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**STANDING COMMITTEE ON FINANCE
(2013-14)**

FIFTEENTH LOK SABHA

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

(Action taken by the Government on the recommendations contained in Sixty-Eighth Report on Demands for Grants (2013-14) of the Ministry of Finance (Department of Revenue))

SEVENTY SIXTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2013/ Agrahayana, 1935 (Saka)

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(2013-2014)

(FIFTEENTH LOK SABHA)

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

***(Action taken by the Government on the recommendations contained
in Sixty Eighth Report on Demands for Grants (2013-14) of the Ministry
of Finance (Department of Revenue)***

Presented to Hon'ble Speaker on 18 October, 2013

Presented to Lok Sabha on 09 December, 2013

Laid in Rajya Sabha on 09 December, 2013



LOK SABHA SECRETARIAT
NEW DELHI

December, 2013/ Agrahayana, 1935 (Saka)

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Finance on Demands for Grants (2013-14) of the Ministry of Finance
(Department of Revenue).....

* Not appended in the cyclostyled copy

COMPOSITION OF STANDING COMMITTEE ON FINANCE (2013-14)

Shri Yashwant Sinha - Chairman

MEMBERS

LOK SABHA

2. Shri Suwendu Adhikari
3. Dr. Baliram
4. Shri Sudip Bandyopadhyay
5. Shri Udayanraje Bhonsle
6. Shri Gurudas Dasgupta
7. Shri Nishikant Dubey
8. Shri Rahul Gandhi
9. Shri Deepender Singh Hooda
10. Shri Chandrakant Khaire
11. Shri Bhartruhari Mahtab
12. Dr. Chinta Mohan
13. Shri Sanjay Brijkishorlal Nirupam
14. Shri Prem Das Rai
15. Shri S.S. Ramasubbu
16. Adv. A. Sampath
17. Shri Thakur Anurag Singh
18. Shri Subodh Kant Sahai*
19. Dr. M. Thambidurai
20. Shri Shivkumar Udasi
21. Shri Dharmendra Yadav

RAJYA SABHA

22. Shri Naresh Agrawal
23. Shri Rajeev Chandrasekhar
24. Smt. Renuka Chowdhury
25. Shri Piyush Goyal
26. Shri Satish Chandra Misra
27. Dr. Mahendra Prasad
28. Shri Ravi Shankar Prasad
29. Shri P. Rajeeve
30. Shri Praveen Rashtrapal
31. Dr. Yogendra P. Trivedi

SECRETARIAT

1. Shri A.K. Singh - Joint Secretary
2. Shri Ramkumar Suryanarayanan - Additional Director
3. Shri Kulmohan Singh Arora - Under Secretary

* Nominated as Member of the Standing Committee on Finance w.e.f 16th September, 2013

INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorised by the Committee, present this Seventy Sixth Report on action taken by Government on the recommendations contained in the Sixty Eighth Report of the Committee (Fifteenth Lok Sabha) on Demands for Grants (2013-14) of the Ministry of Finance (Department of Revenue).

2. The Sixty Eighth Report (15th Lok Sabha) was presented to Lok Sabha/laid in Rajya Sabha on 22 April, 2013. Replies indicating action taken on all the recommendations contained in the Report were furnished by the Government on 20 August, 2013.

3. The Committee considered and adopted this report at their sitting held on 27 September, 2013.

4. An analysis of action taken by Government on the recommendations contained in the Sixty Eighth 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;
27 September, 2013
05 Asvina, 1935 (Saka)

YASHWANT SINHA
Chairman,
Standing Committee on Finance

CHAPTER – I

REPORT

This Report of the Standing Committee on Finance deals with action taken by Government on the recommendations/observations contained in their 68th Report (Fifteenth Lok Sabha) on Demands for Grants (2013-14) of the Ministry of Finance (Department of Revenue) which was presented to Lok Sabha / Laid in Rajya Sabha on 22nd April, 2013.

