of handing over charge.
- Dispatch of refunds should be through centralized dispatch unit either in the Range or the CIT charge. Periodic inspection may be made of timely dispatch of refunds.
- Proper refund dispatch register may be maintained.
- Refunds should be sent by RPAD/Speed Post only and should not be delivered by hand/through notice server.
- AO/Range Head may periodically do random cross checks with assesses to ensure proper delivery and with RBI officials to prevent encashment of bogus refunds.
- The Zonal Directors of Income-tax (Vig.) were also requested to conduct periodic and surprise inspections in the CCIT Regions of their Zones.

(d) F.No.DGIT (V)/NZ/COM/33/05

During the course of an enquiry conducted by the CIT, Meerut, it was found that in certain cases refunds were being issued on the next day of filing of return. Also some returns were being received without jurisdiction. Different types of bogus refund claims detected are as under:

- Bogus receipt with reference to the investment made in the tax saving bond;
- Photocopies of bogus NSCs;
- Bogus certificate of interest on Housing loan to claim deduction u/s 24(1)(v) of the IT Act;
- Bogus claiming of loss on account of running of truck/taxies/doing tuition and some business activities;

Enquiry u/s 133(6) was conducted in all such cases of fraud detected, assessments were completed and penalty u/s 271(1)(c) was levied. Prosecution proceedings were launched in majority of the cases and compounding was done and amounts were collected towards revenue.

Since three Advocates were found to be involved in the refund fraud the case was handed over to the CBI. After completion of the investigation the CBI registered a case No.RC-7(A)/2003/DAB under sections 120B, 420, 467, 471 of the IPC and 13(2) r/w 13(1)(d) of the PC Act against Sh. S.P. Verma, ITO and others. The three Advocates Sh. Rajeev Dhall, Sh. Mahesh Bansal and Sh. Kaushik were arrested along with Sh. Munna Lal Paul, TA of the department. Sh. Munna Lal Paul, TA has been suspended and CBI has filed a charge sheet in the trial court. The Bar Council of UP, Allahabad has been informed regarding filing of charge sheet and arrests made against the three Advocates.

(e) F. No. DGIT(V)/WZ/COM/115/05

A refund fraud was detected in CIT-V, Pune's charge as a result of misuse of refunds vouchers. An FIR was lodged with the Economic Offences Wing, Crime Branch, Pune by the concerned assessing officers on the missing/misused refund vouchers. A search was made in the Online Tax Accounting System (OLTAS) which revealed that about 33 advices amounting to Rs.26,24,828/- have been presented before State Bank of India, Treasury Branch, Pune, which have been encashed by transfer to individual accounts. Out of this, a sum of Rs.24,15,984/- has been recovered so far due to follow-up action taken by the Department. The Economic Offences Wing, Pune conducted a search and arrested three Income Tax Practitioners along with Sh. Sanjay N. Misal, Income Tax Inspector. Final report of the Economic Offences Wing, Pune is awaited.

(f) F.No.DGIT(V)/WZ/COM/8/06

Another refund fraud to the tune of Rs.75,90,115/- was brought to light during the course of a survey action u/s 133A of the IT Act in Mumbai against an assessee Sh. N.V. Sharma. The bogus refund claims were made on the basis of bogus TDS certificates. The matter is under investigation by the Economic Offences Wing, Mumbai.

(g) F.No.DGIT(V)/NZ/COM/13/06

Based on an enquiry conducted by the CIT-II, Amritsar, it was brought to light that in some cases refunds appear to have been issued twice in the case of the same assessee for the same Asstt. Year. Further it was found out that in nine cases, refunds appear to have been issued on the basis of forged TDS certificates in CIT-I, Amritsar Charge and another 39 bogus refunds were issued in CIT-II, Amritsar Charge. In four cases refunds were found to be issued by the fraudulent revalidation and encashment by some officials in connivance with outsiders. The three income tax officials; Sh. Amarjit Singh Chawla, Office Superintendent, Sh. Sham Singh, Peon and Sh. Pardeep Kumar, Peon have been placed under suspension and the CCIT, Amritsar have been requested to lodge an FIR with the CBI, North Zone, Chandigarh in respect of the involvement of outsiders. Investigation report is awaited.

