

SIXTIETH REPORT
STANDING COMMITTEE ON FINANCE
(2007-08)

(FOURTEENTH LOK SABHA)

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

DEMANDS FOR GRANTS
(2007-08)

*[Action taken by the Government on the Recommendations/Observations
contained in the Fifty-Second Report of the Standing Committee on
Finance on Demand for Grants (2007-08) of Ministry of Finance]*

Presented to Lok Sabha on 4.12.2007

Laid in Rajya Sabha on 4.12.2007



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COMPOSITION OF STANDING COMMITTEE ON
FINANCE (2007-2008)

Shri Ananth Kumar — *Chairman*

MEMBERS

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2. Shri Jaswant Singh Bishnoi
3. Shri Gurudas Dasgupta
4. Shri Shyama Charan Gupta
5. Shri Vijoy Krishna
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Rajya Sabha

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- | | | |
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| 4. Shri G. Srinivasulu | — | <i>Deputy Secretary-II</i> |
| 5. Smt. Archana Srivastava | — | <i>Sr. Executive Assistant</i> |

INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee to present the Report on their behalf, present this Sixtieth Report on action taken by Government on the recommendations contained in the Fifty-second Report of the Committee (Fourteenth Lok Sabha) on Demands for Grants (2007-2008) of the Ministry of Finance (Department of Revenue).

2. The Fifty-second Report was presented to Lok Sabha on 28th April, 2007 and laid in Rajya Sabha on 3rd May, 2007. Replies indicating action taken on all the recommendations contained in the Report were furnished by the Government on 11th September, 2007.

3. The Committee considered and adopted this Report at their sitting held on 28 November, 2007.

4. An analysis of action taken by Government on the recommendations contained in the Fifty-second Report 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;
28 November, 2007

7 Agrahayana, 1929 (Saka)

ANANTH KUMAR,
Chairman,
Standing Committee on Finance.

CHAPTER I

REPORT

This Report of the Standing Committee on Finance deals with action taken by the Government on the recommendations/observations contained in their Fifty-second Report on Demands for Grants (2007-2008) of the Ministry of Finance (Department of Revenue), which was presented to Lok Sabha on 28.4.2007 and laid in Rajya Sabha on 3.5.2007.

2. The Action Taken Notes have been received from the Government in respect of all the 10 recommendations contained in the Report. These have been analysed and categorized as follows:

- (i) Recommendations/observations that have been accepted by the Government:

Recommendation Sl. Nos. 1 (paras 22-27), 3 (paras 66-70), 4 (paras 78-80), 5 (para 91), 6 (paras 107-108), 8 (paras 121-122), 9 (para 128) & 10 (para 135)

(Chapter II)

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

Recommendation Sl. No. 2 (paras 52-55) & 7 (paras 116-117)

(Chapter III)

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

Recommendation Sl. Nos. 4 (para 81), 5 (para 92) & 6 (para 110)

(Chapter IV)

- (iv) Recommendations/observations in respect of which final Reply by the Government is still awaited:

Recommendation Sl. Nos. NIL

(Chapter V)

3. The Committee desire that the replies to the recommendations contained in Chapter I may be furnished to them expeditiously.

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

A. Need for sunset clause for tax exemptions for units in SEZs

Recommendation (Sl. No. 4, Para 81)

5. In view of the expected revenue loss on account of tax exemptions extended to Special Economic Zones (SEZ), the Committee recommended that tax exemptions applicable to these SEZs should have definite sunset clauses.

6. The Government in their action taken reply have, *inter alia* stated as follows:—

“Central Board of Excise & Customs

SEZs have been accorded a special status in terms of the provisions of the SEZ Act, 2005, and have been extended exemptions amongst others from indirect taxes namely Central Excise & Customs duties and Service Tax inasmuch as these zones are deemed as territories outside the customs boundaries of India, Exemption from indirect taxes namely Customs and Excise duties would need to be provided without and sunset clause. Insofar as enforcement of export obligations are concerned the SEZ Rules, 2006 provide for fulfillment of export obligations in terms of achieving positive Net Foreign Exchange Earning. A proposal for imposing a condition of minimum 51% physical exports on the units in the SEZs is under consideration of the Government.”

7. The reply furnished by the Ministry is silent on their recommendation regarding sunset clause on the tax exemptions applicable to the units in SEZs. The Committee would await the Government’s response in this regard.

B. Shortfall in Achievement of Targets

Recommendation (Sl. No. 5, Para 92)

8. Not convinced by the reasons adduced by CBEC, the committee pointed out that there had been a continuous shortfall in meeting the collection targets of excise and a downward revision of the targets at the stage of revision of estimates of duty collections.

9. The Ministry of Finance in their action taken reply have stated *inter alia* as under:—

Central Board of Excise & Customs

Budget Estimates and Revised Estimate of Central Excise have been fixed by taking all the material factors.

Although PLA revenue has grown at an annual compounded growth rate of 10% in the last 5 years, the combined PLA+Cenvat revenue has grown by an annual compounded growth rate of 15% during the same period. During this period the manufacturing sector has grown by annual compounded growth rate of 9%. If an average inflation of 5% is added, the growth rate comes to 14%, which compares well with the combined revenue growth of 15%.

Cenvat availability has grown faster than PLA payments in last few years.

The Government is taking several measures to ensure that the availment of Cenvat Credit is carefully monitored and audited. The steps taken include addressing it through audit both in the matter of selection of units of audit as well as in carrying out audit verification/ checks.

Apart from the mandatory units that are audited every year, the non-mandatory units are selected on the basis of risk assessment. For such units, the growth in duty payments through CENVAT Credit (as a proportion of value) from one year to the next is a key parameter in assessing risk, at the national level. Units that exhibit a higher growth in utilization of CENVAT credit are selected for audit on priority over others. In addition to this factor, a number of local risk parameters have been prescribed which have to be taken into consideration while selecting units for audit. Among these, the following parameters related to CENVAT credit issues are covered:

- (a) Units availing high percentage of CENVAT credit or showing fall in revenue but increase in CENVAT credit.
- (b) Units undertaking expansion or diversification entailing one time excessive availability of CENVAT credit in respect of capital goods.

Moreover, the Annual Work Plan drawn by the Directorate of Audit includes a strategy for selection of units for High Impact Audits in both Central Excise and Service Tax. These are audits conducted under the direct supervision of an Assistant/Deputy Commissioner. In this

selection strategy also, CENVAT credit based criteria plays an important role. They are as follows:

- (1) Units with the ratio of credit received on the basis of invoices issued by registered dealers to total CENVAT credit of more than 10%.
- (2) Units that have availed more than Rs. 20 lakhs of credit on input services in the full year.
- (3) Units manufacturing commodities/goods showing an adverse CENVAT credit to total duty payment behaviour at the all India level.

High impact audits based on such selection have yielded good results in terms of detections and recoveries.

The methodology for conducting audits is prescribed in the Central Excise Audit Manual wherein systematic analysis and detailed checks for CENVAT credit verification are prescribed.

There has been a consistent growth in the volume of detections and recoveries made by internal audit as is evident from the table below:

Year	No of audits conducted	Total detections (In. Rs. Cr)	Growth over previous year (%)	Total recoveries (in Rs. Cr.)	Growth Over previous year (%)
2004-05	21313	1661	—	196	—
2005-06	25938	2094	26	280	43
2006-07	28596	3846	84	581	107

10. The Reply by the Government has not addressed the point raised by the Committee but has gone on to explain the growth of revenue over the years. What the Committee were interested in knowing was the factor-wise analysis of the specific reasons for shortfall in achievement of excise duty collection targets. The Committee would await this information.

