

PUBLIC ACCOUNTS COMMITTEE
(1972-73)

FIFTH LOK SABHA

SEVENTY FOURTH REPORT

[Chapter VI of the report of the Comptroller and Auditor General of India for the year 1970-71—Union Government (Civil)—Revenue Receipts—Sales Tax Receipts of the Union Territory of Delhi]



LOK SABHA SECRETARIAT
NEW DELHI

February, 1973 | Phalguna, 1894 (S)

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CORRIGENDA TO SEVENTY FOURTH REPORT OF
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<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
Contents	-	15	Minutes of the Public Accounts Committee	Minutes of the sitting of the Public Accounts Committee
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CONTENTS

	PAGE
COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE (1972-73)	(iii)
INTRODUCTION	(v)
CHAPTER I Variation between the Budget Estimates and the Actuals	1
CHAPTER II Arrears of Assessments	6
CHAPTER III Arrears of Sales-Tax Demands	11
CHAPTER IV Frauds and Evasions	21
CHAPTER V Searches and Seizures	24
CHAPTER VI Appeals pending	26

APPENDICES

I. Memorandum No. SV-II(GEN)/CST-71/339 dated 1st May, 1972 issued by the Commissioner of Sales Tax	29
II. Summary of Main Conclusions/Recommendations	31

PART II*

Minutes of the Public Accounts Committee held on 23rd February, 1973 (FN)

*Not printed. (One cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library)

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(1972-73)

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Shri Avtar Singh Rikhy—*Joint Secretary.*

Shri T. R. Krishnamachari—*Under Secretary.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee do present on their behalf this Seventy Fourth Report of the Committee (Fifth Lok Sabha) on Chapter VI of the Report of the Comptroller and Auditor General of India for the year 1970-71—Union Government (Civil)—Revenue Receipts relating to Sales Tax Receipts of the Union Territory of Delhi.

2. The Report of the Comptroller and Auditor General of India for the year 1970-71 Union Government (Civil) Revenue Receipts was laid on the Table of the House on 14th April, 1972. Written information was obtained from the Ministry of Home Affairs on points arising out of the paragraphs relating to Sales Tax receipts of the Union Territory of Delhi. This Report was considered and finalised by the Public Accounts Committee (1972-73) at their sitting held on the 23rd February, 1973. Minutes of the sitting form Part II* of the Report.

3. A statement showing the summary of the main conclusions/recommendations of the Committee is appended to the Report (Appendix II). For facility of reference, these have been printed in thick type in the body of the Report.

4. The Committee place on record their appreciation of the assistance rendered to them in the examination of these paragraphs by the Comptroller and Auditor General of India.

NEW DELHI;
23rd February, 1973.

4th Phalguna, 1894 (S).

ERA SEZHIYAN,
Chairman,
Public Accounts Committee.

*Not printed. (One cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library)

OTHER REVENUE RECEIPTS
MINISTRY OF HOME AFFAIRS

Sales tax receipts of the Union Territory of Delhi

CHAPTER I

VARIATION BETWEEN THE BUDGET ESTIMATES AND THE ACTUALS

Audit Paragraph

1.1. As against the Budget estimates of Rs. 24.45 crores for the year 1970-71 the actuals stood at Rs. 25.57 crores showing an increase of Rs. 1.12 crores. In the year 1968-69 also the actuals had exceeded the Budget estimates by Rs. 1.85 crores whereas in the year 1969-70 there was a shortfall of Rs. 1.85 crores.

1.2. An analysis of the variations is given below:—

	1969-70			1970-71		
	Budget estimates	Actuals	(+)Increase (—)Decrease	Budget estimates	Actuals	(+)Increase (—)Decrease
(In lakhs of rupees)						
Receipts under Delhi Sales-Tax Act .	1700.00	1574.67	—125.33	1700.00	1767.24	+ 67.24
Receipts under Central Sales Tax Act	750.00	691.47	—58.53	750.00	797.82	+ 47.82
Deduct Refunds .	5.20	6.37	+1.17	5.20	8.10	+ 2.90
	2444.80	2259.77	—185.03	2444.80	2556.96	+ 112.16

Reasons for the variation are awaited from the Ministry.

[Paragraph 90 of the Report of the Comptroller & Auditor General of India for the year 1970-71—Union Government (Civil)—Revenue Receipts.]

1.3. The para focuses attention on the variations between the budget estimates and the actuals in the year 1970-71 as compared

to the preceding two years. The percentage of variation between the budget estimates and the actuals during 1970-71 as compared to the preceding three years is as under:—

Year	Amount by which exceeded/ fell short (Rs. in crores)	Percentage of variation between actual and budget estimates
1967-68	+1.12	+6.6
1968-69	+1.85	+9.2
1969-70	(-)-1.85	(-)-7.6
1970-71	+1.12	+4.58

1.4. The percentage of variation was the least during 1970-71. It is understood from Audit that the Ministry explained that this was as a result of streamlining the departmental machinery of collection.

1.5. The Committee enquired whether the Delhi Administration have any research unit|cell to forecast business trends and to assess the impact of any taxation proposal on trade and industry. The Ministry of Home Affairs, in a note submitted to the Committee, stated:

“There is at present no research unit|cell in the Sales Tax Department of the Administration to forecast business trends and to assess the impact of any taxation proposal on trade and industry. However, of late, the need to have such a cell was felt more particularly when the Finance Bill, 1972 which incorporated important amendments to section 5(2)(a)(ii) of the Bengal Finance (Sales Tax) Act, 1941 as extended to the Union Territory of Delhi came up for consideration and it was considered necessary to forecast business trends and to assess the impact of proposed amendments on the trade and industry. In this connection the proposal of the Commissioner Sales Tax to create a “Statistical Cell” has been accepted in principle by the Administration and to start with a provision of Rs. 58,000|- (Rs. 43,000 recurring and Rs. 15,000 Non-recurring) for creation of the following posts has been asked for in the B.E. 1973-74 proposals (Plan side):—

- (i) Assistant Director—One
- (ii) Research Officer—One
- (iii) Statistical Assistant—Four”

1.6. When asked how the Administration estimated the volume of trade in a particular commodity, the Ministry, in a note submitted to the Committee, stated:

"In the absence of a Statistical Cell, the estimate of the volume of trade is at present gauged through the trade-wise record which is maintained in the Sales Tax Department. The record of the tax paid by the dealers is maintained both dealer-wise and trade-wise in the respective ward offices working under the control of the Commissioner of Sales Tax and then a consolidated record of receipts under both the heads is maintained at the Head Quarters of the Sales Tax Department."

1.7. The Committee enquired whether the Delhi Administration had made any study of the extent of sales tax evasion in the Union Territory of Delhi. The Ministry, in a note submitted to the Committee, stated:

"There has of course been no systematic or scientific study of the Sales Tax evasion in the Union Territory of Delhi so far. However, as already mentioned, the Administration is contemplating to set up a Research & Statistical Cell in the Sales Tax Department whose functions will also include the study and framing of estimate of tax evasion in Delhi."

1.8. The Committee desired to know whether the Sales Tax Department had prepared any comprehensive plan for shop to shop survey in new and developing colonies and markets that were fast springing up in the Union Territory. The Ministry, in a note submitted to the Committee, replied in the affirmative. They further stated:

"The Department has, in the current year, issued comprehensive instructions to the Ward officers for thorough survey of their areas to ensure that no unregistered dealer who is liable to registration escapes notice. Besides, a Special Investigation Branch functions at the head quarters under the charge of an Assistant Commissioner and the officials of this Branch conduct surprise visits and surveys according to the programme approved by the Assistant Commissioner|Vigilance Officer."

1.9. As per paragraphs 68 and 92 of the Reports of the Comptroller and Auditor General of India for the years 1969-70 and 1970-71 respectively, the total number of assessments under the Local Sales

Tax Act since 1967-68 was as follows:—

Year	Number of current assessments for disposal
1967—68	31,412
1968—69	31,882
1969—70	35,179
1970—71	37,393

1.10. In reply to a question the Ministry intimated that during the year 1968-69, 1969-70 and 1970-71 the number of dealers seeking voluntary registration was 8,744, 8,452 and 9,003 respectively.