2. The Action Taken Notes have been received from the Government in respect of all the 16 recommendations contained in the Report. These have been analyzed and categorized as follows:

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

Recommendation Nos. 1,2,3,4, 6, 7, 10, 11, 12, 13, 14 and 16

(Total 12)
(Chapter II)

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

Recommendation No. Nil

(Total Nil)
(Chapter III)

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

Recommendation Nos. 5, 8, 9 and 15

(Total 4)
(Chapter IV)

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

Recommendation No. NIL

(Total - 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 the action taken by the Government on some of their recommendations.

Broadening Tax Base
(Recommendation Para No. 2)

5. The Ministry of Finance (Department of Revenue) had stated that in the last 10 years the tax collection in respect of Direct Taxes has increased by more than 700%, while the number of tax-payers has grown by only about 35%. In this regard, while giving slab-wise information, the Department had informed that income slab upto Rs. 5 lakh comprises of 98.38% of total assesses, while above 20 lakh slab comprises of a meager 0.38% of total assesses. In this connection, while furnishing information with respect to the Direct Taxes Code Bill, 2010, the Department had intimated that the percentage of taxes collected in the 0-5 lakh slab was only 10.1% for the year 2011-12 while the percentage of tax collected in the above 20 lakh slab was 63% for the corresponding year. Similarly, with regard to Corporate Taxes, the Committee note on the basis of facts furnished in the course of examination of Direct Taxes Code Bill, 2010 that for the Financial Year 2008-09, there were 4,63, 507 number of tax-payers in 0-100 crore slab, whereas above Rs. 500 crore slab, it was a mere 186 tax-payers. This situation presented before the Committee clearly suggest that income tax base in revenue terms is rather narrow which has adversely affected tax buoyancy. The Committee also found that Permanent Account Number (PAN) has been allotted to more than 11 crore entities, while income tax returns have been filed by only 3.5 crore entities. Further, a huge gap has also been noticed between number of entities to whom Tax Deduction and Collection Account Number (TAN) has been allotted vis-à-vis number of deductors filing TDS submissions. The Committee therefore desired that strenuous efforts should be made by the Department both in terms of policy as well as enforcement action in widening the tax base, which obviously is not commensurate with the growth in income and wealth witnessed over the years.

6. The Ministry in their action taken reply have stated as follows :

“The observation of the Hon’ble Committee that efforts should be made by the Department both in terms of policy as well as enforcement action in widening the tax base has been duly noted. It has always been the endeavour of the Department to expand the tax base. Various administrative and legislative measures undertaken in the past few years in this direction.

The Income-tax Department (ITD) regularly collects information about high-value transactions of specified categories through the mechanisms of Annual Information Return (AIR) and Central Information Branch (CIB). Information Technology is being increasingly used by ITD for collection, collation and dissemination of taxpayers’ information in a more effective manner. The information collected by ITD is utilized in various statutory proceedings including search & seizure; survey and scrutiny assessments which have an impact on deepening and widening of tax base.

ITD has also set up an Integrated Taxpayer Data Management System (ITDMS) to electronically collate and analyse the information collected from various sources. In some select cases 360 degrees profile is created for enquiries/investigation purposes. The ITDMS is used to identify and profile high-risk taxpayers.

As part of the widening of tax base exercise, ITD has identified persons holding PAN who have taxable income but who have not filed returns of income. Rule-based algorithms have been used to identify high priority cases for follow-up and monitoring. In the month of March 2013, on the basis of information collected from various sources about persons who have undertaken high-value financial transactions but have not filed their returns of income for A.Y. 2010-11 and A.Y. 2011-12, letters were issued to 1,05,000 such persons. This process is on-going and to date we have issued letters to 1,75,000 persons”.