(h) F.No.DGIT(V)/SZ/COM/14/06

A case of fraudulent encashment of income tax refund orders relating to Vijayawada was noticed by the bank authorities who alerted the local officials at Vijayawada. An FIR was lodged against Sh. P.D.N. Prasad, Income Tax Officer and Sh. K. Devendra Prasad, TA both of whom were arrested and have been placed under suspension. The refund fraud has been referred to the CBI for investigation and their report is awaited.

- (v) Instructions relating to strict compliance with guidelines on issue of refunds are periodically issued by the Board. Moreover, improvement in the system of determination and issue of refunds is also brought about to enhance the security of the refund, as discussed in sub-para (i) and (ii) above.

The Board has also put in place a mechanism of administrative approval by Commissioner of Income Tax before issuance of refunds of high denomination (Rs.1 crore and above in the case of Delhi, Mumbai, Chennai, Kolkata, Bangalore, Hyderabad, Ahmedabad and Pune and Rs. 25 lakh and above for other stations).

The Government is constantly making endeavours to make the system of issue of refund a fool-proof one under which no fraud can be committed. Suitable administrative and criminal action is taken against the officials/ assesseees/ others found to be involved in any refund fraud and the system is further improved to prevent such frauds in future.

Recommendation (Sl. No. 1, Para No. 19)

Another disquieting feature about issue of refunds as noted by the Committee has been the inordinate delay in the issue of refunds. The Committee find that though there are administrative instructions to issue refunds within a period of four months, there have been several cases of delays. The Committee advise the Government to go into the discrepancies that have been stated to delay issue of refunds and take necessary action so that such instances do not recur.

Reply of the Government

Normally, returns are processed within four months and refunds are issued. Only in exceptional cases verification of TDS Certificate is required causing delay in issuing of the refund till verification process is over. The Government has already taken cognizance of the problems being faced by the taxpayers in receipt of refunds and to make it more convenient to the taxpayers. Dematerialization of TDS certificates is already under process and verification will be done through computer from e-TDS returns filed by the tax deductor. The whole process of issue of refund is going to be streamlined as 24 more cities are going to be covered under Electronic Clearing System which is presently working in 12 major cities.

Recommendations (Sl. No. 2, Para No. 40)

Taking a serious view of the recurring trend of huge pendency of arrears, the Committee had, in their 33rd Report (14th Lok Sabha) desired the Government to take concerted efforts to reduce such arrears. Although the Government are stated to have taken measures to recover the arrears, there has been hardly any substantial increase in the collection of arrears over the years. It is evident from the fact that as on 31.1.2006 the outstanding arrears demand in direct taxes amounts to a whopping Rs. 84662 crore (approx.) and in indirect taxes, it is around Rs. 21,368.11 crore. The Committee would also like to particularly point out that majority of the arrears are pending to be recovered

from the two cities of Mumbai and Delhi. The Committee find that an amount of Rs. 35000/- crore in Mumbai alone is outstanding against stock-scams related cases of Harshad Mehta Group and Ketan Parekh Group, and are stated to be at the initial stages either at the first appellate authority or the Tribunal. No serious efforts seem to have been made to get the cases decided early. From this, the Committee are led to conclude that recovery of arrears is moving at a painfully low pace. The Committee hope that at last now the Government would make concerted efforts to realise the arrears with due despatch.

Reply of the Government

As regards the concentration of the arrears in the Mumbai and Delhi region, it is submitted that these regions account for about 50% of the direct tax collections of the country and are the largest centers of financial activities. It is, therefore, natural that the arrears are also concentrated in these two regions.