1.11. The variation between the Budget Estimates and the Actuals in regard to the sales tax receipts of the Union Territory of Delhi ranged from 4.8 per cent to 9.2 per cent during the years 1967-68 to 1970-71. The variation was the least during the year 1970-71 as a result of streamlining of departmental machinery of collection. The Committee are glad to note this welcome trend. They, however, desire that the gap should be further narrowed down and steps should be taken to see that variations in excess of 4 per cent do not occur in future.

1.12. The Committee note that there has been no machinery so far with the Delhi Administration to forecast business trends and to assess in advance the likely impact of taxation proposals on trade and industry. This is a serious deficiency which should be rectified without delay so that there may be a reasonably accurate forecast of tax receipts in future.

1.13. The sales tax receipts during 1970-71 were Rs. 25.57 crores which included Rs. 17.67 crores under the Local Sales Tax Act. The Committee feel that there is scope for augmenting the receipts particularly under the local Sales Tax Act. The total number of current assessments for disposal under the local Act during 1970-71 was 37,393 only. Although as many as 26,199 dealers are stated to have sought voluntary registration during the years 1968-69 to 1970-71, the increase in the number of cases of current assessments for disposal was only to the extent of 5,981 over the years 1967-68 to 1970-71. The Committee would like to know why the increase in the number of assessments was not proportionate to the increase in the number of registered dealers. The Committee would also like to know how far the net increase in the number of sales tax assessees since 1967-68 was consistent with the growth of shops and markets in the Union Territory.

1.14. It is common knowledge that there are a large number of small traders at Delhi and those who come from neighbouring States and conduct transactions assessable to local sales tax at Delhi, who do not maintain proper books of accounts and escape liability to

Sales Tax although their gross turnover may exceed the taxable quantum. It is, therefore, necessary that there should be an effective shop to shop survey and surprise checks to ensure that no unregistered dealer who is liable to registration, escapes notice. The Committee note that during the current year comprehensive instructions have been issued to the ward officers for thorough survey of their areas. The outcome of the survey may be report to the Committee.

1.15. It is regrettable that there has been no systematic or scientific study of the sales-tax evasion in the Union Territory so far. The Committee desire that such a study should be undertaken without delay. The result of the study as also the action taken in pursuance thereof to collect Government dues may be intimated to the Committee.

CHAPTER II

ARREARS OF ASSESSMENTS*

Audit Paragraph

2.1. On 31st March, 1971, 74,350 cases were outstanding with the department of Sales Tax pending assessment as against 70,509 cases at the end of the year 1969-70 and 65,271 at the end of the year 1968-69. The amount of tax involved in these cases was not ascertainable.

2.2. The position regarding pendency of assessments for the 3 years ending 31st March, 1971 is indicated below:—

Year	As on 31st March, 1969			As on 31st March, 1970			As on 31st March, 1971		
	Local	Central	Total	Local	Central	Total	Local	Central	Total
1965-66	4,266	3,502	7,768	..	..	..	..	..	..
1966-67	10,358	8,494	18,852	4,454	3,871	8,325	..	..	..
1967-68	21,139	17,512	38,651	10,935	9,152	20,087	4,994	4,254	9,248
1968-69	—	—	—	23,076	19,021	42,097	11,691	9,806	21,497
1969-70	..	..	..	..	..	..	23,707	19,898	43,605
	35,763	29,508	65,271	38,465	32,044	70,509	40,392	33,958	74,350

2.3. The number of assessments completed out of the arrears and current cases during 3 years ending 31st March, 1971 is given below:—

Year	Total No. of assessments for disposal			Number assessments completed			Percentage of assessments pending at the end of the year		
	Arrears	Current	Total	Out of current	Out of arrears	Total			
1	2	3	4	5	6	7	8	9	
1968-69	..	36,575	31,882	68,457	10,444	22,250	32,694	47.8	35,763
Local
Central	..	30,579	23,193	53,772	6,931	17,333	24,264	45.1	29,508

*Figures are as furnished by the Department.

1	2	3	4	5	6	7	8	9
1969-70								
Local	35,763	35,179	70,942	11,359	21,118	32,477	45.8	38,465
Central	29,508	27,516	57,024	8,045	16,935	24,580	43.8	320.44
1970-71								
Local	38,465	37,393	75,858	12,657	22,800	35,466	46.8	40,392
Central	32,044	29,655	61,699	9,083	18,658	27,741	45.0	33,90

(Paragraph 92 of the Report of the Comptroller and Auditor General of India for the year 1970-71.—Union Government (Civil)—Revenue Receipts.)

2.4. The Audit paragraph brings out the position of arrears of assessments at the end of each of the last three years as under:

Year	Total assessments pending
as on 31-3-1969	65,271
31-3-1970	70,509
31-3-1971	74,350

2.5. The total number of current assessments to be completed in these years was as under:

1968-69	55,075
1969-70	62,695
1970-71	67,048

2.6. Thus the Department is in arrears to the extent of one year's work load.

2.7. It is understood from Audit that the Department increased the number of assessing officers from 75 to 97 during the year 1968-69 (i.e. an increase of 30 percent). The number of assessments completed during the three years i.e. 1968-69, 1969-70 and 1970-71 is as under:—

1968-69	56,958
1969-70	57,457
1970-71	63,207

2.8. In the first two years the newly recruited officers could not put in adequate outturn, as they had to be trained in Sales Tax Laws. In the third year, however, the assessments completed showed an improvement over the earlier years by 10 per cent.

2.9. The Committee desired to know the amount of tax locked in the pending assessments. The Ministry, in a note submitted to the Committee, stated that it was not possible to indicate the actual amount of tax locked in the pending assessments and that the position could be known only when the assessments had been actually framed.

2.10. Pointing out that on the Income-Tax side, a simplified procedure for assessments had been introduced, the Committee enquired whether it was practicable to evolve some similar procedure for Sales-Tax assessments. The Ministry, in a note submitted to the Committee, stated:

"The simplified procedure evolved under the Income-Tax law envisages that the income returned by the assessee up to a limit of 25,000|- per annum will be accepted without verification. However, this procedure if adopted under the Sales Tax Law, will have certain disadvantages...."

"It may be added that the Sales Tax Law also provides for a simplified procedure with a limited scope in the form of composition in lieu of the assessments both in respect of past period and future period. In this connection, attention is invited to section 5(IA) of the Act read with rules 25(b) and 25(c) of the Delhi Sales Tax Rules, 1951, which provide that a dealer may be permitted to compound tax on the taxable turn-over by paying in lumpsum if his business is on a small scale and that proper maintenance of accounts is not practicable; or for any other sufficient grounds. However, in actual practice, it has been seen that the dealers rarely avail of this facility."

2.11. Section 5(IA) of the Bengal Finance (Sales) Tax Act, 1941 as extended to the Union Territory of Delhi and Rules 25(b) and 25(c) of the Delhi Sales Tax Rules, 1951, are reproduced below:—

Section 5(IA) of the Bengal Finance (Sales) Tax Act 1941

"The Chief Commissioner or any other person authorised by him in this behalf may permit dealers in such circumstances and under such conditions as may be prescribed to compound the tax assessable on their taxable turn-over under the provisions of this Act, by paying in lieu thereof a lumpsum in such manner as may be prescribed."