C. Amendment of Direct Tax Laws

Recommendation (Sl. No. 6, Para Nos. 107-110)

11. In view of the mounting arrears of direct and indirect tax revenues year after year, and in view of the submission made by the

Ministry of Finance that there are lot of demands under litigation with courts, tribunals and special courts, the committee recommended, *inter-alia*, further simplification of the laws to reduce the future litigations and desired that the Government to bring out the proposed Bill amending the Direct Tax laws as early as possible.

12. The Government in their action taken reply stated, *inter alia*, as under:—

“With the objective of simplifying laws relating to Direct taxes, the Government constituted an Expert Group. The Expert Group submitted its report on 8th of September 2006. The same is presently under examination.”

13. The Government’s reply is silent on bringing out a Bill amending the Direct tax Laws as recommended by the Committee. The Committee in this connection note that the Expert Group which examined the question of simplifying laws relating to Direct taxes submitted its report more than a year ago. The Committee would like a *copy of the report of the Expert Group* and the action taken thereon *be furnished to them*. The Committee would also wish to be informed as to how soon the Bill amending the Direct Tax laws will be introduced in Parliament.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No. 1, Para Nos. 22-27)

The Committee note that there are many tax exemptions extended both under the Direct Tax Laws and Indirect Tax Laws, prominent of which are the area based exemptions. The Government have been, under their policy of doing away with the tax exemptions that are not considered essential, periodically reviewing and discontinuing certain exemptions. Several of the area-based exemptions available under the tax laws have been reviewed and extended periodically by the Government, with the main consideration of being enabling and promoting balanced regional development in the country. With specific reference to area-based exemptions under the Direct Taxes, the Committee note that the Government have *inter alia* proposed to extend the applicability of the exemptions under section 80-IC of Income-Tax Act for industrial undertakings in the North-eastern States and Uttaranchal and Himachal Pradesh beyond March, 2007 upto March, 2012. The Committee note in this regard that the revenue loss on account of area based exemptions available under the Direct Taxes have increased phenomenally over the period from a sum of Rs. 362 crores 2004-05 to Rs. 2,215 crores in 2006-07, which is a cause for concern.

In the case of area-based exemptions under the Indirect Tax Laws, the Committee note that while the tax exemptions available have been extended upto March, 2010 in so far as the State of Uttaranchal is concerned, the extension is without any specified time limit for the State of Jammu and Kashmir and the North-Eastern States. The Committee, in this regard, note that the revenue foregone on account of the exemptions extended to these States too has risen phenomenally over the years from Rs. 1405 crores in the year 2003-04 to a sum of Rs. 5848 crores in the year 2005-06. The Committee further observes that as per the Government's submission, such exemptions, if prolonged beyond a stipulated or pre-set period can have the negative effect of migration of established industries from other areas/States to such 'exempted' areas/States. In view of the adverse implications of the exemptions on the revenues of the Government, the Committee recommend for a re-look and thorough analysis of the available

exemptions and undertake policy measures *inter alia* aimed at limiting the applicability of such exemptions to a specified period. The Committee, however feel that till such time the exemptions are applicable, the long pending demands for such exemptions from some of the State Governments on geographic basis need to be considered and decided upon objectively and prudently.

The Committee take note of the fact that a specific recommendation made by them in one of their earlier Government has entrusted the related study to two independent bodies *viz.*, Indian Council for Research on International Economic Research (ICRIER) and the National Institute of Public Finance & Policy (NIPFP). The Committee desire that the Government report the related findings to them as and when the reports are presented.

The Committee also note from the information furnished by the Government that a number of suggestions have been received from the public, which mainly emphasise on the need for continuance of the tax exemptions under Direct Taxes. The Committee expect the Government to decide on the need for continuance of the tax exemptions after taking into consideration, the reports/findings on the cost-benefit analysis of the exemptions currently being undertaken.

The Committee in this regard also take note of the observations as made by the NIPFP in their Working Paper, and as quoted in the Government's 'Note on Tax Expenditures' that 'better infrastructure and transport and interest subsidies rather than direct tax breaks merit consideration in those areas'. Further, they also take note of the observation of the Draft Approach Paper to the 11th Five Year Plan titled 'Towards Faster and More inclusive Growth' which states that 'extension of exemption to Himachal Pradesh & Uttarakhand has had an adverse impact on industrial investments elsewhere, including North East, and consideration needs to be given to restrict such incentives only to hilly areas or to replace these incentives by a special programme for roadways and railways in these states".

The Committee, therefore, feel that it is perhaps, high time that exemptions are reviewed and limited and that too quickly, as opportunities for raising additional sources through new taxes or higher tax rates are not unlimited and enhanced tax collections are the major contributors towards meeting the target set by FRBM Act for elimination of Revenue deficit. The Government should therefore expedite the move towards a regime wherein tax exemptions are minimal and confined to exceptional cases. The Committee also endorse

the view that in the long run, exemptions may be limited to life saving goods, goods of security and strategic interest, goods for relief and charitable purposes and exemption for small scale industries.

Reply by the Government

Central Board of Direct Taxes

Area-based tax concession, apart from leading to huge revenue losses, distort the tax system, adversely affect the allocative function of the market and result in sub-optimal growth. Therefore, Government continuously reviews all the exemptions and withdraws those that have outlived their utility.

Central Board of Excise & Customs

Government is aware of the adverse effects of area-based exemptions on industry in non-exempt areas.

Keeping that in view, area-based exemptions have been reviewed and sunset clauses have been introduced in area-based exemptions for Uttaranchal, Himachal Pradesh, North East Region and Sikkim.

However, keeping in view the peculiar circumstances prevailing in J&K no such clause has been put in the exemptions scheme for the State.

Requests for area-based exemptions from some of the State Governments on geographical basis have already been examined and not agreed to, as the Government is not in favour of proliferation of area-based exemptions.

Central Board of Direct Taxes

The reports on the cost benefit analysis of certain exemptions assigned to Indian Council for Research on International Economic Relations and the National Institute of Public Finance and Policy are awaited.

Central Board of Excise & Customs (in respect of para 25)

ICRIER has submitted a draft report, on exemptions/exemption schemes related to exports. When the report is finalized, the findings will be presented to the Committee.

NIPFP is yet to submit any report on cost-benefit studies assigned to it. NIPFP has been reminded to expedite the same.

Central Board of Direct Taxes

The views of NIPFP and those of the Planning Commission are in consonance with the Government's thinking that area based tax concessions should be reviewed. Comments on para 22 are reiterated.

Central Board of Excise & Customs

The argument that better infrastructure and transport and interest subsidies rather than tax breaks merit consideration, holds good both for direct and indirect tax concessions.

Central Board of Excise & Customs

Review of exemptions, in fact, is an on going exercise, and in line with this, during the last two Budgets, Government has withdrawn a number of customs, excise and service tax exemptions. Recommendations of the Committee will be kept in view during future review of exemptions.

[F. No. H-11013/07/2007-Parl (Rev.) dated 7.9.2007]

Recommendation (Sl. No. 3, Para Nos. 66-70)

Goods and Services Tax (GST) is an integrated, single form of indirect taxation of goods and services throughout the country by both the Union and the States. According to Government, once introduced, the GST would pave way for a simple, transparent and efficient form of indirect taxation throughout the country, doing away with the demerits of the present system. Such a system is expected to minimize costs and disputes apart from facilitating a common market for the whole country thus making the country more attractive for foreign investment.