7. The Committee note that in order to expand the tax base, Income tax Department has set up an Integrated Taxpayer Data Management System (ITDMS) to electronically collate and analyse the information collected from various sources. However, tax buoyancy is not commensurate with the growth in income and wealth witnessed over the years. Numbers of notices issued are very low as compared to 11 crore PAN Card holders. The Income-tax Department should therefore look at this aspect closely. As commented

upon in their earlier reports, the Committee desire that there is a need to plug tax evasion as well as avoidance to increase tax buoyancy. In this regard, Committee further desire that the Income Tax Department should optimally use information technology to keep a close watch over the high spending individuals and large monetary transactions and bring them into tax net so as to broaden the tax base instead of frittering away their limited resources on fixed-income groups. Instead of depending on TDS and Advance Tax, Income-tax Department should adopt pro-active approach and induce those PAN Card holders who were liable to pay tax to file their income tax return. Simultaneously the ambit of TDS / TCS should also be widened.

**Presumptive tax
(Recommendation Para No. 3)**

8. In the context of tax base, the Committee found that presently there were provisions in the Income Tax Act for levying Presumptive Tax, wherein the concept of “Presumptive Tax” has been introduced to bring a number of business and service providers, irrespective of their area of operations, earning substantial income. The Committee however, observed that the existing provisions have not been yielding the potential quantum of tax and would therefore recommend that the present presumptive tax regime be reviewed so that substantial tax is generated through this source, as there is evidently a large number of individuals in businesses, trades, services and professions which are still outside the tax net.

9. The Ministry in their action taken reply have stated as follows :

“With a view to building an atmosphere of trust, encourage voluntary compliance and to widen the tax base, Finance Act, 1992 introduced a simplified procedure for taxation for small shop keepers by inserting section 115K in the Income-tax Act, 1961 (‘the Act’). The Finance Act, 1994 introduced presumptive taxation scheme for certain categories of business for simplifying the determination of business income and minimizing compliance cost. Section 44AD and Section 44AE were inserted in the Act for providing presumptive taxation scheme for the assessee engaged in the business of civil construction and in the business of plying, leasing or

hiring of trucks. Considering substantial growth in small businesses since the introduction of presumptive taxation scheme for certain businesses in 1994, the Finance (No.2) Act, 2009 revised the presumptive taxation scheme under the Act. The existing section 44AD was substituted by a new section 44AD and the scope of presumptive taxation scheme was expanded to all small businesses.

It is apparent from the above, the provisions relating to the presumptive taxation scheme in the Act are continuously reviewed to achieve the twin objective of widening the tax base and for reducing the compliance burden on small assesses”.

10. The Committee find the reply furnished by the Ministry to be rather general and non contextual. The Committee find that presumptive tax provisions were revised only once so far in 2009 and the Ministry have not elaborated on the tax yield arising from this review. Considering substantial growth in small businesses and the self-employed since the introduction of presumptive taxation scheme for certain businesses in 1994, the Committee would reiterate their recommendation that the present Presumptive tax regime be geared up with a view to generating substantial tax through this source and the net of Presumptive Tax should be widened. In the meantime, the Committee desire that the Income Tax Department should prepare a zone-wise list / data-base of all the categories of businessmen, traders, professionals, service providers etc. ,who can be brought under the Presumptive Tax net, depending upon their size / turnover etc.

Progressive Tax Policies
(Recommendation Para No. 5)

11. With a view to making the tax base broader as also progressive in nature, the Committee had sought information from the Department on the number of new assesses added each year and percentage of tax collected from them slab-wise for the last 5 years. The Committee had been informed that in the year 2008-09, 17,84,709 new assesses were added, while only 7,21,709 new assesses were added in 2011-12. They had not been able to furnish figures for 2012-13. The Department had also not been able to provide slab-wise information on new assesses. Based on this information as also the information on the number of taxpayers and tax collected slab-wise both for individuals and corporate made available in the context of the examination of Direct Taxes Code Bill, 2010, the Committee cannot but conclude that tax policies presently being pursued are seemingly not as progressive as they ought to be. The Committee would thus like to be apprised of the extent of new assesses added to the tax base each year slab-wise within a period of one month. The Committee would also like to urge the Department to widen the tax base in a genuine manner by adding new assesses to the base at the higher income slabs rather than plateauing it off by way of accretions at the lower income slabs, which will only increase the number of returns without commensurate revenue. The Committee also desired that slab-wise, category-wise data of tax collections should also be maintained so that appropriate policy responses can be formulated.