Rule 25-B of the Delhi Sales Tax Rules, 1951

- (i) A dealer may be permitted under Section 5(IA) to compound the tax assessable on his taxable turnover for the

following year by paying a lumpsum in lieu thereof—

- (a) If his business is on a small scale and its nature is such that proper maintenance of accounts is not practicable; or
- (b) on any other sufficient ground.
- (ii) A dealer intending to compound for the tax assessable on his taxable turnover by paying in lieu thereof a lumpsum, as provided under sub-section (IA) of Section 5 shall apply to the appropriate assessing authority in form S.T. XXVI at least 2 months before the commencement of the year for which the composition is intended.
- (iii) On receipt of the application, the appropriate assessing authority shall forward the same to the Commissioner with its opinion after making such enquiries as it may consider necessary in this behalf.
- (iv) The Commissioner, unless authorised to act under Section 5 (IA) shall forward his opinion thereon to the Chief Commissioner.
- (v) The Chief Commissioner or the Commissioner, if so authorised in this behalf may, on a consideration of the case, permit the dealer to pay a lumpsum amount in lieu of the tax assessable on his taxable turnover under the provisions of the Act and direct appropriate Assessing Authority to issue a certificate in Form S.T. XXVII.
- (vi) The certificate so issued under sub-rule (v) shall be valid for the year on the expiry of which it shall cease to have effect unless it is renewed on application by the dealer made at least 2 months before its expiry.
- (vii) The dealer shall be liable to pay additional lumpsum amount by way of composition if he starts a new place of business or makes any change in the nature of business.

Rule 25C of the Delhi Sales Tax Rules, 1951

25C (1).—A dealer intending to compound the tax assessable on his taxable turnover by paying in lieu thereof a lumpsum, as provided under sub-section (IA) of Section 5 shall, if such turnover relates to any period which has already expired apply to the appropriate Assessing Authority in Form S.T. XXVI-A.

25C (2).—The provisions of sub-rules (i), (iii), (iv), and (v)

of rules 25-B shall as far as may be apply to all applications for composition made under this rule.

Provided that a certificate in Form S.T. XXVII shall not be issued to the dealers whose assessable tax is compounded under this rule.

2.12. The number of cases of arrears of assessments pending with the Sales Tax Department was as high as 74,350 as on 31st March, 1971. The Committee are unable to appreciate the position that the amount of tax involved in those cases is not ascertainable. They desire that the approximate amount of net tax involved should be assessed with reference to the relevant past completed assessments and reported to them. Such an assessment should be available in future also.

2.13. The Committee regret to observe that although there has been an increase of 30 per cent in the number of assessing officers, the number of completed assessments during the year 1970-71 shows only an increase of 10 per cent over that of the earlier years. They would like Government to examine the reasons for the unimpressive performance of the assessing officers and take suitable remedial action. Suitable yardstick may also be prescribed in order to evaluate objectively the performance of the assessing officers.

2.14. The arrears at the end of 1968-69 were 65,271 cases. The number of assessments completed during the subsequent years 1969-70 and 1970-71 was 57,457 and 63,207 respectively against 62,695 and 67,048 current assessments to be completed. Thus the arrears kept on increasing. At this rate the prospects of clearing the arrears in the near future appear to be bleak. As the Department has been carrying over arrears to the extent of more than one year's workload, the Committee would urge Government to give serious thought to this problem and take suitable measures to ensure that the arrears are cleared by a target date to be fixed.

2.15. Although tax assessable could be compounded under Section 5(IA) of the Bengal (Sales Tax) Act, 1941 as extended to the Union Territory of Delhi, the Committee learn that in actual practice the dealers rarely avail themselves of the facility. As such a procedure of assessment of small traders would go a long way in expediting the assessments besides reducing the cost of collection, the Committee would like Government to examine the reasons for the reluctance of the traders and consider whether by simplifying the rules framed under the relevant Section of the Act the procedure could be made attractive.

CHAPTER III

ARREARS OF SALES-TAX DEMANDS*

Audit Paragraph

3.1. (a) The Sales Tax demands pending recovery as at the close of four years ending 31st March, 1971 are indicated below:

Arrears of tax as on	(Rs. in lakhs)
31-3-1968	236.98
31-3-1969	336.28
31-3-1970	482.41
31-3-1971	564.17

(b) Year-wise break up of the arrears of tax as on 31st March, 1971 is given below:

		(Rupees in lakhs)	
		Under Local Act	Under Central Act
From—	1952-53 . . . . .	..	..
	1960-61	32.16	0.39
	1961-62	2.60	2.05
	1962-63	2.67	0.82
	1963-64	4.54	1.22
	1964-65	4.91	2.11
	1965-66	5.89	3.70
	1966-67	8.65	5.66
	1967-68	21.02	14.64
	1968-69	68.95	28.86
	1969-70	70.16	82.36
	1970-71	118.59	82.22
TOTAL		340.14	224.03

*Figures are as furnished by the Department.

(c) Out of total arrears of tax of Rs. 564.71 lakhs mentioned above, Rs. 256.74 lakhs (45.5 per cent) are accounted for by 110 cases alone (involving tax of Rs. 50,000 or more in each case) as shown below:—

	No. of cases	Amount (Rs. in lakhs)
(a) Over Rs. 50,000 but less than Rs. 1,00,000 in each case	53	36.95
(b) Over Rs. 1,00,000 in each case	57	219.79
TOTAL	110	256.74

(d) The Department has stated that the effective recoverable arrears on 31st March, 1971 were Rs. 226.85 lakhs (Local—Rs. 142.22 lakhs; Central—Rs. 84.63 lakhs) out of which Rs. 21.78 lakhs have since been recovered upto 30th September, 1971.

The balance of Rs. 337.32 lakhs represents the following:

	(In lakhs of Rupees)	
	Local	Central
1. Amount likely to be written off	66.99	68.72
2. Recovery stayed by High-Court	46.83	24.84
3. Recovery stayed by Additional District Judge	1.11	0.38
4. Recovery stayed by Revisionary authorities	12.56	8.71
5. Amount falling into arrears due to granting of instalments for payment	13.61	2.13
6. Amount held up due to liquidation of firms	19.45	6.08
7. Amount awaiting adjustments	0.80	0.69
8. Amount held up on account of rectification/review application pending disposal	16.00	13.27
9. Other reasons	20.57	14.58
TOTAL	197.92	139.40

The Ministry of Home Affairs have intimated that the arrears involved in cases in appeal/revision have been reduced by Rs. 96.30 lakhs as on 30th September, 1971, as a result of Appellate/Revisionary Authorities' decisions and action is being taken to expedite disposal of other cases under appeal/revision. Further, cases which require to be written-off are being dealt with on priority basis.

(e) Out of the arrears, Rs. 169.07 lakhs were involved in certificate proceedings. The position of Recovery Certificates pending with the Assistant Commissioner (Recoveries) as on 31st March, 1971 is indicated below:—

	No. of cases	Amount involved in lakhs of Rupees
No. of cases pending on 1-4-1970	6,152	1,83.65
Receipts during the period 1-4-70 to 31-3-71	7,936	1,94.57
Certificates returned after recovery or otherwise	9,006	2,09.15
No. of cases pending on 13-3-1971	5,082	1,69.07

Out of 5,082 cases pending recovery on 31st March, 1971, in 89 cases the amount involved was more than Rs. 10,000 each. The year-wise break up of these cases is given below* :—

Year in which Recovery Certificate was received	No. of cases
1964-65	1
1967-68	9
1968-69	16
1969-70	26
1970-71	37
TOTAL	<u>89</u>

It was intimated by the Department that further streamlining of the recovery branch was under consideration and with this streamlining the pendency was expected to be substantially reduced.

[Paragraph 93 of the Report of the Comptroller and Auditor General of India for the year 1970-71 Union Government (Civil) Revenue Receipts.]

*Figures are as furnished by the Department.