Introduction of such a system requires integration of Central and State Taxes both on Goods and Services. Thus, the process involves integration of taxes on goods and taxes on services on the one hand and of the Central and State Taxes on the other. The Committee observe that the process has already been initiated at both the levels. The States have started moving towards the goal of having an integrated GST by switching over to the system of Value Added Tax (VAT). However, the Committee note in this regard that the State of Uttar Pradesh is yet to join the process and implement VAT. The Committee expect the Government to take up the matter of switching over to VAT System by the State Government vigorously, which would facilitate in introduction of GST as per schedule *i.e.* April, 2010.

For facilitating introduction of GST, the Centre has to move towards a single rate of taxation both for the goods and the services. While some initiatives are stated to have been taken in this direction so far, the Committee trust that the Government will spare no efforts to achieve it in time. The other direct effort to be taken by the Centre, the Committee note, is abolition of Central Sales Tax (CST). The Committee note that efforts have already been taken by reducing the rate of CST from 4% to 3% with effect from 01.04.2007 and then reducing the rate by one percent in each successive year so as to do away with CST by the year 2010, when the GST is planned to be introduced.

The efforts that are needed to be taken by the States to proceed in this direction include, moving towards the Harmonised System of Nomenclature (HSN) based system of taxation and modernization and synchronization of administrative and Information Technology systems with the Centre. In this regard, the Committee note that the Central Government proposes to implement a Mission Mode Project under the National e-Governance Plan for modernization of VAT administration by the States. Also under this project, it is proposed to link assistance to the States harmonizing their VAT systems and procedures. The Committee wish to be apprised of the developments in this regard on a continued basis.

The Committee further note that certain legal/constitutional changes need to be made before the introduction of GST. In this regard, they note that drawing up and passing the legal and Constitutional changes demand considerable amount of time, particularly when the process involves extensive consultations and involvement of the States. Hence, the Committee desire the Government to formulate early the plan of action for bringing in the amendments required, keeping in view the stipulated time frame for introducing the GST by 2010.

[F. No. H-11013/07/2007-Parl (Rev.) dated 7.9.2007]

Reply by the Government

Observations of the Committee have been noted.

The recommendations/observations of the Standing Committee are acceptable to the Government. The Central Government has been making efforts to persuade the Government of Uttar Pradesh, through the Empowered Committee of State Finance Ministers (EC), to join VAT. These efforts shall be continued.

Central Board of Excise & Customs

It is the stated goal of the Government to move towards a Goods & Services Tax (GST) by 2010. All possible efforts are being made to meet the target date for introduction of GST.

State Taxes Section

The recommendations/observations of the Committee contained in this paragraph have been noted down for taking appropriate action in the matter.

State Taxes Section

The recommendations/observations of the Committee contained in this paragraph have been noted for taking appropriate action in the matter. In fact, the initial steps for implementation of the Mission Mode Project on Commercial Taxes (MMP-CT) have been taken. A comprehensive Study has been got conducted through the National Institute of Smart Government (NISG), Hyderabad, to finalise the Vision, Objectives, Strategy and the Roadmap for implementation of the Project. The Study Report was circulated to all the States and the EC and was deliberated upon in a Workshop with the States held on 03.05.2007. Guidelines have been made available to the States for preparation of the Detailed Project Reports (DPRs) with the overall broad Project framework. Their DPRs shall be appraised as and when received and thereafter, funds will be released to start the project implementation.

State Taxes Section

The recommendations/observations of the Committee contained in this paragraph have been noted for taking appropriate action. To start the process, the matter has already been taken up with the Empowered Committee of State Finance Ministers (EC). The Terms of Reference of the EC have been amended to enable the EC "To work with the Central Government to prepare a roadmap for introducing Goods and Services Tax (GST) in the country with effect from April 1, 2010 and to deal with all the related matters." EC has now set up a Joint Working Group on 10th May, 2007 comprising officials of the Central Govt. and State Governments. The Working Group will study the various models of GST existing globally and any other relevant material available on the subject. The Group would also identify the possible alternative models for introduction of GST in India and examine their various characteristics and assess their suitability in India's fiscal federal context.

The Working Group will present its report to the EC within a period of four months for decision on the most appropriate model for introduction of GST in India.

[F. No. H-11013/07/2007-Parl. (Rev.) dated 7.9.2007]

Recommendation (Sl. No. 4, Para Nos. 78-80)

The Committee observe that issues relating to Special Economic Zones (SEZs) have given rise to certain problems, which, *inter-alia*, include problems relating to land acquisition, displacement and rehabilitation, etc. There have also been concerns expressed among various trade bodies about the status and benefits that accrue to SEZs and also been concerns expressed among various trade bodies about consequential disadvantages to the domestic units.

The Committee, in this regard, feel it important to take note of the observation made in the Approach Paper to the Eleventh Five Year Plan which states that there 'is a lack of level-playing field between manufacturing units within SEZs and those in the domestic tariff area, and that there can be large loss of revenue on account of tax concessions for exports of goods and services that are already been exported without such concessions'. Also, from the Government's own admission, and the illustrative examples of comparative advantages of SEZ units over DTA units (Domestic Industries), as furnished, it is very much evident that the DTA units are in very disadvantageous position.

From the figures provided on the expected revenue loss on account of tax exemptions extended to SEZs, the Committee observe that the likely loss of tax revenue is expected to rise from year to year, and would stand at a whopping one lakh six thousand four hundred and twelve crore rupees by the year 2009-10.

Reply by the Government

Central Board of Direct Taxes

This recommendations will be examined during the next Budget exercise and decision reflected in the Finance Bill, 2008.

Central Board of Direct Taxes

The recommendations will be examined during the next Budget exercise and decision reflected in the Finance Bill, 2008.

Central Board of Excise & Customs

It was a conscious decision by the Government to allow tax concessions to SEZ units for the purpose of (i) generation of additional economic activity, (ii) promotion of exports of goods and services, (iii) promotion of investment, (iv) creation of employment opportunities, (v) development of infrastructure facilities. These tax concessions have been allowed through the SEZ Act, 2005., duly enacted by the Parliament. However, this is an observation made by the committee which has been taken note of.

Central Board of Direct Taxes

The recommendations will be examined during the next Budget exercise and decision reflected in the Finance Bill, 2008.

Central Board of Excise & Customs

These figures are based on estimates made by Department of Revenue and are thus accepted.

[F. No. H-11013/07/2007-Parl. (Rev.) dated 7.9.2007]

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

The Committee take note of the fact that performance of revenue collections in so far as Central Excise Duty is concerned, has not been very encouraging. They also observe in this regard, that Central Excise Duty collections is the only revenue source from which, irrespective of continued lowering of Revised Estimates *vis-a-vis* the Budget Estimates, the collections have always been on the lower side.

Reply by the Government

Central Board of Excise & Customs

Budget Estimate and Revised Estimate for Central Excise have been fixed after taking all the material factors into account.

The Central Excise Revenue collection has grown from Rs. 72,306/- crore in the year 2001-02 to Rs. 1,17,088/- (Provisional) crore in the year 2006-07 with the annual compounded growth rate of 10% for the last five years. In the year 2006-07, actual revenue realization was higher than the revised Budget estimates of Rs. 1,16,231/- crore.

[F. No. H-11013/07/2007-Parl. (Rev.) dated 7.9.2007]

Recommendation (Sl. No. 6, Para Nos. 107-109)

The Committee note that the arrears of revenue, both in respect of direct as well as indirect taxes, have been increasing year after year and huge portion of such arrears are locked up and treated un-realizable due to reasons of pendency with various adjudicating authorities and settlement mechanisms like Settlement Commission, BIFR etc. The Committee further note that though the respective departments have been making various efforts to realize the arrears, these efforts have not yielded the desired results.