12. In their action taken reply, the Ministry have stated as under :

“With reference to the observation of the Hon’ble Committee that it would like to be apprised of the extent of new assesses added to the tax base each year slab wise, it is submitted, that the data desired by the Hon’ble Committee is not maintained.

It is submitted that the Department is pursuing the objective of widening of tax base with its limited resources. The Department is having consistent acute shortage of manpower at all levels due to which large data available

with the Department in form of CIB/AIR information also cannot be optimally utilized. However, all possible measures are being/shall be taken by the Department to widen the tax base.

In the month of March 2013, on the basis of information collected from various sources about persons who have undertaken high-value financial transactions but have not filed their returns of income for A.Y. 2010-11 and A.Y. 2011-12, letters have been issued to 1,05,000 such persons. More such letters are being issued in the current financial year”.

13. The Committee are constrained to note that the Ministry is not maintaining slab-wise, category-wise data of tax collections. The Ministry has also not mentioned the steps taken or proposed to be taken for maintaining slab-wise, category-wise data of tax collection. The reply of Ministry that acute shortage of manpower at all levels, due to which large data available with the Department in form of CIB / AIR information cannot be optimally utilized, is not tenable in the era of Information Technology and in a country afflicted with a serious problem of unemployment. As commented upon earlier in their reports, the Committee are of the firm opinion that lack of slab-wise / category-wise data of tax collection is a serious impediment in formulating Progressive Tax Policies. The Committee, therefore, reiterate their recommendation that slab-wise / category-wise data of tax collections should be maintained so that appropriate policy responses can be formulated.

Action Plan for Tax Arrears

(Recommendation Para No. 8)

14. As regards tax arrears, both direct and indirect taxes, the Committee found that the situation is becoming grimmer by the day, as they find that in direct taxes the arrear demand increased in 2012-13 to Rs. 4,82,027 crore from Rs. 3,33,079 crore in 2011-12 and Rs. 2,48,927 crore in 2010-11; while in indirect taxes it has steeply increased to Rs. 1,03,975 crore in 2012-13 from Rs. 33,791 crore in 2008-09; with service tax arrears registering a tenfold increase in 2012-13. The Ministry in their reply have only stated in a routine and general manner that wherever

specific amounts of arrears have been locked up in cases pending before Courts / Appellate fora, early hearing petitions are filed and efforts are made to get stay orders vacated, and that dedicated teams of officers have been created in the field formations for expeditious recovery. The Committee, however, do not found any solace in such generalized submissions, as the steadily mounting arrears in both direct and indirect taxes have assumed alarming proportions. The Committee would therefore recommended urgent, time-bound and concrete action plan to clear the backlog and realize the revenue dues. This will go a long way in helping the Government to bridge the fiscal deficit. The Committee desired that a status report in the matter be submitted within 3 months of the presentation of the Report to the Committee.

15. The Ministry in their Action taken reply stated as under :

CBDT

| S. No. | F.Y. | Arrear Demand | Cash collection out of arrear demand |
|---------------|-------------|----------------------|---|
| 1. | 2006-07 | 116766 | 12285 |
| 2 | 2007-08 | 120662 | 9071 |
| 3 | 2008-09 | 130733 | 10016 |
| 4 | 2009-10 | 213646 | 11939 |
| 5 | 2010-11 | 248927 | 12011 |
| 6 | 2011-12 | 333079 | 19654 |
| 7 | 2012-13 | 482027 | 23995 |

The component of arrear demand jumped due to inclusion of demands related to Hassan Ali Group/B.C Dalal and Harshad Mehta Group. These cases are presently under Legal Proceedings under various Acts. Therefore, recovery in these cases by operation of Income Tax Act alone is not possible. However, the cash collection have been showing a steady growth.