3.2. The para focuses attention on the growing arrears of Sales Tax demands during the years from 1967-68 to 1970-71. The break-up is as under:

(Rs. in lakhs)

Arrears of Tax	As on 31-3-68	As on 31-3-69	As on 31-3-70	As on 31-3-71
(a) Under Local Act	165.14	240.21	301.52	340.71
(b) Under Central Act	71.84	96.07	180.89	224.03
TOTAL ARREARS	236.98	336.28	482.41	564.17

3.3. The Committee pointed out that the number of assessments completed in 1968-69 was 56958 and in 1969-70 57,457. Thus, despite the fact that there was no substantial increase in the number of assessments, the arrears rose by Rs. 146 lakhs. The Committee desired to know the reasons for the sudden increase in arrears in 1969-70. The Ministry, in a note submitted to the Committee, stated: "It is observed that though there was no substantial increase in the number of assessments completed in the year 1969-70 as compared to the year 1968-69, the arrears increased in the year 1969-70 by Rs. 146 lakhs as compared to the preceding year i.e. 1968-69. It may be stated that the accumulation of the arrears does not depend on the mere number of assessments completed but on the amount of additional demand created as a result of assessments. The additional demand created during the months from November to March during the financial year 1968-69 was Rs. 106,79,692; as against this the additional demand created during the corresponding months in the financial year 1969-70 was Rs. 248,04,636. Thus it will be appreciated that owing to the comparatively much heavier demands created in the later half of the financial year 1969-70 the arrears mounted up. It need hardly be explained that recovery of additional demand created in the later half of the financial year cannot be effected in toto because the demand becomes due around the fag-end of the financial year and naturally this has to be carried forward to the next financial year. It may also be mentioned here that the heaviest demand created against any individual dealer was also created during this very period i.e. in November, 1969. Incidentally it may be stated that the case in which this heavy demand of Rs. 53.17 lakhs was created has since been remanded by the Appellate Authority and the demand now stands set aside."

3.4. It is understood from Audit that the total arrears of tax demands where tax involved in each individual case is Rs. 50,000 or more, is as follows:

(Rs. in lakhs)

	As on 31-3-68	As on 31-3-69	As on 31-3-70	As on 31-3-71
Number of cases	39	41	79	110
Amount	57.35	75.36	223.94	256.74

3.5. The Committee desired to know the number of cases wherein the amounts above Rs. 1 lakh were outstanding and also the reasons for those outstanding. The Ministry, in a note submitted to the Committee, furnished the requisite information as under:

"The number of cases in which amount of Rs. 1 lakh and above is outstanding against any individual dealer is 57. The reasons for this are briefly as under:

Break-up of 57 cases

1. Number of cases stayed by High Court or other Appellate or Rev. Authorities	20
2. Number of cases where the amount prima facie appears to be irrecoverable but the cases do not fulfil the condition laid down by the Government of India for writing off	9
3. Cases where appeals revisions/review proceedings were in progress	5
4. Cases where proceedings under the Punjab Land Revenue Act were in progress	13
5. Cases where the firms/companies had gone under liquidation and proceedings were in progress	6
6. Cases where the dealers were clearing the dues in instalments	4

57

3.6. The Committee asked whether the dealer was not required to submit quarterly returns and pay the tax and send the treasury receipt along with the return. If that was the case, the Committee wanted to know the circumstances under which the arrears got accumulated in individual cases. The Ministry, in a note submitted to the Committee, stated: "It is affirmed that a dealer is required to furnish quarterly returns and to pay the tax quarterly in the Treasury and furnish the receipt along with return. However, the arrears got accumulated because at the time of assessment additional demand is found due against the dealer for various reasons for example:—

1. Because the books of accounts have not been relied upon and the assessment is made to the best of judgment.

2. Deduction claimed by the dealers are disallowed.
3. The concessional rates of tax claimed by the dealers are not admitted etc."

3.7. Pointing out that on Income tax side, the Act provided for publishing the names of assesseees against whom demands exceeding Rs. 1 lakh were outstanding, the Committee enquired whether such a procedure in Sales Tax would have any effect in reducing arrears. The Ministry in a note stated: "It is felt that the procedure of publishing the names of dealers against whom demand of Rs. 1 lakh or more is outstanding, may have some effect in reducing the arrears."

3.8. It is understood from Audit that the position regarding the effective recoverable arrears as on 31st March, 1968 to 31st March, 1971 is as under:

	31-3-68	31-3-69	31-3-70	31-3-71
	(Rupees in lakhs)			
Effective recoverable arrears	151.35	168.79	166.94	226.85
Out of total arrears of	236.98	336.28	482.41	564.17

3.9. In para 2.86 of Chapter II of Forty-Sixth Report on Audit Report (Civil) on Revenue Receipts, 1965, the Public Accounts Committee noted that the Ministry of Home Affairs were taking remedial measures to prevent accumulation of arrears of Sales Tax and current demands and liked to watch the progress made in this matter through future Audit Reports.

3.10. In para 77 of Twenty-eighth Report (1964-65) the Public Accounts Committee had observed that since larger powers of write off had been delegated to Delhi Administration the Committee hoped that early action would be taken to write off the arrears which were found to be irrecoverable.

3.11. However, out of ineffective arrears of Rs. 92.23 lakhs as on 1st April, 1967, amount likely to be written off was stated to be Rs. 34.34 lakhs (vide para 73 of Audit Report, Revenue Receipts, 1968). The amount of tax demands likely to be written off rose to Rs. 135.71 lakhs on 31st March, 1971 as stated in this Audit para.

3.12. The Committee wanted to know the number of cases pending for write-off on 31st March, 1971 and also the steps taken by the Delhi Administration to expedite disposal of write-off cases. The Ministry in a note stated:

"The total number of cases pending for write-off where the demands were *prima-facie* found to be irrecoverable was

621 (local) and 300 (Central) on the 31st March, 1971. 73 cases involving a sum of Rs. 23.67 lakhs have been written off upto date and in the remaining further enquiries in the light of the instructions contained in the Government of India, Ministry of Home Affairs letter No. 3/3/1964 dated 5th May, 1964 are in progress. It will be observed from the Government of India's instructions that a detailed procedure is required to be followed before the amount is actually written off. Police enquiries have got to be made in each case not only at the last known place of business of the defaulter but also at his native place which in some cases is outside the revenue limits of Delhi. Every effort is made to collect the relevant information from the various agencies enabling the department to fully satisfy itself before resorting to write off in a particular case. It is always enjoined upon the Sales Tax Departmental Officers to keep a proper track of all write off cases before moving the competent authority for write off of the demands which have become *prima-facie* irrecoverable. It will thus be appreciated that enquiries by the Police, Collectorate and Sales Tax Department take sufficient time to make out a case write off. However, detailed instructions have already been issued to the Assessing authorities for expeditious disposal of the cases for write off *vide* memorandum No. SV-11(Gen.)/CST-71/399, dated 1st May, 1972." A copy of the instructions dated 1st May, 1972 referred to above is reproduced at Appendix I.

3.13. The Committee drew attention to the fact that as per Audit para the certificates outstanding were 5082 involving an amount of Rs. 169.07 lakhs as on 31st March, 1971.

3.14. Referring to the position of Recovery Certificates pending with the Assistant Commissioner (Recoveries) as on 31st March, 1971 mentioned in sub-para (e) of Audit Paragraph, the Committee pointed out that 9006 certificate cases involving an amount of Rs. 209.15 lakhs were returned after recovery or otherwise. The Committee wanted to know separately the number of cases wherein the certificates were returned after recovery and the number of cases returned without effecting recoveries. They also desired to know the reasons on account of which the certificates had to be returned without effecting recoveries and whether it was due to inadequate particulars furnished by the Ward Officers to the Collector. In a note

submitted to the Committee, the Ministry stated: "No separate details showing disposal of cases of recovery or otherwise being maintained in the Collector's Office prior to 31st March, 1972, as such it is not possible to furnish the requisite information. This is, however, being maintained with effect from 1st April, 1972."

3.15. When asked about the total amount locked in assessments made under Section 11(2) and 11A of the Act included in the arrears of Rs. 564.17 lakhs the Ministry, in a note submitted to the Committee, stated that it was not possible to supply the information as the Department did not maintain record of arrears locked in assessments made under the various provisions of the Act separately.

3.16. The Committee were informed by Audit that the Commissioner was vested with powers under Section 7(7) to cancel the Registration Certificate of the dealer for reasons to be recorded and also to demand security as a condition for continuance of Registration certificate of a dealer under Section 8A. The Committee enquired whether these powers were being invoked in cases where it came to the notice of the Department that the dealer was indulging in malpractices. They wanted to know the number of cases wherein securities had been obtained. The Ministry, in a note submitted to the Committee, stated: "The provisions regarding cancellation of the Recovery Certificate of a Registered dealer under Section 7(7) and to demand security under Section 8A, were incorporated in the Act with effect from 1st December, 1956. From that day onward the department is invoking these provisions to safeguard the revenue in all cases where it comes to its notice that the dealer is indulging in malpractices and the leakage of revenue is apprehended. Generally, the provision of security is invoked at the time of granting Recovery Certificate except in a few cases where applicant/dealer is a man of status. In another cases, security is usually demanded to safeguard the revenue. However, the department has not maintained separate record of cases where security has been obtained as a condition of continuance in effect of the Registration Certificate of a dealer."