Under the Direct Taxes, although the targets fixed for recovery arrears during 2006-07 are expected to be achieved to a large extent, the Committee are concerned to note that the recoverable portion of such arrears as on 1.3.2007 was just Rs. 5,838 crores which forms a very small part of the total arrears of Rs. 90,069 crores as on date.

Under the Indirect Taxes, the Committee note that there has been shortfall in actual realization of Central Excise Duty arrears *vis-a-vis* the targets fixed during the preceding three financial years despite the various measures stated to have been taken by the Department to overcome the pendency of cases at various levels.

Reply by the Government

Central Board of Excise & Customs

It is true that arrears of revenue have been increasing year after year and substantial portion of such arrears is locked up with various Courts/Tribunals etc. The total arrears of revenue (Indirect Taxes) have thus gone up from Rs. 21,593.43 crore pending as on 1.4.2006 to Rs. 26,375.02 crore as on 31.3.2007. However, the Government is taking all possible steps to realize all recoverable arrears and as a result, the arrears realization has exceeded the target fixed by Rs. 1016.90 crore.

During the year 2006-07, all the Commissioners were directed to expeditiously dispose off pending cases of adjudication and as a result a large number of cases of pending adjudication were disposed off by 31.3.2007.

As regards cases pending in BIFR/DRT/OL/COD etc., the Commissioners have been directed to closely monitor and properly defend these cases.

Central Board of Direct Taxes

Due to commitment of field formation in targeting arrear reduction/ collection as a core function and by dealing with the appeal matter expeditiously, the arrear demand carried forward at the end of year, March, 2007, (Rs. 1,16,453 crore) is less than the arrear brought forward at the beginning of the year, April 2006, (Rs. 1,20,202 crore).

Central Board of Direct Taxes

The department has collected Rs. 12,285 crore against an internal target of Rs. 11,741 crore. Out of the arrear demand carried forward (Rs. 1,16,453) as on 1.04.07, the total demand difficult to recover is Rs. 1,03,914 crore and the balance Rs. 12,539 crore is collectible.

Central Board of Excise & Customs

It is true that there has been shortfall in actual realization of arrears in Central Excise *vis-a-vis* target fixed during the year 2004-05. Though the Government has overwhelmingly exceeded the overall target of Indirect Tax arrears collection (Customs, Central Excise & Service Tax), there was a marginal shortfall in Central Excise arrears collection (Rs. 1657.94 Crore realized against the target of Rs. 1682.40 Crore) during 2005-06. However, during the financial year 2006-07 the actual realization of Central Excise arrears has exceeded the target by Rs. 79.03 Crore. The overall target of indirect tax arrears collection has also been exceeded by Rs. 1016.90 Crore.

[F. No. H-11013/07/2007-Parl. (Rev.) dated 7.9.2007]

Recommendation (Sl. No. 8, Para Nos. 121-122)

The Committee feel that advertising and publicity have an important impact on the public by way of creating awareness about the periodicity and time within which the tax returns are to be filed, punishments that are meted out to tax evaders and as a whole, help in widening the tax base and prevention of tax evasion. The failure to spend the budgeted amount on such an important activity directly impacts the benefits that are derived from such efforts by the Government. The Committee, therefore, regret to note that the Actuals on this account were just half of the Budget Estimates for the years 2004-05 and 2005-06. Moreover, the Revised Estimates is less than half of the Budget Estimates for the year 2006-07 and the Actuals upto February, 2007 is just one-fourth of the Budget Estimates. This the Committee feel, is indicative of failure on the part of the Government

to assess the expenditure pattern and fix the Budget Estimates accordingly. The Committee further note that the Government have stated that the Revised Estimates of 2006-07 has been reduced in line with the trend of expenditure *i.e.* the actuals of the preceding years.

The reason given by the Government for the variations between BE, RE and Actuals during the years 2004-05 and 2005-06 is on account of less expenditure incurred by the field formations. The Committee observe that the Government have not done their home work well in assessing the ability and requirements of the field formations, which has resulted in such drastic variations in the Actuals *vis-a-vis* the Budget Estimates. In view of the above, they advise the Government to set pragmatic targets of such expenditure after proper consultation with the field formations and assessment, in future.

Reply by the Government

Major part of 'Advertising and Publicity' is done by Director of Income Tax (Public Relation, Printing and Publication) of Income Tax Department for which funds are provided under a separate sub-head 00.001.02-'Research, Statistics and Publication'. In addition to this, field formations are allocated funds for isolated advertising under the sub-head 00.101.01. In view of the observations of the Committee, all field formations have been advised to make full utilisation of the funds allocated to them. Meanwhile, some financial powers have also been delegated to Heads of the Department in field formations which is expected to expedite utilisation of funds.

Observations of the Committee have been noted for compliance.

[F. No. H-11013/07/2007-Parl. (Rev.) dated 7.9.2007]

Recommendation (Sl. No. 9, Para No. 128)

The Committee note that the expenditure under the Head is to implement the Comprehensive Computerization Programme (perspective plan) of the Income Tax Department which envisages setting up of All India Income Tax Network. The actual expenditure for the year 2006-07 upto February, 2007 amounts to Rs. 35.59 crores which is less than half of the Revised Estimates (Rs. 5.74 crores) for the particular year and just one fourth of the Budget Estimates (Rs. 138.5 crores). The Committee further note that the reasons given by the Government for the much lower Revised Estimates is the delay in finalisation of award of the tender for System Integrator (SI), for which substantial provision was made at BE stage; and on account of

delays in acceptance of network sites. However, the Committee are of the opinion that the actual expenditure indicates the failure of the Government to implement such an important programme of computerization, timely implementation of which has been repeatedly emphasized upon by the Government. The Committee have been advising so, considering the advantages that would accrue in the process of Widening of Tax Base, detection and prevention of Evasion of Tax and increasing the tax revenue. Hence, they desire the Government to furnish a status report on the implementation of the computerization programme, explaining the reasons for the delay, within a month.

Reply by the Government

(a) Status report on the implementation of computerization programme is as under:

1. **Setting up of All-India Tax Network:** The project is almost complete barring a few problems which shall be resolved soon.
2. **Setting up of All India Data Centre:** The Project timeline indicated in the Outcome Budget 2006-07 was December 2006. However, in view of the re-tendering of the tender for appointment of system integrator, the same has now been revised to 31.8.2007. The work for the above tender has since been awarded to M/s IBM and the project is expected to be rolled out as per revised schedule.
3. **Consolidation of Regional Data Centres:** Consolidation of 36 Regional Data Bases into Single National Database shall be undertaken after the roll out of System Integrator. Target date for consolidation is 31.12.2007.

(b) Until the System Integrator is in place and the hardware is installed, all India Network (TAXNET) cannot be utilized fully and also the consolidation of Regional Data bases into Single Database cannot be achieved. The delay occurred in the appointment of System Integrator due to problems in tender finalisation.