Though all efforts are made as per procedures to recover the demand, some of the demands may prove to be difficult to recover due to following reasons:

- Companies under Liquidation
- Cases before BIFR
- Demand on protective basis
- Cases before Income Tax Settlement Commission (ITSC)
- Cases where there are no assets for recovery
- Assessee being Notified persons
- Cases where demand is pending write off
- Assessee not traceable

Apart from the dossier of arrear demand cases which are regularly monitored on quarterly basis at various levels of CIT/CCIT/CBDT, the concern of the Committee regarding rising arrear demand are shared by the CBDT by setting up a Special Cell which is working on following points:

- a) Under sub-head 'Assessee not traceable'/'assessee having no assets' there are demand of Rs. 212245 crore as on 31.03.2013 (it includes demand of Rs. 165669.6 cr. of Hassan Ali Group)
- b) Under sub-head 'Demand Not Under Dispute', recoverable demand is being identified for immediate recovery.
- c) PAN of cases in which assessee is not traceable has been referred to FIU-IND and process of identifying their bank accounts and recovery is under progress. Till date nearly Rs. 31 crore have been recovered.
- d) The Guidelines for 'Reward to Informant' regarding cash collection from outstanding arrear demand is under process of finalization.

Standard Operating Procedures have been issued for effective implementation by the field formation leading to reduction of arrear demand entries and wiping out of fiscal deficit. Demand Management Month has been launched from 24th April to 25th May 2013.

Further, following steps are being taken to implement the views of the Committee:

1. CCsIT have been instructed to make all possible efforts at their end to get all ITAT matters under adjournment vacated and decided.
2. CCsIT have been instructed to get stay on recovery revoked in the cases of High Court/Supreme Court matters.
3. Preferably no dossier case should be kept under any stay except in Court matters and case covered by instruction No.1914.

4. The field has been instructed that in all cases covered under head 'any other demand' rectification etc. must be done immediately so that these demands are wiped out.
5. CIT(A) have been instructed to dispose off the matters expeditiously and not to grant stay on collection of demand.
6. The CCsIT have been instructed to strictly monitor demand not fallen due for recovery in all cases above Rs. 1 cr. i.e. dossier cases.
7. The performance of TRO as per TRO Action Plan, to be monitored on periodical basis.

CBEC

To realize/liquidate the indirect tax arrears, the following Action Plan has been implemented by the CBEC:

- (i) Wherever substantial amounts of arrears have been locked up in cases pending before Courts/appellate fora, early hearing petitions are filed and efforts are made to vacate stay orders. Cases of similar nature are being bunched for expeditious disposal by the appellate authorities.
- (ii) The cases pending before Board for Industrial and Financial Reconstruction, Debt Recovery Tribunal, Official Liquidator etc. are being actively followed up.
- (iii) Wherever revenue arrears are free from all legal encumbrances, action is taken for speedy implementation of favorable orders passed by Courts. Where no stay has been granted or the stay granted has lapsed, prompt action is taken for realization of arrears by attachment of movable/immovable assets of the defaulters or recovery from sums due to such assessees.
- (iv) Dedicated teams of officers have been created in the field formations for expeditious recovery of indirect tax arrears.
- (v) Recovery provisions have been strengthened by amending Section 11 of the Central Excise Act, 1944 & Section 142 of the Customs Act, 1962 vide Finance Act, 2013.

Assets not available for Recovery

(Recommendation Para No. 9)

16. In the context of revenue arrears, the Committee found that there are large number of cases involving tax revenue to the tune of Rs. 1,94,073 crore, wherein no assets are available for recovery and an amount of Rs. 3,657 crore where the assesseees are not at all traceable. In CBEC, the corresponding amount involving non-recoverable cases have revenue involvement of about Rs. 4,770 crore. While expressing their concern on such state of affairs in regard to recovery of revenue dues, the Committee would like the Department to enquire into the reasons as to how these cases involving such huge amount of dues from assesses became un-recoverable in the first place. The Committee may be apprised of the action taken in the matter.