3.17. Despite the fact that there was no substantial increase in the number of assessments during the year 1969-70, the arrears of Sales Tax demands rose from Rs. 336.28 lakhs as on 31st March, 1969 to Rs. 482.41 lakhs as on 31st March, 1970. This spurt in arrears has been explained as due to larger additional demands created during the months from November to March in the year 1969-70. The Committee would like to know whether there was any avoidable rush of assessments towards the end of the year. Incidentally, it is seen that the heaviest ever demand created against any individual dealer was for Rs. 53.17 lakhs created during the year 1969-70 and that it has

since been remanded by the appellate authority for fresh assessment. If the demand is considerably reduced on fresh assessment in this case, a general review may be called for to determine how far the assessing authorities tended to overpitch the demands or otherwise commit mistakes in assessments due to rush of work at the end of the year.

3.18. In their Forty-sixth Report (1965-66) the Committee noted that the Ministry of Home Affairs were taking remedial measures to prevent accumulation of arrears on Sales Tax. Ironically enough the arrears of tax demands have risen steeply from Rs. 236.98 lakhs as on 31st March, 1968 to Rs. 564.17 lakhs as on 31st March, 1971. The number of cases where tax involved was Rs. 50,000 or more was 110 and the amount involved was Rs. 256.74 lakhs. Thus the remedial measures, if any, taken have not been effective enough. The Committee would stress that the recoverable arrears should be cleared within the target date to be fixed giving priority to cases involving Rs. 50,000 and more. The steps proposed to be taken in this regard may be reported to them.

3.19. It is a matter of concern that 57 cases involving arrears of tax of Rs. 1 lakh and above were pending as on 31st March, 1971, in spite of the fact that the dealers are required to submit quarterly returns and pay tax producing the treasury receipts therefor along with the returns. As admittedly the procedure of publishing the names of dealers against whom demand of Rs. 1 lakh or more is outstanding as is followed by the Income-tax Department, may have some effect in reducing the arrears, the Committee desire that the Department should consider the feasibility of publishing such names in future either by Administrative action or if necessary by obtaining appropriate legislative sanction.

3.20. In their 28th Report (1964-65), the Committee expressed a hope that early action would be taken to write-off the arrears which were found irrecoverable since larger powers of write-off had been delegated to Delhi Administration. However, 921 cases (involving Rs. 135.71 lakhs) are stated to be pending for write-off as on 31st March, 1971. From the instructions issued on 1st May, 1972 to the assessing authorities for expeditious disposal of the cases for write-off, it is seen that the sales-tax officers have not shown any earnest interest for finalisation of write-off cases. The Committee are inclined to take a serious view of the slackness in this regard in spite of their earlier observations. They expect that the phased programme of write-off work would be adhered to and all the cases which are ripe for write-off would be disposed of within a period of six months. They would await a report in this regard.

3.21. The pendency of recovery certificates has been brought down from 6152 cases involving Rs. 183.65 lakhs as on 31st March, 1970 to 5082 cases involving Rs. 169.07 lakhs as on 31st March, 1971. The Committee note that further streamlining of Recovery Branch was under consideration and that with the streamlining the pendency was expected to be substantially reduced. They would like to know the action taken in the matter and would watch the improvement through future Audit Reports.

3.22. During the year 1970-71, 9006 certificate cases involving a sum of Rs. 209.15 lakhs were returned after recovery or otherwise. The Department is not in a position to let the Committee know the number of cases wherein the certificates were returned without effecting recoveries as also the reasons therefor. The Committee would suggest a review of such cases to see how far the non-recovery was due to inadequate particulars furnished by the ward officers to the Collector and to take suitable remedial measures. They hope that from 1972-73 onwards, the break-up of the certificate cases returned to the Department would be made available to Audit for incorporation in the Audit Reports. They would further reiterate that each case of non-recovery due to want of sufficient particulars should be thoroughly scrutinised on return with a view to taking effective action to make good the deficiency and recover Government dues.

3.23. Yet another deficiency in the maintenance of records by the Department is the lack of information regarding the cancellation of registration certificate under Section 7(7) and obtaining security deposit under Section 8(A) of the Bengal Finance (Sales Tax) Act, 1941 as extended to the Union Territory of Delhi. The Committee hope that this deficiency also will be remedied.

CHAPTER IV

FRAUDS AND EVASIONS DURING 1ST APRIL, 1970 TO 31ST MARCH, 1971*

Audit Paragraphs

4.1 (a) Number of cases pending on 31st March, 1970	1,895
(b) Number of cases detected under sections 11A and 11(2) during the period 1st April, 1970 to 31st March, 1971	501
(c) Number of cases in which assessments were completed	652
(d) Number of cases pending on 31st March, 1971	1,744
(e) Number of cases in which	618
(i) Penalties were imposed	(Rs. 59,359)
(ii) prosecutions were launched for non-registration	Nil
(iii) offences were compounded	Nil

[Paragraph 94 of the Report of the Comptroller and Auditor General of India for the year 1970-71—Union Govt. (Civil)—Revenue Receipts.]

4.2. Section 11(2) of the Bengal Finance (Sales Tax) Act, 1941, as made applicable to the Union Territory of Delhi provides that if the Commissioner of Sales Tax is satisfied that a dealer who is liable to pay tax under the Act, has failed to get himself registered with the Department, he shall proceed to assess the dealer to the best of his judgment in the prescribed manner. The Commissioner of Sales Tax could also proceed to assess or re-assess a dealer under Section 11A of the Act if on information coming to his notice he was satisfied that turnover of the dealer had escaped assessment or had been under assessed in any year.

4.3. When asked to state the total turnover assessed under Section 11(2) and 11A of the Act during 1970-71, the Ministry, in a note furnished to the Committee stated that it was not possible to supply the information since separate record of turn-over assessed under Section 11(2) and 11(A) and the demand raised in such cases as also recoveries effected out of that amount was not maintained in the Department.

*Figures are as furnished by the Deptt.

4.4. The Committee referred to the observation made by the Gujarat High Court in the case *State of Gujarat versus Karimbhai Jamal-bhai Menon and another*. The Gujarat High Court observed:

"If offences against Public revenue are committed by businessmen it would amount to robbing the State which prevents them from being robbed by others. This cannot be countenanced. It undermines the faith of the people in the establishment and the judicial system. . . . It is, therefore, in the interest of the Society as a whole that the provisions contained in the Revenue laws for bringing to book the culprits who commit offences against public Revenues are administered with the seriousness that they deserve. If the courts were to impose merely fines a businessman would weigh the risk run by him as against the advantage to be secured by him. If he can save thousands of Rupees by evading payment of taxes he would not mind paying small fines which will on balance result in a profit to him. It is in such matters that the deterrent theory of punishment must be invoked. It must be deterrent to the offender and it must be deterrent to persons who are like minded".

4.5. The Committee enquired whether the Delhi Administration had thought over these observations with a view to see that emphasis should be more on prosecution than on penalties. The Ministry in a note submitted to the Committee, stated:

"It may be stated that the Sales Tax Department, has after studying the Sales Tax Acts of other States and the Income Tax Act, 1961 prepared a new comprehensive Sales Tax Bill solely with a view to bringing the tax evaders to book and to ensure that due revenue accrues to the Exchequer. This bill was passed by the Metropolitan Council, Delhi and is likely to be introduced in the Parliament in the near future. Further, it may be mentioned that the policy of the department hitherto has been primarily to invoke provisions of penalty for the offences committed by the dealers rather than to initiate prosecution proceedings, in the interest of revenue. The prosecution cases not only take a long time to be finalised but also it is difficult to prove mens-rea which is an

essential ingredient for conviction in prosecution. However, it is felt that the matter needs due consideration in light of the judgment cited in order to formulate a revised policy and for effective implementation."