As regards recovery in the securities scam cases, it is submitted that these persons have been notified under section 3 of Special Court (Torts) Act, 1992 as a consequence of which, no recovery can be made directly from such persons. In these cases, the Special Court, after considering the claims of all stakeholders, periodically releases funds for appropriation towards outstanding taxes. Recovery in these cases over and above the amount ordered and released by the Special Courts is beyond the control of the Income Tax Department.

Recommendation (Sl. No. 2, Para No. 40)

In so far as indirect taxes are concerned, the Committee note that as on 31.1.2006, out of the total outstanding arrears of Rs. 21,368.11 crore the unstayed arrears demand is around Rs. 14236.6 crore. From the information furnished to them, the Committee also note that the targets of recovery of arrears are being reduced over the years in both Central Excise and Customs. Moreover, the targets of recovery fixed for 2006-07 is even below than the recoverable amount. In this connection, the Committee have been given to understand that a task force has been constituted to expedite the realisation of arrears with certain specific measures e.g. sensitization at the level of Commissioners/Chief Commissioners etc., filing application for vacation of stay orders etc. Though the Committee feel that this is a step in the right direction, yet in their view, as the adjudication of cases attribute, to a great extent, to realise the arrears, they are of the opinion that the Government may examine fixing a time-limit to expedite the adjudication procedure.

Reply of the Government

It is mentioned that the Task Force for Arrears Recovery (TAR) has been functioning since August, 2004. It's functions include co-ordinating, facilitating, monitoring and overseeing the efforts in respect of realization of arrears. For the financial years 2005-06 and 2006-07, the recovery targets of Rs. 2700 crore & Rs. 2450 crore

respectively were fixed for indirect tax. The comparative performance in the collection of arrears of revenue *vis-à-vis* targets during the last two financial years *i.e.* 2004-05 & 2005-06 is as under:—

Head of duty	2004-05			2005-06		
	Targets	Realisation	% of targets	Targets	Realisation	% of target
Central Excise	2250	1799.38	80	1682.4	1657.94	99
Customs	750	843.49	112	717.6	600.29	84
Service Tax	Not fixed	-	-	300	881.42	294
Total	3000	2642.87	88	2700	3139.65	116

The following major initiatives/steps have been taken to expeditiously realise the arrears:—

- (a) Sensitization at the level of Commissioners/Chief Commissioners by holding meetings at Nodal/Zonal levels;
- (b) steps for getting the stay orders vacated;
- (c) filing early hearing applications in Courts/ CESTAT;
- (d) targeting defaulters with coercive action;
- (e) persuading major units to pay outstanding arrears;
- (f) follow-up of cases pending before BIFR/DRT/OL/COD;
- (g) faster disposal of adjudication cases pending before departmental adjudicating officers;
- (h) quick implementation of favourable orders of CESTAT/ Courts; and
- (i) posting of defaulters list on CBEC website.

Due to the concerted efforts, the department was able to increase recovery of arrears during the financial year 2004-05 (272% growth over previous year) and exceeded the target by 16% during the financial year 2005-06 (18.8% growth over previous year). Further, in keeping with the earlier performance, the department is expected to achieve the assigned target during the current financial year.

Fixing a time limit to expedite the adjudication procedure: The Central Excise Act, 1944 and the Customs Act, 1962 provide that the adjudication of cases should be done within 6 months (or 1 year in specified cases) as far as possible. However, fixing rigid time-limit is not feasible since circumstances may arise wherein it is not possible to finalize a demand within the stipulated time period. Sometimes a large number of Court decisions are referred and relied upon which require deeper analysis. Further, in cases involving clandestine removal etc. a thorough examination of the relied upon

evidences is required to be done. Sometimes the party employs delaying tactics by asking for more time and not appearing at the time of Personal Hearing. In some cases cross examination of panch witnesses, investigating officers are sought. As the principles of natural justice have to be followed in each case and also keeping in view other factors mentioned above, rigid time limit for adjudication cannot be fixed.