17. The Ministry in their Action taken reply stated as under :

CBDT

“The arrear demand outstanding has been analyzed and it is revealed that huge demands were raised in Hassan Ali Group of cases (Rs. 165669.6 crore). All known immovable and moveable assets belonging to the group have been attached.

However, as per existing guidelines, recovery through sale of attached properties can be made only after the decision of the appeal filed before the ITAT.

The appeals of the Hassan Ali Khan group of cases, filed by the assesseees are pending before the ITAT .These cases were filed before ITAT in F.Y.2010 -2011. The department has appointed Special Counsel to defend these cases with the approval of Ministry of Law. The assessee is in judicial custody and has been seeking adjournments.

There are no matching assets against arrear demand outstanding in Hassan Ali Group.

CBEC

Tax arrears are of two types – Stayed and Unstayed. The category ‘Stayed Arrears’ covers all cases where the Supreme Court, the High Courts, the CESTAT (Tribunal) or the Commissioners (Appeals) have stayed the recovery proceedings pending finalization of the appeal. In these cases, recovery action is not possible till finalization of the appeals or vacation of such stay, whichever is earlier.

The category, ‘Unstayed Arrears’ covers, cases where it is possible to proceed with the recovery action, since the amounts involved are not covered by any stay order. However, in such cases, actual recovery even after initiation of proceedings under the provisions of Indirect tax laws, may get delayed on account of various reasons, including assessees not traceable or no assets available. The reasons are broadly listed below:

- (i) Assets not available or individuals not traceable. In Customs, there are many cases where unscrupulous importers/exporters, after availing of benefits which are subject to fulfillment of post-importation/exportation conditions, just disappear. In the event of non-fulfillment of such conditions, it becomes extremely difficult to trace such firms/persons and recover the amounts.
- (ii) There are many assessees who operate from rented premises or use machinery and capital goods which are on loan or lease basis. In the event of a demand, recovery cannot be made from a property, which does not belong to the assessee.
- (iii) While in some cases, the assessees are unable to pay the arrears on account of financial difficulties or lack of resources, in others, even after the properties of the defaulters have been auctioned, the full amount due to the Government cannot be recovered.
- (iv) In some cases, especially those where the defaulters are absconding, it becomes difficult to identify their assets.
- (v) In cases where action has been initiated under Section 142 of Customs Act, 1962, references have to be made to the District Land Revenue authorities and the responses are generally very slow.

These are some of the reasons due to which cases involving huge amount of dues from assesses became un-recoverable. The steps being taken to recover the dues are listed against para no. 8 above”.

18. The Committee are constrained to note that in direct taxes out of total Arrear Demand of Rs. 4,82,027 crore in 2012-13, only Rs. 23,995 crore have been collected which is less than 5% of the total Arrear Demand. This is obviously a very abysmal situation from revenue point of view. Under the sub-head 'Assessee not traceable / assessee having no assets, there are demands of Rs. 2,12,245 crore as on 31.3.2013 (which includes demand of Rs. 1,65,669.6 crore of Hassan Ali Group). The Committee are not convinced with the submission of the CBDT that component of arrear demand jumped due to inclusion of demands related to Hassan Ali Group / B.C. Dalal and Harshad Mehta Group. These cases are presently under Legal Proceedings under various Acts and therefore, recovery in these cases by operation of Income Tax Act alone is not possible. On the question of how such a grim situation arose in the first place, when such a huge amount of arrear demand could not be collected, the reply of the Ministry remained silent. As this amounts to inaction, the Ministry owes an explanation in this regard to the Committee. The Committee would thus reiterate their recommendation that urgent, time bound and concrete action plan to realize the arrear demand should be initiated and bring the legal proceedings to an end at an early date, which will go a long way in helping the Government to bridge the fiscal deficit and will also prove the efficacy of the collection machinery of the Ministry.