"Therefore, a special cell consisting of suitable staff will be required to be set up."

4.6. Sections 11(2) and 11(A) of the Bengal Finance (Sales Tax) Act, 1941, as in force in the Union Territory of Delhi are designed to check evasion of tax and concealment of turnover liable to tax. It is strange that the Department is not aware of the total turnover assessed under these Sections and the demands raised from year to year. The Committee have in various Chapters of this Report dealt with the deficiencies in the maintenance of records. They hope that suitable steps will be taken without delay to improve the maintenance of records so as to bring out all the information necessary to evaluate the performance of the Department.

4.7. The Committee find that as on 31st March, 1971, assessments in as many as 1744 cases detected under Sections 11(2) and 11(A) were pending. These cases should be disposed of early in the interest of revenue and arrears should not be allowed to accumulate in future.

4.8. Although in 652 cases, assessments were completed during the year 1970-71, prosecution was not launched for non-registration even in a single case. The Committee feel that the policy of invoking the provisions of penalty for the offences committed by the dealers rather than initiating prosecution proceedings, pursued by the Department so far, suffers from lack of sufficient deterrent effect on the offenders as well as those who are likeminded. They suggest that in glaring cases prosecution should be launched which will create a psychological impact that would be conducive to the interests of revenue.

4.9. The Committee learn that the Sales Tax Department has, after studying the Sales Tax Acts of other States and the Income-tax Act, 1961, prepared a new comprehensive Sales Tax Bill solely with a view to bringing the tax evaders to book and to ensure that revenue due accrues to the Exchequer. The Committee hope that this Bill which is stated to have been passed already by the Metropolitan Council Delhi, will be introduced in Parliament early.

CHAPTER V

SEARCHES AND SEIZURES DURING 1ST APRIL, 1970 TO 31ST MARCH 1971*

Audit Paragraph

5.1 (a) Number of cases pending on 31st March, 1970	381
(b) Number of cases in which seizures of books were made during the period 1st April, 1970 to 31st March, 1971	250
(c) Number of cases in which assessments were completed	208
(d) Number of cases pending on 31st March, 1971	423
(e) Number of cases in which prosecution were launched or offences were compounded	Nil
(f) Number of cases in which penalties were imposed	(Rs. 59,456)

5.2. The amount of concealed turnover and tax demands raised in respect of assessed cases were not available with the Department as no separate records are maintained to work out such information. The pace of disposal was stated to be slow because of the lengthy and cumbersome procedure involved.

[Paragraph 95 of the Report of the Comptroller and Auditor General of India for the year 1970-71—Union Government (Civil)—Revenue Receipts].

5.3. As against 381 cases in which searches and seizures of books of dealers were made and were pending at the close of the year 1969-70, 423 cases were reported to be outstanding at the end of the year 1970-71.

5.4. The Committee learnt from Audit that while explaining the reasons why pace of disposal was slow, the Ministry stated that with a view to exercising the double check on the accuracy of the turnover the Assessing Authority had also to seek approval of the Administrative Assistant Commissioner on the draft of the assessments order in accordance with the administrative instructions.

5.5. Referring to the 208 cases in which assessments were completed, the Committee wanted to know the number of cases, out of the 208 cases which were finalised, wherein the turnover was found to have been concealed or tax was found to have been evaded, and also the total amount of tax evaded. The Committee also desired to know the largest amount of turnover in a single case found to have

*Figures are as furnished by the Department.

been concealed, the amount of penalty levied in that case and tax collected. The Ministry, in a note submitted to the Committee, stated:

"Record was, in the past not maintained to work out the information sought. In fact the Audit has also observed in their relevant Para 95 that the amount of concealed turnover and tax demand raised in respect of assessed cases were not available with the department as no separate records were maintained to work out such information."

5.6. As against 381 cases of searches and seizures of books of dealers in which assessments were pending at the close of the year 1969-70, 423 cases were pending at the close of the year 1970-71. The Committee desire that the factors that impeded the expeditious disposal of these cases should be identified and the procedures streamlined early.

5.7. During the year 1970-71, assessments were completed in 208 cases of searches and seizures. Although the Committee wanted to know the number of cases in which the turnover was found to have been concealed or tax evaded as also the total amount of tax evaded, the information is not forthcoming. The Committee trust that the records maintained now would bring out this information which is necessary to evaluate the efficiency of searches and seizures in the interest of revenue. The position in this regard for the year 1971-72 may be reported to them.

CHAPTER VI

APPEALS PENDING ON 31ST MARCH, 1971.*

Audit Paragraph

6.1. (i) The following table shows pendency of appeals, review applications and revisions petitions as on 31st March, 1971, under Sales Tax:—

	Appeals, review applica- tions and revision petitions with Asstt. Commi- sioners	Revision petitions and review applica- tions with Commi- sioner/ Dy. Com- missioner
(a) Out of appeals/review applications, revision petitions instituted during the year 1970-71	3,395	595
(b) Out of appeals/review applications, revision petitions instituted in earlier years	1,124	59
TOTAL	4,519	654

Year-wise break up of pending appeals; review applications and revision petitions is as follows:

Year of institution	Appeals, review applica- tions revision petitions with Asstt. Commi- sioners	Revision petitions review applica- tions with Commi- sioners/ Dy. Com- missioner
1962-63 . . . . .	..	1
1963-64 . . . . .	..	1
1964-65 . . . . .	..	3
1965-66 . . . . .	..	7
1966-67 . . . . .	..	1
1967-68	15	2
1968-69	210	16
1969-70	899	28
1970-71	3,395	595
TOTAL	4,519	654

* Figures are as furnished by the Department.

(ii) The number of cases in which demands were reduced or which were remanded for fresh assessment during the year 1970-71 is indicated below:—

	Total No. of cases disposed of	No. of cases in which demands were reduced	No. of cases remanded
(i) By Asstt. Commissioners	7,569	2,022	1,655
(ii) By Commissioner Dy. Commissioner	1,061	460	125

[Paragraph 96 of the Report of the Comptroller and Auditor General of India for the year 1970-71—Union Government (Civil) Revenue Receipts].

6.2. The para brings out the pendency of Appeals with Assistant Commissioners, Revision petitions and Review applications as on 31st March, 1971 under the Sales Tax Act as well as the number of cases in which demands were reduced or which were remanded for fresh assessments during the year 1970-71.

6.3. The Committee wanted to know the number of cases, out of the 63207 assessments completed in 1970-71, wherein appeals (review applications were filed against the assessment. The Ministry in a note submitted to the Committee stated:

“Record of appeals (revisions|review applications filed by the assesseees during a financial year is only maintained in the Sales Tax Department. No record about appeals|revision|review applications filed against the specific assessments completed by the Assessing Authorities during a particular financial year is however kept in this department. It is, therefore, not possible to intimate the number of appeals|review applications filed by the assesseees against the assessment cases finalised during the year 1970-71.”

6.4. The Committee pointed out that out of 8630 cases disposed of during the year 1970-71, the demand was either reduced or cases remanded for fresh assessment in 49.4 per cent of the cases. The Committee enquired whether the assessments by the lower authorities were high pitched. The Ministry, in a note submitted to the Committee, stated:

“During the year 1970-71, 83756 orders (63207 assessment orders and 20549 miscellaneous orders i.e., registration, amendments, cancellation, refund, rectification etc.) were passed by the Assessing Authorities. The number of appeals, revisions and review applications filed by the dealers during that year was 6328. On this basis, the institution of appeals, revisions and review applications bears a percentage of 7.5 to the assessment and other miscellaneous orders passed by the Assessing Authorities

during that year. From these statistics, it would be clear that in 92.5 per cent cases decided by the Assessing Authorities, no appeals, revisions and review applications were filed by the assessee. Out of 8630 appeals|revisions|review applications disposed of during the year 1970-71, 1780 cases were remanded and in 2482 cases the demand was reduced. The percentage of cases so remanded is 20.6 of the total institution of appeals|revisions|review applications and 1.5 of the total percentage of appeals|revisions|review instituted during the year 1970-71. Similarly, the percentage of cases in which the demand were reduced works out of 28.8 of the total institution of appeals|revisions|review applications and 2.2 of the total percentage of appeals|revisions|review instituted during the year 1970-71. It would, thus, be evident that the percentage of the cases remanded or in which the demand was reduced is 3.7 only of the total percentage of appeals|revisions|review instituted during the year 1970-71 and as such, it does not warrant serious notice."