[F. No. H-11013/07/2007-Parl. (Rev.) dated 7.9.2007]

Recommendation (Sl. No. 10, Para No. 135)

The Committee observe that the expenses under the Head are incurred towards acquisition of ready built residential plots for Customs

and Central Officers. In this regard, they note that the Revised Estimates (Rs. 12 crores) for the year 2006-07 was raised by 20 percent *vis-a-vis* the Budget Estimates (Rs. 10 crores) of the said year. However, from the replies furnished by the Government, the Committee note that upto February, 2007 only a little more than one-sixth of the Revised Expenditure (Rs. 2,20,91,000) has been actually spent. Further, the Government have stated that the final requirement for the year 2007-08 is estimated at Rs. 8.50 crores which works out to be little more than three fourths of the Revised Estimates for the particular year. This, the Committee feel, breaches the financial discipline required in spending the allocated resources and spread the expenditure evenly throughout the year. The Committee desire that a departmental inquiry be conducted into the trend of expenditure under this Head of account and the report of the inquiry furnished to the Committee within one month.

Reply by the Government

The expenditure under the head under reference is incurred for acquisition of ready build residential buildings for Customs and Central Excise officials and for up gradation of facilities in such acquired buildings.

An inquiry into the trend of expenditure under this head has been made and the facts and action taken are given in succeeding paras:

1. In BE 2006-07, provision of Rs. 10.00 crores was made for following purposes—

	(Rs. in crores)
Purpose	Amount
Payment in respect of flats being constructed by Allahabad Development Authority	3.86
Payment for residential premises at Shillong	5.00
Other Payments	1.14
Total	10.00

2. During the year, an amount of Rs. 9.04 crores was released against sanctions in respect of various Budgetary Authorities issued

by the time RE was finalized. Item-wise details of such releases are as under—

(Rs. In crores)	
Items	Amount
Payment of 2nd instalment for flats being constructed by Allahabad Development Authority	2.21
Outstanding payment in respect of Quarters purchased from Lucknow Development Authority	0.01
Upgradation/Civil & Electrical Works in various residential quarters/colonies at Ghaziabad, Mumbai and Bhopal done through CPWD	6.82
Total	9.04

3. The expenditure booked upto February, 2007 was Rs. 2.21 crores towards cheque payment made to Allahabad Development Authority mentioned above. For other works amounting to Rs. 6.82 crores done through CPWD, the sanctions were issued and funds placed with CPWD through authorization. However, the expenditure incurred by CPWD is first booked in their accounts and after close of the financial year, the amount is reflected in the Grant of Indirect Taxes by transfer through book adjustment. Final expenditure incurred under this head is known only after finalization of II stage of Head wise Appropriation Accounts of the Grant much after the close of financial year. This is the reason why expenditure booked during the year lag the released fund.

4. Keeping in view funds released amounting to Rs. 0.04 crores before finalization of RE, due payment for Allahabad Development Authority of Rs. 2.21 crores for 3rd installment as per Memorandum of Understanding and other incidental emergent payments, RE was raised to Rs. 12 crores from the BE of Rs. 10 crores. However, by the end of the financial year, payment of 3rd installment was not demanded by the Allahabad Development Authority. Further, utilization of a part of sanctioned/released amount (Rs. 67.08 lakh) in respect of civil works and installation of lifts at Shipra and Kaveri Towers at Vaishali, Ghaziabad was not made by the CPWD for the year 2006-2007. Hence, final requirement at the end of the financial year was estimated at Rs. 8.50 crores.

5. The above explanation shows that estimates were fixed keeping in view allocated fund against sanctions issued and scheduled payment for ongoing projects. However, actual/final requirement was less because of no demand raised by Allahabad Development Authority and inability of CPWD to undertake sanctioned works during the year. In view of above, on the part of Department of Revenue, there was no branch of financial discipline.

6. It is stated that in BE, provision is made before the beginning of a financial year, on the basis of stage of implementation of approved projects and the projects/proposals likely to be approved during the financial year. The position of provision is reviewed at RE stage in the third quarter of the financial year keeping in view the progress of approval of the anticipated projects and actual payment *vis-a-vis* scheduled payment in respect of ongoing projects. Fund is released to the concerned Budgetary Authority during the year after the required expenditure sanction is issued with the approval of competent authority. The released fund is placed by the Budgetary Authority at the disposal of CPWD who execute the sanctioned works. It has been observed that approval of projects involve consultation/clearance of various authorities. This leads to non-clearance of all anticipated proposal during the year. Sometimes, sanctioned payment in respect of previous year which could not be made due to non-completion of formalities, is made in following year. These factors lead to variation between BE, RE and actual. It has also been observed that funds released against sanctions are not fully utilized mainly because all sanctioned works are not undertaken by CPWD during the same year due to non-completion of tender process, requirement of clearances from local and other authorities etc. Such unattended works are revalidated for succeeding year.

7. To overcome this problem, Budget Authorities have been advised to project only those proposals in BE and RE which are in advanced stage of consideration and ensure that funds provided are utilized. Ministry of Urban Development have also been requested to provide monthly figure of expenditure incurred by CPWD in respect of works done for Customs and Central Excise Department. Further, Review Committees have been established both at apex and regional levels to monitor progress of infrastructure projects. This is expected to identify and remove the bottlenecks and facilitate better linkages between provision of funds and their utilisation.

[F. No. H-11013/07/2007-Parl. (Rev.) dated 7.9.2007]

CHAPTER III

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

Recommendation (Sl. No. 2, Para Nos. 52-55)

Double Taxation Avoidance Agreements are entered into with foreign countries for avoidance of double taxation of income, for exchanging information, help in recovery of income tax and for granting of relief in respect of income on which income tax has been paid under the Income Tax Laws of both the contracting States. Further, such agreements attract foreign investment and help in removing cross-border tax obstacles in order to avoid distortions in trade and investment between countries.

The Committee note that India-Mauritius Double Taxation Avoidance convention (DTAC) has been a cause of concern for India as the treaty has been used by third country entities to avoid taxation in India. The methods reportedly used to avoid taxes are by means of (i) 'Treaty Shopping'—a situation where the residents of a country instead of making their investments directly in another country, route such investments through a third country which has a favourable treaty with the country in which the investments are made in order to avail the tax benefits under the favourable tax treaty and (ii) 'Round Tripping'—routing of investments by a resident of one country through another country back to his own country to avail tax benefits of DTAA.

The Committee note that the contentious issue India has with the Mauritian DTAC relates to misuse of Article 13 on Capital Gains of the DTAC through which third country entities use Mauritius as a platform for investing in India thereby resulting in 'Treaty Shopping' and 'Round Tripping' by Indian entities moving money out of the country and then getting it back into India through the Mauritian GBC-1 companies. They observe that the misuse of the India-Mauritius DTAC happens because of the fact that capital gains arising to 'residents' of Mauritius from sale of shares of Indian companies are neither taxable in India nor in Mauritius. The worrying factor is that the GBC-1 Companies, which exist only on the files maintained by the management companies that serve as a conduit for routing investments from third countries to India with the objective of taking advantage of the India-Mauritius DTAC, are, treated as 'resident' under the Mauritian Income Tax Laws.

The Committee further observe that there are countries such as Cyprus, Tanzania, Thailand, Indonesia, UAE, Zambia and Syria, with whom India has similar agreements where capital gains tax on alienation of shares is not levied on residents under their domestic law. Of these countries Cyprus and UAE have already reportedly agreed to change to the 'source based' method of taxation. In this regard, the Committee note that at the time of signing the India-Mauritius DTAC, Mauritius was taxing Capital Gains and it was only much later in the 90's that Capital Gains tax was abolished in the Country. They further note that Mauritius has not expressed willingness to consider changing over to 'source based' taxation as it feels the change would affect their offshore financial sector and also hurt their genuine companies. Further, issues relating to bilateral/international relations too reportedly restrict India from pressurizing Mauritius to accept the change over from 'residence based taxation' to 'source based taxation'. Considering this experience, the Committee recommend that the Government should consider incorporating mandatory clauses in such treaties/agreements to the effect that any consequential, which have an adverse effect—directly or indirectly—leading to disadvantageous position, particularly with regard to taxation, would give the contracting States the liberty to, at first pursue the matter with the other contracting State, and in case of non-agreement, enable for withdrawal of such agreements.