Recommendation (Sl. No. 2, Para No. 42)

The Committee note that one of the major reasons for concluding certain portion of arrears as 'non-recoverable' is that the assessee are not traceable. In this backdrop, the Committee recommend the Government to further strengthen their institutional and procedural safeguards so that traceability of assessee could be managed well and revenue due to the Government could be recovered.

Reply of the Government

CBDT: In a situation when an assessee has shifted from his disclosed location without intimating the Department, there already is a mechanism for tracing him through field enquiries, enquiries from the Directors, partners, promoters, legal heirs, legal representatives, authorized representatives, etc. Assistance of law enforcement agencies is also requisitioned in suitable cases for tracing the assessee.

The task of tracing a defaulting business entity is difficult in view of the legal and institutional framework within which business is conducted in the country and the large presence of unorganized sector allowing business entities to close down business at will or re-start business under a new/ re-constituted entity. Lack of a national identity number and loose registration norms for businesses are some of the loopholes, which are misused by the taxpayers to change identity or become untraceable when proceeded against by the authorities.

However, the Government wishes to assure the Committee that their suggestions have been noted with full earnestness by the Government for policy formulations in the future.

CBEC: To take care of this problem, new provisions have been inserted in the current year in the Indirect Tax laws for provisional attachment of property to protect revenue during the pendency of proceedings relating to the determination of indirect taxes evasion. Commissioners can order such attachment after receipt of a report from jurisdictional Deputy/Assistant Commissioner justifying the reasons for seeking provisional attachment. It is envisaged that the department should provisionally attach the property so that evaders cannot alienate or create encumbrance by way of sale or transfer of property.

Recommendation (Sl. No. 2, Para No. 43)

The Committee is given to understand that a sizeable number of cases are either pending with IT authorities/Appellate Tribunals/Courts or the demands have been stayed by them. The Committee while expecting that cases pending before IT authorities would

be disposed of expeditiously, desire to either get the stays vacated as early as possible or persuade the Tribunal not to allow stays beyond 180 days as provided under Section 254 (2A) of Income Tax Act, 1961. In so far as the huge pendency of recovery cases at the level of Tribunal/courts is concerned, the Committee note that there exists an institutional mechanism through which the Revenue Secretary can interact the Law Secretary on bi-monthly basis to discuss the matter. However, going by the past record of pendency, the Committee are of the opinion that this mechanism, perhaps, has not been utilised fully. The Committee urge the Government to optimally utilise this mechanism to expedite the disposal of cases and thereby increase the realisation of tax arrears. They desire to be apprised of the outcome of such meetings on a regular basis.

Reply of the Government

CBDT: The Commissioners (Appeals) have been issued directions to dispose of all old high demand appeals pending with them by November 30, 2006 and the current high demand appeals within 4 months of filing of appeals.

Instructions have been issued to the field authorities to identify high-demand cases pending before the Tribunal, particularly the ones where stay has been granted, and to request the Tribunal for early disposal of such cases.

As regards grant of stay by the Tribunal beyond the prescribed 180 days, the matter was earlier taken up with the President of the Income Tax Appellate Tribunal. However, he has declined to intervene in the matter as such extended stay is being granted by the Benches of the Tribunal in exercise of their judicial powers. The field authorities, accordingly, have been instructed to challenge such stay orders before the High Court in suitable cases.

A meeting of the Revenue Secretary and the Law Secretary was held on 8.5.2006, in *inter alia*, the following decisions were taken to facilitate better representation of the cases of Revenue before the Supreme Court:

- (i) Assigning of exclusive advocates for representing matters of CBDT and CBEC.
- (ii) Extension of the panel of Counsel for looking after the cases of CBDT and CBEC, which, presently includes the Solicitor, General of India and the Addl. Solicitor General of India.
- (iii) Briefing of the Law Officers and the Panel Counsels by senior officers from Revenue Department for better Success in cases.
- (iv) Steps for avoiding delay in filing of appeals.