6.5. That in as many as 4262 out of 8630 cases disposed of by the appellate authorities during 1970-71, fresh assessments were ordered or the demands were reduced, shows clearly a tendency on the part of the assessing officers to overpitch the assessments. The explanation of the Ministry that the percentage of such cases to the total number of assessments and miscellaneous orders passed by the assessing officers during the year 1970-71 is 3.7 only and that it does not warrant serious notice, displays complacent attitude. The Committee would like Government to study the position after ascertaining the following:

- (i) No. of cases during the year 1970-71 in which the tax determined originally by the assessing officers was more than the tax shown as due by the assessee;
- (ii) No. of cases out of (i) above which were appealed against and disposed of;
- (iii) No. of cases out of (ii) above in which the demand was either reduced or remanded for fresh assessments by the appellate authorities; and
- (iv) the percentage of (iii) to (i).

6.6. The Committee would like Government to take suitable measures in the light of the study and inform them of action taken.

NEW DELHI;
23rd February, 1973

ERA, SEZHIYAN,
Chairman,

4th Phalguna 1894 (S).

Public Accounts Committee.

APPENDIX I

(Page 17)

OFFICE OF THE COMMISSIONER OF SALES TAX

No. XV-11 (Gen.)|CST-71|399.

Vikas Bhavan, New Delhi,

Dated, 1st May, 1972.

To

All the Sales Tax Officers,
Delhi|New Delhi.

SUBJECT: *Writing off the arrears-progress thereof.*

MEMORANDUM

Attention is drawn to the instructions issued on the subject from time to time. The progress of writing off work is very slow in the wards. It is noticed that due attention is not being paid by the officers to this important aspect of work with the result that demands which are not recoverable are also accumulating from year to year. Even the instructions issued on the subject from time to time are not available in some wards.

A set of all instructions issued in connection with writing off of arrears is again sent herewith for guidance and necessary action. These instructions should be kept by the Sales Tax Officers in their personal custody and handed over to their successors at the time of transfer.

As the Sales Tax Officers have not shown any interest in finalisation of the writing off cases it has therefore been decided to start a phased programme of writing off work. In the first phase the Sales Tax Officers will examine all cases where arrears above Rs. 50,000 are to be written off and all such cases will be referred to this office by the 15th May, 1972. If any case of this category is not matured by the date fixed a detailed note containing the reasons for not referring the same be forwarded to this office by 20th May, 1972, and thereafter a monthly report be sent about each case. In the second phase the Sales Tax Officers will examine cases where Amount involved is between Rs. 10,000 and 50,000 and refer the same to me by 15th June, 1972 and finally cases upto Rs. 10,000 will be examined and referred to me by the 15th of July, 1972. Report similar to the cases covered in first phase will also be sent to me by 20th June, 1972 and 20th July, 1972.

A list of cases where demands were to be written off as on 1st April, 1972 should be sent to me by 5th May, 1972 positively in the enclosed performae.

Similarly, the cases where demands in respect of Goal, Chaff Cutters|Persian Wheels and parts thereof and Khadi Garments are to be waived off should also be forwarded to this office by 31st May, 1972 positively.

Sd|-

*Asstt. Commissioner (Recovery),
Sales Tax, New Delhi.*

No. XV-11 (Gen)|CST-71.400 to 402

Dated, 1-5-1972.

Copy forwarded to:—

1. The C.S.T. for favour of information.
2. The Dy. C.S.T. for favour of information.
3. All Asstt. Commissioner, New Delhi|Delhi, with the request that the S.T.O.'s under their administrative charge may kindly be instructed to process all the cases in accordance with the schedule laid down in the above memorandum.

Sd|-

*Asstt. Commissioner (R),
Sales Tax, New Delhi.*

APPENDIX II

Summary of Main Conclusions/Recommendations

Sl No.	Para No. of Report	Ministry/Deptt. Concerned	Recommendations
1	2	3	4
1.	1.11.	Home Affairs	<p>The variation between the Budget Estimates and the Actuals in regard to the sales tax receipts of the Union Territory of Delhi ranged from 4.8 per cent to 9.2 per cent during the years 1967-68 to 1970-71. The variation was the least during the year 1970-71 as a result of streamlining of departmental machinery of collection. The Committee are glad to note this welcome trend. They, however, desire that the gap should be further narrowed down and steps should be taken to see that variations in excess of 4 per cent do not occur in future.</p>
2.	1.12.	-do-	<p>The Committee note that there has been no machinery, so far with the Delhi Administration to forecast business trends and to assess in advance the likely impact of taxation proposals on trade and industry. This is a serious deficiency which should be rectified without delay so that there may be a reasonably accurate forecast of tax receipts in future.</p>
3.	1.13.	-do-	<p>The sales tax receipts during 1970-71 were Rs. 25.57 crores which</p>

included Rs. 17.67 crores under the Local Sales Tax Act. The Committee feel that there is scope for augmenting the receipts particularly under the local Sales Tax Act. The total number of current assessments for disposal under the local Act during 1970-71 was 37,393 only. Although as many as 26,199 dealers are stated to have sought voluntary registration during the years 1968-69 to 1970-71, the increase in the number of cases of current assessments for disposal was only to the extent of 5,981 over the years 1967-68 to 1970-71. The Committee would like to know why the increase in the number of assessments was not proportionate to the increase in the number of registered dealers. The Committee would also like to know how the net increase in the number of sales tax assesses since 1967-68 was consistent with the growth of shops and markets in the Union Territory.

1. 14. Home Affairs

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It is common knowledge that there are a large number of small traders at Delhi and those who come from neighbouring States and conduct business transactions assessable to local Sales tax at Delhi who do not maintain proper books of accounts and escape liability to Sales Tax although their gross turnover may exceed the taxable quantum. It is, therefore, necessary that there should be an effective shop to shop survey and surprise checks to ensure that no unregistered dealer who is liable to registration, escapes notice. The Committee note that during the current year comprehensive instructions have been issued to the ward officer for thorough survey of their areas. The outcome of the survey may be reported to the Committee.

It is regrettable that there has been no systematic or scientific study of the sales-tax evasion in the Union Territory so far. The Committee desire that such a study should be undertaken without delay. The result of the study as also the action taken in pursuance thereof to collect Government dues may be intimated to the Committee.

The number of cases of arrears of assessments pending with the Sales Tax Department was as high as 74,350 as on 31st March, 1971. The Committee are unable to appreciate the position that the amount of tax involved in these cases is not ascertainable. They desire that the approximate amount of net tax involved should be assessed with reference to the relevant past completed assessments and reported to them. Such an assessment should be available in future also.

The Committee regret to observe that although there has been an increase of 30 per cent in the number of assessing officers, the number of completed assessments during the year 1970-71 shows only an increase of 10 per cent over that of the earlier years. They would like Government to examine the reasons for the unimpressive performance of the assessing officers and take suitable remedial action. Suitable yardstick may also be prescribed in order to evaluate objectively the performance of the assessing officers.

The arrears at the end of 1968-69 were 65,271 cases. The number of assessments completed during the subsequent years 1969-70 and 1970-71 was 57,457 and 63,207 respectively against 62,695 and 67,048 current assessments to be completed. Thus the arrears kept

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on increasing. At this rate the prospects of clearing the arrears in the near future appear to be bleak. As the Department has been carrying over arrears to the extent of more than one year's workload, the Committee would urge Government to give serious thought to this problem and take suitable measures to ensure that the arrears are cleared by a target date to be fixed.