Reply by the Government

Central Board of Direct Taxes

The Paras 52 to 54 is factual. The recommendation is contained in paragraph 55. In this regard, it is stated as follows.

The option of taking up the matter of review of an existing Double Taxation Avoidance Agreement (DTAA) with a Contracting State is always available as per international norms and laws and the process of such a review is initiated by mutual agreement. India has already revised its existing DTACs with Canada, Czech Republic, Denmark, Finland, France, Germany, Italy, Japan, Malaysia, Norway, Singapore, Sir Lanka and United Kingdom. The process of review of existing DTAAs has also been initiated in many other countries, including Cyprus, UAE, Korea, Kenya, Thailand, Zambia, Tanzania and Malaysia. Thus, it may not be necessary to provide a provision in the DTAA for pursuing the matter of review of the agreement with a Contracting State in case of any consequential changes in the domestic laws carried out by that State after entering into such agreements.

Regarding the incorporation of mandatory clauses in treaties/ agreements enabling for withdrawal of such agreements in case of non-agreement by a Contracting State to the request for review of the existing DTAC by the other Contracting State, it may be mentioned that all DTAA's contain an article providing for termination of the Agreement by any of the contracting States by giving a written notice of termination. Such Article is contained in the OECD as well as UN Model Draft DTAA's and is also included in all the DTAA's of India. For instance, Article 29 of the India-Mauritius DTAA also provides for termination of the treaty which reads as follows:—

“ARTICLE 29—Termination—This Convention shall remain in force indefinitely but either of the Contracting States may, no or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give the other Contracting State through diplomatic channels, written notice of termination and, in such event, this Convention shall cease to have effect.

- (a) in India, in respect of income and capital gains assessable for the assessment year commencing on 1st day of April in the second calendar year next following the calendar year in which the notice is given, and subsequent years;
- (b) in Mauritius, in respect of income and capital gains assessable for the assessment year commencing on 1st day of July in the second calendar year next following the calendar year in which the notice is given, and subsequent years.”

It may thus be seen that the Article on ‘Termination’ in the India-Mauritius DTAA provides the option to both India and Mauritius to terminate the Agreement through diplomatic channels by giving a notice of termination, after the expiry of 5 years from the date of entry into force of the Agreement. The above-mentioned Article on ‘Termination’ is quite broad and does not mention the grounds or reasons on which either contracting State may give a notice of termination. Thus, in case there are any consequential changes in the domestic laws carried out after entering into a DTAA which would have an adverse effect directly or indirectly leading to disadvantageous position, particularly with regard to taxation, then India can pursue the matter with Mauritius and in case of non-agreement give a notice of termination of the DTAA under the provisions of the Article on “Termination” included in the India-Mauritius DTAC. However, due to geo-political and strategic national interests, it may not be possible to terminate or withdraw from the India-Mauritius DTAC unilaterally.

A safeguard which has now been adopted by India in her recently negotiated DTAA's to prevent misuse of the Agreement is the inclusion of a "Limitation of Benefits" article in the DTAA. Incorporation of this Article will prevent abuse of the treaty, including any unintended benefits which may be conferred on the residents on account of subsequent changes in the domestic law of that country.

In view of these facts, it may not be necessary to specifically include a mandatory clause in the DTAA's as recommended. It may be appreciated that any delay or lack of success in getting the desired review of any existing treaty is not on account of absence of any mandatory provision in the DTAA. We have to persist with our negotiations for review of treaties which are no longer favorable to us, and take steps within the existing framework depending upon our economic scenario and geo-political considerations in respect of the other Contracting State.

We have not succeeded in our efforts for the review of the existing DTAC with Mauritius not for want of an enabling provision in the Agreement but on account of our friendly bilateral relations with Mauritius.

[F. No. H-11013/07/2007-Parl. (Rev.) dated 7.9.2007]

Recommendation (Sl. No. 7, Para Nos. 116-117)

The Committee observe that the reasons for revising the RE for the year 2006-07 is due to enhanced liabilities under rent, rates and taxes incurred by the Office of Director-General (Systems). However, the Committee do not understand as to why the expenses which can very well be calculated in advance owing to the 'certainty' of their nature have surpassed the BE (2006-07) of Rs. 33 lakhs by almost 70 per cent. Further, they observe that the actual expenditure for the year 2006-07 upto February, 2007 has actually exceeded even the enhanced Revised Estimates. The Committee note that the Government have stated that prevailing market rent of a locality is difficult to be assessed beforehand. However, they do not approve of the very high fluctuation in the expenses. Also, the Government have stated that the increase in expenditure is met out by re-appropriation within the overall RE provision. The Committee do not approve of this kind of adjustment and advise the Government to refrain from such transfer of funds. It is also noted that the BE for the year 2007-08 has been doubled *vis-a-vis* the RE of 2006-07. The reasons adduced for the increase is the anticipated liability on account of Aykar Bhawan, Vaishali which is

proposed to be developed as a modern technology hub of the Income Tax Department. In this regard, considering the importance of the expenditure, the Committee expect the Government to fulfil the planned expenditure within the allotted resources and in time. *They also desire to apprise about the developments in this regard on quarterly basis.*

Reply by the Government

Office of the Director-General (Systems) has been advised to work out in advance all items of expenditure which are being booked by them under 'Rent, Rates & Taxes' keeping in view the 'certainty' of the nature in expenditure so that BE is not exceeded.

Committee's advice to refrain from transfer of funds has been noted. However, re-appropriation of funds for meeting the liabilities under a particular head of Account is admissible under extant rules with the approval of competent authority as per Delegation of Financial Power Rules which will be exercised judiciously.

'Modernization of Aykar Bhavan, Vaishali, into a secure IT Hub' has been included in the 'Outcome Budget '2007-08'. Review of physical as well as financial progress of the work shall be done on quarterly basis and the Committee will be apprised accordingly.

[F. No. H-11013/07/2007-Parl. (Rev.) dated 7.9.2007]

CHAPTER IV

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

Recommendation (Sl. No. 4, Para No. 81)

In view of the above, the Committee strongly express the necessity to fix strict compliance requirements in such a way that the domestic industries do not stand to loose. Therefore, while noting that the Government have recently revised the guidelines relating to SEZs in respect of size and acquisition of land, etc., the Committee are of the opinion that the tax exemptions applicable for SEZs should have definite 'sunset clauses' and strict export obligations.

Reply by the Government

Central Board of Direct Taxes

The recommendation in Para 81 will be examined during the next Budget exercise and decision reflected in the Finance Bill, 2008.

Central Board of Excise & Customs

SEZs have been accorded a special status in terms of the provisions of the SEZ Act, 2005, and have been extended exemptions amongst others from indirect taxes namely Central Excise & Customs duties and Service Tax inasmuch as these zones are deemed as territories outside the customs boundaries of India, Exemption from indirect taxes namely Customs and Excise duties would need to be provided without and sunset clause. Insofar as enforcement of export obligations are concerned the SEZ Rules, 2006 provide for fulfillment of export obligations in terms of achieving positive Net Foreign Exchange Earning. A proposal for imposing a condition of minimum 51% physical exports on the units in the SEZs is under consideration of the Government.