CBEC: As regards existence of an institutional mechanism through which the Revenue Secretary can interact with the Law Secretary, it is to state that such meetings are being held from time to time.

CHAPTER IV

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

Recommendation (Sl. No. 5, Para No. 91)

The Committee observe that so far as the computerization projects taken up by the Central Board of Direct Taxes are concerned, implementation of many small projects that would enhance the effective functioning of the department like computerized processing and country-wide matching of TDS claims, matching of data compiled in the Annual Information Returns (AIRs) with that of tax returns etc. depend to a large extent, on the completion of the creation of a single National database. They note that as per the original target, the database was to be completed by June 2006. However, the target date for completion has now been shifted to September 2006. The Committee are of the strong view that the Government should take all-out efforts to complete the project within the rescheduled target *i.e.*, by September 2006 to reap the designated benefits that would accrue from the database. Further, the Committee feel that there exists a gap between the information obtained through Annual Information Report (AIR), which is fully computerized, and the information coming from returns of income, which is partly computerized. The Government have assured that the gap would be filled and they will be able to complete all processing, data matching and selection of cases for scrutiny on computers by the end of the current financial year *i.e.* 2006-07. The Committee expect that the whole process will be completed within the stated time at least now. Further, the Government have stated that the work relating to appointment of system integrator is still at the stage of evaluation of technical bids. The Committee urge the Government to expedite the process without further delay so that this should not adversely affect the project.

Reply of the Government

As of now only 60 stations are on network where the processing is done through ITD application and in other stations the processing is done on stand alone basis. The IT department has utilized the information available in the AIR to the extent of about 65% of the total value of transactions for F.Y. 2004-05 relevant to A.Y. 2005-06 while selecting the cases for scrutiny using CASS during this year at the 60 network stations of the IT department. The balance information is being used for manual selection of cases for scrutiny.

Department's new network and the National Data Centre is expected to become fully operational during the F.Y. 2007-08. The new uniform processing software

will then be implemented in all the 510 stations. Thereafter the data matching of all the income tax returns processed on the new system with the information from the Annual Information Returns can be done and used for selection of cases for scrutiny.

The original tender for appointment of Systems Integrator was cancelled by Government. New tender for appointment of Systems Integrator has been floated and the bid submission date is 16.10.2006. As per the timelines, the tender is expected to be finalized by January 2007, and finally the National Data Centre is expected to be functional by June 2007.

Recommendation (Sl. No. 5, Para No. 92)

In so far as the overall computerization of the Department is concerned, the Committee were given to understand that expenditure sanction for the third phase of Computerization Plan of the Income Tax Department was approved by the Cabinet way back in December, 2002. The plan had included networking of IT offices in remaining 440 cities out of the proposed 510 cities. The original target date for the same was 31.01.2006. The Committee further note that the Department sought fresh sanction for additional requirements from the Committee of Secretaries on Non-plan Expenditure on 11.5.2005. In the Committee's view, the pace of work with respect to computerization project has been slow. Despite urging the Government to expedite the various computerization projects repeatedly in their earlier reports and the assurances given by them that it would be completed in time, the Committee are dismayed to note that certain components of the project like linking of cities under a single national database and setting up National Data Centre are yet to be completed. The Committee note that as per the revised schedule, the dates of completion of the above two components of Phase-III of the computerization projects are 31.05.2006 and 30.09.2006 respectively. The Committee hope that the Government will not extend the date furthermore and take all out efforts to complete the project as per the revised schedule.

Reply of the Government

The Status of project tracks for augmentation of computer infrastructure is given at Annexure-I.

The Current status of various benchmark activities identified in the Project is given in the Annexure II.