Search and Seizure Operations

(Recommendation Para No. 15)

19. While justifying the need for search and seizure operations, the Department of Revenue had stated that these operations are essential not only for reinforcing the tax-base and collections, but also for gathering critical evidences. According to the Department, in the present circumstances, non-intrusive methods like TDS / TCS and intrusive methods like search, survey etc. supplement each other to enhance the efficiency of tax administration, detect tax evasion and boost tax collections. However, during the course of discussions with field officials in their study visits, the Committee were informed that it was not possible to correlate the

actual tax yield with the estimates made at the time of searches etc. Further, the Department have stated in their reply that the data pertaining to revenue realised / collected out of search & seizure or survey operations is not maintained. The Committee would therefore like the Department to conduct an objective evaluation with a view to ascertaining the actual revenue yield or outcomes of these intrusive methods of tax collection and as to whether the tax estimates made originally at the time of booking a case could be high-pitched or simply zealous.

20. In their Action Taken reply, the Ministry have stated as follows :

CBDT

“The Observation of the Committee is noted for future guidance.

CBEC

Anti evasion is the third prong of compliance verification in the liberalized tax regime of self assessment. Search & seizure operations are needed to ensure quick and meaningful investigation and effective finalization of any case. Generally, search and seizure operations are resorted to only in cases where it appears that the documents of evidentiary value are secreted with an intention to evade duty/taxes. In all other cases, investigations are carried out through non-intrusive methods, such as summoning and recording of statements, independent market inquiries, profiling, studies etc. Intrusive methods, like, search and seizure operations are used only when there is proven justifications. It is not possible to ascertain the actual revenue yield or outcome of these intrusive methods at the time of carrying out search and seizure. The net outcome, in revenue terms, cannot be attributed to either intrusive or non-intrusive methods alone as such a distribution would not be possible in any scientific way. It is not possible to assess the contribution of any single tool of investigation in isolation as the outcome is always of a combinatorial use of different methods. Moreover, at the time of booking a case, the estimates of evasion of tax/duty is based on preliminary examination of documents/records/evidences whereas final evaluation is made after completion of investigations.

In Customs evasion cases, it has been seen that crucial evidence e.g. offending goods can only be recovered by undertaking search & seizure operations. One cannot expect a smuggler of Red Sanders, Gold or for that matter Narcotic Drugs & Psychotropic Substances to respond to written communications like letters or even summons. Even in cases involving

commercial frauds, there has been a tendency to enter to unproductive but protracted litigation so as to avert responding to non-intrusive methods of investigation. Intrusive methods have their own utility in such cases. Searches are an effective method of unearthing undisclosed informal accounts, communications and other such evidences of parallel transactions in cases of commercial fraud. It may further not be possible to quantify the outcome of these operations for the simple reason that these methods also have some deterrent value.

Further, not only in cases of search, but even in other cases, the amount of evasion as quantified at the time of detection remains an estimate only. Estimations involve an element of subjectivity and though every effort is made to ensure objectivity in such cases yet the amount involved can never be predicted exactly. The evasion estimated at the time of initiating an investigation is based on intelligence. The demand raised is an outcome of the evidence that can be gathered during the investigation. As such, even if there is a gap between the two, it does not necessarily mean that either the initial estimate or the final demand is invalid.

On a macro level, looking at the data for the last six years, tabulated below, it can be safely premised that the estimates made at the time of booking a case are not pitched to extraordinarily high levels. As can be seen that as against the amount of detections reported i.e. Rs. 13190.97 Crore for the years 2007-08 to 2012-13, the amount demanded in SCN issued during the same period is Rs. 13254.34 Crore. The figures being in a comparable zone, however do indicate that the estimations at an aggregate level over an extended period of time do show a clear correlation between the initial estimation and the final demand”.