[F. No. H-11013/07/2007-Parl. (Rev.) dated 7.9.2007]

Recommendation (Sl. No. 5, Para 92)

The reasons adduced by the Central Board of Excise and Cutoms (CBEC) for the shortfall in excise duty collection include, industrial

growth, inflation rate and fluctuation in the prices of commodities, which the Committee do not find to be convincing. The Committee are of the view that high industrial growth and the rise in prices of commodities should have had the effect of favouring higher duty collections. What the Committee find to be surprising is that despite the many special efforts informed to have been taken by the Department, there has been a continuous shortfall in meeting the collection targets and a downward revision of the targets at the stage of revision of estimates of duty collections. While the Committee acknowledge the submission of the Government on the deemed revenue loss due to the various exemptions provided they also believe that these factors could have been adequately taken into consideration while estimating the particular tax income for various years. The Committee, therefore, expect that valid and demonstrably factual reasons are given for the failure on the part of the Department on this count.

Reply by the Government

Central Board of Excise & Customs

Budget Estimate and Revised Estimate of Central Excise have been fixed by taking all the material factors.

Although PLA revenue has grown at an annual compounded growth rate of 10% in the last 5 years, the combined PLA+Cenvat revenue has grown by an annual compounded growth rate of 15% during the same period. During this period the manufacturing sector has grown by annual compounded growth rate of 9%. If an average inflation of 5% is added, the growth rate comes to 14%, which compares well with the combined revenue growth of 15%.

Cenvat availability has grown faster than PLA payments in last few years.

The Government is taking several measures to ensure that the availment of Cenvat Credit is carefully monitored and audited. The steps taken include addressing it through audit both in the matter of selection of units of audit as well as in carrying out audit verification/ checks.

Apart from the mandatory units that are audited every year, the non-mandatory units are selected on the basis of risk assessment. For such units, the growth in duty payments through CENVAT Credit (as a proportion of value) from one year to the next is a key parameter in assessing risk, at the national level. Units that exhibit a higher growth in utilization of CENVAT credit are selected for audit on priority over others. In addition to this factor, a number of local risk parameters have been prescribed which have to be taken into consideration while

selecting units for audit. Among these, the following parameters related to CENVAT credit issues are covered:

- (a) Units availing high percentage of CENVAT credit or showing fall in revenue but increase in CENVAT credit.
- (b) Units undertaking expansion or diversification entailing one time excessive availability of CENVAT credit in respect of capital goods.

Moreover, the Annual Work Plan drawn by the Directorate of Audit includes a strategy for selection of units for High Impact Audits in both Central Excise and Service Tax. These are audits conducted under the direct supervision of an Assistant/Deputy Commissioner. In this selection strategy also, CENVAT credit based criteria plays an important role. They are as follows:

- (1) Units with the ratio of credit received on the basis of invoices issued by registered dealers to total CENVAT credit of more than 10%.
- (2) Units that have availed more than Rs. 20 lakhs of credit on input services in the full year.
- (3) Units manufacturing commodities/goods showing an adverse CENVAT credit to total duty payment behaviour at the all India level.

High impact audits based on such selection have yielded good results in terms of detections and recoveries.

The methodology for conducting audits is prescribed in the Central Excise Audit Manual wherein systematic analysis and detailed checks for CENVAT credit verification are prescribed.

There has been a consistent growth in the volume of detections and recoveries made by internal audit as is evident from the table below:

Year	No of audits conducted	Total detections (In. Rs. Cr)	Growth over previous year (%)	Total recoveries (in Rs. Cr.)	Growth Over previous year (%)
2004-05	21313	1661	—	196	—
2005-06	25938	2094	26	280	43
2006-07	28596	3846	84	581	107

[F. No. H-11013/07/2007-Parl. (Rev.) dated 7.9.2007]

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

In view of the above, the Committee are of the opinion that much more needs to be done and concerted and serious efforts taken to realise the revenue arrears by expeditious realisation of the recoverable arrears; making sincere efforts to have the stays at various appellate bodies vacated; and impressing upon the higher adjudicating authorities to quickly dispose off the cases. Also, the complexity of the tax laws, the Committee feel, lead to such huge amount of litigations and thus such large amounts of tax revenue locked up in various bodies. The Committee, therefore, urge the Government to further simplify the laws and reduce the complexities found in the tax laws in order to reduce the future litigations. In this regard, the Committee desire that the Government bring out the proposed Bill amending the Direct Tax Laws as early as possible, which in their opinion would greatly enhanced the effective administration of the Direct Tax Laws and thus reduce the disputes to a great extent.

Reply by the Government

Central Board of Direct Taxes

The department is making all out effort to liquidate the arrear. In fact a task force under the chairmanship of each CCIT has been constituted to look into the arrear position especially the items under "the demands difficult to recover" assessee-wise so that effective action can be taken. The CCITs also have been directed to closely monitor the disposal of CITs appeals.

With a view to expeditiously dispose of cases pending in appeal before the Appellate Tribunal, the Finance Act, 2007 has put a cap on the period for which stay can be granted by the Tribunal. The law has been amended so as to provide that the total period of stay shall not exceed 365 days in a case.

With the objective of simplifying laws relating to Direct taxes, the Government constituted an Expert Group. The Expert Group submitted its report on 8th of September 2006. The same is presently under examination.

Central Board of Excise & Customs

The department is in agreement with the Committee that much more need to be done and concerted and serious efforts should be made to realize the revenue of arrears.

During the financial year 2006-07 an Action Plan was evolved and circulated amongst all the zonal Chief Commissioners for implementation. This year *i.e.* 2007-08, as well, an Action Plan has been circulated to all the Zonal Chief Commissioners for implementation. The salient features of the action plan are:

- (A) Immediate realization of unfettered arrears.
- (B) Filing of applications for stay vacation/early hearing in Courts/CESTAT.

An arrear of Rs. 10,039.07 Crore (approx) is locked up in various Courts/CESTAT as stayed arrears. The field formations have been sensitized to file applications for vacation of stay/early hearing in such cases, particularly in the deserving cases. The Chief Departmental Representative, CESTAT has also been requested to have these cases taken up on priority basis.

- (C) Follow up of cases pending in BIFR/DRT/OL/COD.

The arrears from units ending up in BIFR/DRT/OL/COD proceedings is another area requiring attention. These cases are being closely monitored and properly defended as substantial amount of revenue is locked up.

- (D) Write off of irrecoverable cases of arrears:

As regards irrecoverable arrears which are being carried forward from year to year without any realization of arrears, all the Chief Commissioners have been directed to initiate action towards write off in such cases where they are of the considered view that the arrears are not recoverable even after taking all possible steps.

- (E) Faster disposal of all adjudication cases pending at the level of Commissioners and below:

Considering the significant amount of revenue locked up in adjudication cases at the level of Commissioners, Commissioners have been directed to expedite disposal of pending cases on priority basis.

- (F) Quick implementation of favourable orders of CESTAT/ Courts.

The Tax Arrears Recovery, Cell is closely monitoring the cases of favourable orders from CESTAT, High Courts and the Supreme Court. A list of cases collectively decided in

favour of Revenue, by CESTAT are forwarded from time to time to all the Nodal Officers for effective monitoring and realization of arrears in each case.