The delay in commissioning of the Single National Data Base and National Data Centre has occurred due to the elaborate government procurement procedures laid down for this scale of work.

Due to the first tender ending up midway in an uncompetitive situation, re-tendering became necessary.

Recommendation (Sl. No. 5, Para No. 93)

The Committee note that so far as the computerization projects under the Central Board of Excise and Customs (CBEC) are concerned, the Government have taken the stand that some of those are under implementation and some others are in the proposal and testing stages — the important ones being the creation of a National Level Data Center, Automation of Central Excise and Service Tax (ACES), Risk Management System (RMS) and Electronic Accounting System in Excise and Service Tax (EASIEST). The Committee recommend that all the projects under implementation as well as under consideration should be followed up by the Government in the right earnest so as to avoid avoidable delay in their implementation.

Reply of the Government

The progress of projects under implementation as well as under consideration is being monitored closely by the Government. These projects are being executed under the supervision of an 'Empowered Committee.'

Recommendation (Sl. No. 5, Para No. 94)

The Committee further note that roughly eighty per cent of the international trade is covered under the Customs' EDI system and over ninety per cent of the documents are processed electronically in these stations. The Committee urge the Government to increase this coverage to hundred per cent at the earliest. They observe that once the work relating to automated workflow system of central excise assessment as well as service tax assessment is completed, it would be possible for the Department to provide quality service to the taxpayers. Also, the Government are expected to roll out the Risk Management System (RMS) to major ports like Chennai, Delhi, Kolkata, etc., with the aim to cover all the major locations by June 2006. In this background, the Committee expect the Government to show tangible results in the near future.

Reply of the Government

The work relating to automated workflow system of Central Excise and Service Tax to provide quality service to taxpayers is going on satisfactorily and is being monitored regularly. Expeditious customs clearance-based on Risk Management System (RMS) has since been implemented in Mumbai, Nhava Sheva, Chennai, Delhi and Bangalore. Further extension is dependent upon the availability of necessary infrastructure and manpower resources. Efforts are being made to provide these requirements.

The road map for extension of EDI to new locations: Under the I.T. Infrastructure Project of CBEC, a countrywide network and National Data Centre is being set up to host all CBEC's applications. Once this infrastructure is in place EDI would be extended to new Customs locations in a phased manner. The new locations would be prioritized on the basis of factors like revenue generated at the locations, the document load as well as requirements of the trade.

The extension of EDI to more locations involves a large number of preparatory steps which include:—

- (i) site preparations including setting up of Service Centres;
- (ii) requirement of LAN / WAN connectivity (which is a component of the I.T. Infrastructure Project);
- (iii) determination of power requirements and augmentation, wherever necessary (particularly in case of small / hinterland sites);
- (iv) air-conditioning and power back-up (DG Sets);
- (v) financial approval for the above mentioned works;
- (vi) EDI related preparations by local banks and local custodians; and
- (vii) making appropriate changes in the software particularly for considering the requirement of Land Customs Stations and also for migrating the existing software to a new platform.

The schedule for extension of Migrated ICE to the new locations is expected to begin from December 2006 / January 2007 and may take about 8 months to complete.

Recommendation (Sl. No. 5, Para No. 95)

The Committee note with concern that irrespective of the assurance given by the Government to furnish the White Paper on 'Information Technology in Tax Administration' the said 'White Paper' has not been furnished so far. They expect the Government to do the same immediately.

Reply of the Government

The draft White Paper on Information Technology in Tax Administration of the Department is under submission for final approval.

[F.No. H-11012/1/2006-Parl. Dated 13.10.2006]

CHAPTER V

RECOMMENDATION/OBSERVATION IN RESPECT OF WHICH FINAL
REPLY OF THE GOVERNMENT IS STILL AWAITED

— NIL —

NEW DELHI;
12 December, 2006
21 Agrahayana, 1928 (Saka)

MAJ. GEN. (RETD.) B.C. KHANDURI,
Chairman,
Standing Committee on Finance.