Although tax assessable could be compounded under section 5 (IA) of the Bengal (Sales Tax) Act, 1941 as extended to the Union Territory of Delhi, the Committee learn that in actual practice the dealers rarely avail themselves of the facility. As such a procedure of assessment of small traders would go a long way in expediting the assessments besides reducing the cost of collection, the Committee would like Government to examine the reasons for the reluctance of the traders and consider whether by simplifying the rules framed under the relevant Section of the Act the procedure could be made attractive.

Home Affairs

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Despite the fact that there was no substantial increase in the number of assessments during the year 1969-70, the arrears of Sales Tax demands rose from Rs. 336.28 lakhs as on 31st March, 1969 to Rs. 482.41 lakhs as on 31st March 1970. This spurt in arrears has been explained as due to larger additional demands created during the months from November to March in the year. 1969-70. The Committee would like to know whether there was any avoidable

rush of assessments towards the end of the year. Incidentally, it is seen that the heaviest ever demand created against any individual dealer was for Rs. 53.17 lakhs created during the year 1969-70 and that it has since been remanded by the appellate authority for fresh assessment. If the demand is considerably reduced on fresh assessment in this case, a general review may be called for to determine how far the assessing authorities tended to overpitch the demands or otherwise commit mistakes in assessments due to rush of work at the end of the year.

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In their 46th Report (1965-66) the Committee noted that the Ministry of Home Affairs were taking remedial measures to prevent accumulation of arrears on Sales Tax. Ironically enough the arrears of tax demands have risen steeply from Rs. 236.98 lakhs as on 31st March, 1966 to Rs. 564.17 lakhs as on 31st March, 1971. The number of cases where tax involved was Rs. 50,000 or more was 110 and the amount involved was Rs. 256.74 lakhs. Thus the remedial measures, if any, taken have not been effective enough. The Committee would stress that the recoverable arrears should be cleared within the target date to be fixed giving priority to cases involving Rs. 50,000 and more. The steps proposed to be taken in this regard may be reported to them.

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It is a matter for concern that 57 cases involving arrears of tax of Rs. 1 lakh and above were pending as on 31st March, 1971, in spite of the fact that the dealers are required to submit quarterly returns and pay tax producing the treasury receipts therefor along-

with the returns. As admittedly the procedure of publishing the names of dealers against whom demand of Rs. 1 lakh or more is outstanding as is followed by the Income-tax Department, may have some effect in reducing the arrears, the Committee desire that the Department should consider the feasibility of publishing such names in future either by Administrative action or if necessary by obtaining appropriate legislative sanction.

13. 3.20 Home Affairs

In their 28th Report (1964-65), the Committee expressed a hope that early action would be taken to write-off the arrears which were found irrecoverable since larger powers of write-off had been delegated to Delhi Administration. However, 921 cases (involving Rs. 135.71 lakhs) are stated to be pending for write-off as on 31st March, 1971. From the instructions issued on 1st May, 1972 to the assessing authorities for expeditious disposal of the cases for write-off, it is seen that the sales-tax officers have not shown any earnest interest for finalisation of write-off cases. The Committee are inclined to take a serious view of the slackness in this regard inspite of their earlier observations. They expect that the phased programme of write-off work would be adhered to and all the cases which are ripe for write-off would be disposed of within a period of six months. They would await a report in this regard.

14. 3.21. do

The pendency of recovery certificates has been brought down from 6152 cases involving Rs. 183.65 lakhs as on 31st March, 1970 to

5082 cases involving Rs. 169.07 lakhs as on 31st March, 1971. The Committee note that further streamlining of Recovery Branch was under consideration and that with the streamlining the pendency was expected to be substantially reduced. They would like to know the action taken in the matter and would watch the improvement through future Audit Reports.

15. 3.22. do
 During the year 1970-71, 9006 certificate cases involving a sum of Rs. 209.15 lakhs were returned after recovery or otherwise. The Department is not in a position to let the Committee know the number of cases wherein the certificates were returned without effecting recoveries as also the reasons therefor. The Committee would suggest a review of such cases to see how far the non-recovery was due to inadequate particulars furnished by the ward officers to the Collector and to take suitable remedial measures. They hope that from 1972-73 onwards, the break-up of the certificate cases returned to the Department would be made available to Audit for incorporation in the Audit Reports. They would further reiterate that each case of non-recovery due to want of sufficient particulars should be thoroughly scrutinised on return with a view to taking effective action to make good the deficiency and recover Government dues.

16. 3.23. do
 Yet another deficiency in the maintenance of records by the Department is the lack of information regarding the cancellation of registration certificate under Section 7(7) and obtaining security deposit under Section 8(A) of the Bengal Finance (Sales Tax) Act, 1941 as extended to the Union Territory of Delhi. The Committee hope that this deficiency also will be remedied.

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| 17. | 4.6 | Home Affairs | <p>Sections 11(2) and 11(A) of the Bengal Finance (Sales Tax) Act, 1941, as in force in the Union Territory of Delhi are designed to check evasion of tax and concealment of turnover liable to tax. It is strange that the Department is not aware of the total turnover assessed under these Sections and the demands raised in year to year. The Committee have in various Chapters of this Report dealt with the deficiencies in the maintenance of records. They hope that suitable steps will be taken without delay to improve the maintenance of records so as to bring out all the information necessary to evaluate the performance of the Department.</p> |
| 18. | 4.7 | do | <p>The Committee find that as on 31st March, 1971, assessments in as many as 1744 cases detected under Sections 11(2) and 11(A) were pending. These cases should be disposed of early in the interest of revenue and arrears should not be allowed to accumulate in future.</p> |
| 19. | 4.8 | do | <p>Although in 652 cases assessments were completed during the year 1970-71, prosecution was not launched for non-registration even in a single case. The Committee feel that the policy of invoking the provisions of penalty for the offences committed by the dealers rather than initiating prosecution proceedings, pursued by the Department so far, suffers from lack of sufficient deterrent effect on the offenders as well as those who are likeminded. They suggest that in glaring cases prosecutions should be launched which will create a</p> |

psychological impact that would be conducive to the interests of revenue.

20. 4-9 do The Committee learn that the Sales Tax Department has, after studying the Sales Tax Acts of other States and the Income-tax Act, 1961, prepared a new comprehensive Sales Tax Bill solely with a view to bringing the tax evaders to book and to ensure that revenue due accrues to the Exchequer. The Committee hope that this Bill which is stated to have been passed already by the Metropolitan Council Delhi, will be introduced in Parliament early.

21. 5-6 do As against 381 cases of searches and seizures of books of dealers in which assessments were pending at the close of the year 1969-70, 423 cases were pending at the close of the year 1970-71. The Committee desire that the factors that impeded the expeditious disposal of these cases should be identified and the procedures streamlined early.

22. 5-7 do During the year 1970-71, assessments were completed in 208 cases of searches and seizures. Although the Committee wanted to know the number of cases in which the turnover was found to have been concealed or tax evaded as also the total amount of tax evaded, the information is not forthcoming. The Committee trust that the records maintained now would bring out this information which is necessary to evaluate the efficacy of searches and seizures in the interest of revenue. The position in this regard for the year 1971-72 may be reported to them.

23. 6-5 do That in as many as 4262 out of 8630 cases disposed of by the appellate authorities during 1970-71, fresh assessments were ordered

Home Affairs or the demands were reduced, shows clearly a tendency on the part of the assessing officers to overpitch the assessments. The explanation of the Ministry that the percentage of such cases to the total number of assessments and miscellaneous orders passed by the assessing officers during the year 1970-71 is 3.7 only and that it does not warrant serious notice, displays complacent attitude. The Committee would like Government to study the position after ascertaining the following:—

- (i) No. of cases during the year 1970-71 in which the tax determined originally by the assessing officers was more than the tax shown as due by the assessee;
- (ii) No. of cases out of (i) above which were appealed against and disposed of;
- (iii) No. of cases out of (ii) above in which the demand was either reduced or remanded for fresh assessments by the appellate authorities; and
- (iv) the percentage of (iii) to (i).

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The Committee would like Government to take suitable measures in the light of the study and inform them of action taken.