- (G) Defaulters on CBEC Website:- The list of defaulters against whom Section 142 notices have been issued and which have not been stayed by the court, are being displayed on CBEC website. All Commissionerates are required to take steps for updation of the site and also browse the website in connection with recovery action at their end.
- (H) Legislative amendments have been brought out in 2002 under Section 129B of the Customs Act, 1962 and Section 35C of the Central Excise Act, 1944 providing that where an order of stay is made in any proceeding relating to an appeal filed, the Appellate Tribunal shall dispose of the appeal within a period of 180 days from the date of such order and that if such appeal is not disposed of within the period specified therein, the stay order shall, on the expiry of that period, stand vacated. Though the Supreme Court has held that the amendment did not curtail powers of the Tribunal to grant stay exceeding six months but at the same time it was held that the Tribunal cannot be given any latitude to extend period of stay except on good cause and only on satisfaction that the matter could not be heard and disposed of by reasons of fault of the Tribunal and not for reasons attributable to assessee. Suitable directions have been issued by the Board to the jurisdictional Chief Commissioners and Commissioners in the periodically to follow up the cases on regular basis pending before various appellate authorities, particularly in High Court. Their attention was also drawn towards the Order XXIX, 391 Rule 3(A) of C.P.C. which stipulates that it was incumbent upon the Court to dispose of the stay petition within 30 days of its filing. It was also emphasized that the jurisdictional Commissioners should get in touch with the standing counsels and actively follow up the matters involving substantial revenue or pending for a long time before the appellate forums.

Simplification of law and procedure

Continuous efforts are made to simplify the indirect tax law and procedure. The Central Excise Rules, 1944 have since been replaced by Central Excise Rules, 2002 and the CENVAT Credit Rules, 2004. The

total number of rules under Central Excise has come down substantially thereby making the compliance of the rules more assessee-friendly.

Similarly, a number of steps have been taken in Customs to simplify the law and procedure and reduce the transaction cost. Peak rate of Customs duty has also been brought down over the years.

Information technology is being increasingly used to enhance the efficiency and effectiveness of the department and to deliver improved services to the clients. Use of automation is contributing significantly towards faster decision, simplification of procedure and reduction of compliance cost.

It is, however, stated that simplification of law and procedure of indirect tax is an ongoing process and is receiving the utmost attention of the Government.

[F. No. H-11013/07/2007-Parl. (Rev.) dated 7.9.2007]

CHAPTER V

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

-NIL-

NEW DELHI;
28 November, 2007
7 Agrahayana, 1929 (Saka)

ANANTH KUMAR,
Chairman,
Standing Committee on Finance.

MINUTES OF THE NINTH SITTING OF THE STANDING
COMMITTEE ON FINANCE

The Committee sat on Wednesday, the 28th November, 2007 from 1600 hrs. to 1700 hrs. in Committee Room No. 'E', Parliament House Annexe, New Delhi.

PRESENT

Shri Ananth Kumar — *Chairman*

MEMBERS

Lok Sabha

2. Shri Gurudas Dasgupta
3. Shri Bhartruhari Mahtab
4. Shri Rupchand Pal
5. Shri K.S. Rao
6. Shri Magunta Sreenivasulu Reddy
7. Shri M.A. Kharabela Swain

Rajya Sabha

8. Shri Santosh Bagrodia
9. Shri Mangani Lal Mandal
10. Shri S. Anbalagan
11. Shri Moinul Hassan

SECRETARIAT

1. Shri A. Louis Martin — *Joint Secretary*
2. Shri T.G. Chandrasekhar — *Deputy Secretary*
3. Shri G. Srinivasulu — *Deputy Secretary-II*

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

3. The Committee, then took up the following draft reports for consideration:—

- (i) Draft action Report on the recommendations/observations contained in the 51st Report on Demands for Grants (2007-08) of the Ministry of Finance (Departments of Economic Affairs, Expenditure and Disinvestment);

- (ii) Draft action taken Report on the recommendations/ observations contained in the 54th Report on Demands for Grants (2007-08) of the Ministry of Statistics and Programme Implementation.
- (iii) Draft action taken Report on the recommendations/ observations contained in the 41st Report on 'Introduction of New Income Tax Return Form';
- (iv) Draft action taken Report on the recommendations/ observations contained in the 52nd Report on Demands for Grants (2007-08) of the Ministry of Finance (Department of Revenue);
- (v) Draft action taken Report on the recommendations/ observations contained in the 53rd Report on Demands for Grants (2007-08) of the Ministry of Planning;
- (vi) Draft action taken Report on the recommendations/ observations contained in the 55th Report on Demands for Grants (2007-08) of the Ministry of Corporate Affairs; and
- (vii) Draft action taken Report on the recommendations/ observations contained in the 43rd Report on 'Efficacy of Reform Process in Capital Market—Recent IPO Scam'.

The Committee adopted the reports at (i), (ii) and (iii) above without any amendment and the reports at (iv), (v), (vi) and (vii) above with modifications as shown in the annexure.

4. The Committee then authorized the Chairman to finalise the reports in the light of the modifications made and present the same to Parliament.

The Committee then adjourned.

ANNEXURE

[MODIFICATIONS/AMENDMENTS MADE BY STANDING
COMMITTEE ON FINANCE IN THEIR DRAFT ACTION
TAKEN REPORT ON THE RECOMMENDATIONS/
OBSERVATIONS CONTAINED IN THE FIFTY-
SECOND REPORT ON DEMANDS FOR GRANTS
(2007-08) OF THE MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)]

- (a) Modification made in Chapter-I of the draft action taken report on the 52nd Report on Demands for Grants (2007-08) of Ministry of Finance (Department of Revenue)

Para	Line	Modification
13	5	<p><i>For</i></p> <p style="padding-left: 40px;">“The Committee would like to know the recommendation made by the Expert Group and the action taken thereon.”</p> <p style="padding-left: 40px;"><i>Substitute</i></p> <p style="padding-left: 40px;">“The Committee would like a copy of the report of the Expert Group and the action taken thereon be furnished to them.”</p>

- (b) Modification made in Chapter-I of the draft action taken report on the 53rd Report on Demands for Grants (2007-08) of Ministry of Planning.

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- (c) Modification made in Chapter-I of the draft action taken report on the 55th Report on Demands for Grants (2007-08) of Ministry of Corporate Affairs.

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- (d) Modification made in Chapter-I of the draft action taken report on the 43rd Report on “Efficacy of Reform Process of Capital Market—Recent IPO Scam”

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APPENDIX

(Vide Para 3 of the Introduction)

ANALYSIS OF THE ACTION TAKEN BY GOVERNMENT ON THE
RECOMMENDATIONS CONTAINED IN THE FIFTY-SECOND
REPORT OF THE STANDING COMMITTEE ON FINANCE
(FOURTEENTH LOK SABHA) ON DEMANDS FOR GRANTS
(2007-2008) OF THE MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

	Total	% of Total
(i) Total number of recommendations	10	
(ii) Recommendations/observations which have been accepted by the Government [Vide Recommendation at Sl. Nos. 1 (paras 22-27), 3 (paras 66-70), 4 (paras 78 & 80), 6 (paras 107-109), 8 (paras 121-122), 9 (para 128) & 10 (para 135)]	7	70%
(iii) Recommendations/observations which the Committee do not desire to pursue in view of the Government's replies [Vide Recommendation at Sl. Nos. 2 (paras 52-55) & 7 (paras 116-117)]	2	20%
(iv) Recommendations/observations in respect of which replies of the Government have not been accepted by the Committee [Vide Recommendations at Sl. Nos. 4 (para 81), 5 (para 92) & 6 (para 110)]	1	10%
(v) Recommendation/observation in respect of which final reply of the Government is still awaited [Vide Recommendation at Sl. No. Nil]	Nil	00.00%