MINUTES OF THE FOURTEENTH SITTING OF THE
STANDING COMMITTEE ON FINANCE

The Committee sat on Monday, the 11th December, 2006

PRESENT

Maj. Gen (Retd.) B.C. Khanduri — *Chairman*

MEMBERS

Lok Sabha

2. Shri Gurudas Dasgupta
3. Shri A. Krishnaswamy
4. Shri Bhartruhari Mahtab
5. Shri Madhusudan Mistry
6. Shri Rupchand Pal
7. Shri Prakash Paranjpe
8. Shri P.S. Gadhavi
9. Shri M.A. Kharabela Swain

Rajya Sabha

10. Shri Mahendra Mohan
11. Shri Chittabrata Majumdar

SECRETARIAT

- | | | |
|----------------------------|---|-----------------------------|
| 1. Dr.(Smt) P.K. Sandhu | — | <i>Additional Secretary</i> |
| 2. Shri A. Mukhopadhyay | — | <i>Joint Secretary</i> |
| 3. Shri S.B. Arora | — | <i>Deputy Secretary</i> |
| 4. Shri T.G. Chandrasekhar | — | <i>Under Secretary</i> |
| 5. Smt. Anita B. Panda | — | <i>Under Secretary</i> |

2. At the outset, the Chairman welcomed the Members to the sitting of the Committee.

- | | | | |
|-------|----|----|----|
| 3. ** | ** | ** | ** |
| 4. ** | ** | ** | ** |

5. The Committee, then took up for consideration the draft report on action taken by the Government on the recommendations/observations contained in the 37th Report on Demands for Grants (2006-07) of Ministry of Finance (Department of Revenue) and adopted the same with the modifications/amendments shown in Annexure.

6. ** ** ** **

7. The Committee authorized the Chairman to finalise the Reports in the light of suggestions received from the Members and also make consequential changes arising out of factual verification and present the same to Parliament.

The Committee then adjourned.

[MODIFICATIONS/AMENDMENTS MADE BY STANDING COMMITTEE
ON FINANCE IN THEIR DRAFT ACTION TAKEN REPORT ON THE
37TH REPORT ON DEMANDS FOR GRANTS (2006-2007) OF
THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)]

Page	Para	Amendment / Modification
8	Add new para after para 7	The Committee would also like to reiterate their recommendation in one of their earlier reports on the Demands for Grants that the Department should ensure that the refunds are issued within the stipulated time frame of three months from the date of filing of refunds claims. Further, they would urge the Government to ensure that the refund cheques invariably reach the assesees within 10 days from the date of issue of the cheques, in order to prevent any chances of corrupt practices on this account and reduce the difficulties faced by the assesees.

APPENDIX

[Vide Para 3 of the Introduction]

ANALYSIS OF THE ACTION TAKEN BY GOVERNMENT ON THE
RECOMMENDATIONS CONTAINED IN THE THIRTY-SEVENTH
REPORT (FOURTEENTH LOK SABHA) OF THE STANDING
COMMITTEE ON FINANCE ON DEMANDS FOR GRANTS
(2006-2007) OF THE MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

	Total	% of total
(i) Total number of recommendations	6	100%
(ii) Recommendations/observations which have been accepted by the Government <i>(Vide Recommendations at SI. Nos. 3,4,6)</i>	3	50%
(iii) Recommendations/observations which the Committee do not desire to pursue in view of the Government's replies <i>(Vide Recommendations at SI. Nos. 1,2)</i>	2	33.33%
(iv) Recommendations/observations in respect of which replies of the Government have not been accepted by the Committee <i>(Vide Recommendations at SI. No. 5)</i>	1	16.66%
(v) Recommendations/observations in respect of which final replies of the Government are still awaited <i>(Vide Recommendations at SI. No. Nil)</i>	0	Nil