Anti Smuggling Performance of DRI and Commissionerates (Rs. in crores)

| Item of Work | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | Total |
|--|---------|---------|---------|---------|---------|---------|-----------------|
| Commercial Fraud Cases Detected | 876.03 | 2011.30 | 838.00 | 1297.06 | 2198.20 | 5970.38 | 13190.97 |
| Investigation completed and SCN issued in CF cases | 1221.77 | 2128.23 | 1457.68 | 3270.80 | 2968.31 | 2207.55 | 13254.34 |

21. The Committee had recommended that the Department of Revenue should conduct an objective evaluation with a view to ascertaining the actual

revenue yield or outcome of search / seizure / survey operations so as to ensure that tax estimates originally made are not high-pitched. In response, the CBDT have tersely stated that “the observation of the Committee is noted for future guidance”. The Committee while taking a serious view of such a casual reply, find this response from CBDT unbecoming of the Department of Revenue responsible for mobilizing revenue. The Committee would, therefore, seek a detailed response from the Ministry of Finance (Department of Revenue) on this issue. The Committee would also take this opportunity to reiterate their persistent recommendation that the Department of Revenue (both CBDT and CBEC) should develop and maintain data-base comprehensive enough to cover their search/seizure/survey operations, which would correctly reflect both the initial tax estimates and the eventual tax yield therefrom and which will make their functioning more meaningful and effective.

New Delhi;
27 September, 2013
05 Asvina, 1935 (Saka)

YASHWANT SINHA
Chairman,
Standing Committee on Finance

MINUTES OF THE SECOND SITTING OF THE STANDING COMMITTEE ON FINANCE (2013-14)

The Committee sat on Friday, the 27th September, 2013 from 1100 hrs to 1310 hrs.

PRESENT

Shri Yashwant Sinha – Chairman

MEMBERS

LOK SABHA

2. Dr. Baliram
3. Shri Gurudas Dasgupta
4. Shri Nishikant Dubey
5. Shri Deepender Singh Hooda
6. Shri Chandrakant Khaire
7. Dr. Chinta Mohan
8. Shri S.S. Ramasubbu
9. Adv. A. Sampath
10. Shri Subodh Kant Sahai
11. Dr. M. Thambidurai
12. Shri Shivkumar Udasi

RAJYA SABHA

13. Shri Naresh Agrawal
14. Dr. Mahendra Prasad
15. Shri P. Rajeeve
16. Shri Praveen Rashtrapal
17. Dr. Yogendra P. Trivedi

SECRETARIAT

- | | | |
|---------------------------------|---|---------------------|
| 1. Shri A.K. Singh | – | Joint Secretary |
| 2. Shri Ramkumar Suryanarayanan | – | Additional Director |
| 3. Shri Sanjay Sethi | – | Deputy Secretary |
| 4. Shri Kulmohan Singh Arora | – | Under Secretary |

2. At the outset, the Chairman welcomed Shri Subodh Kant Sahai and congratulated him on his nomination to the Committee for the year 2013-14. The Committee thereafter took up the following draft Reports for consideration and adoption :-

| | | | | |
|-----|----|----|----|----|
| (i) | XX | XX | XX | XX |
| | XX | XX | XX | XX |

APPENDIX

(Vide Para 4 of the Introduction)

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE SIXTY-EIGHTH REPORT OF THE STANDING COMMITTEE ON FINANCE (FIFTEENTH LOK SABHA) ON DEMANDS FOR GRANTS (2013-14) OF THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

| | Total | % of total |
|---|-------|------------|
| (i) Total number of Recommendations | 16 | |
| (ii) Recommendations/Observations which have been accepted by the Government (vide Recommendation Nos.1,2,3,4,6,7,10,11,12,13,14 &16) | 12 | 75% |
| (iii) Recommendations/Observations which the Committee do not desire to pursue in view of the Government's replies | Nil | 0.00 |
| (iv) Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee (vide Recommendations at Sl. No.5, 8, 9 & 15) | 04 | 25% |
| (v) Recommendations/Observations in respect of which final reply of the Government are still awaited | Nil | - |