

**SEVENTY-FIRST REPORT
LIC ACCOUNTS COMMITTEE
(1986=87)**

(EIGHTH LOK SABHA)

WORKING OF A FILM CIRCLE

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

[Paragraph 3.26 of the Report of the Comptroller and Auditor General of India for the Year 1982-83 Union Government (Civil) Revenue Receipts, Vol. II, Direct Taxes.]



Presented in Lok Sabha on 18 March, 1987

Laid in Rajya Sabha on 18 March, 1987

**LOK SABHA SECRETARIAT
NEW DELHI**

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CORRIGENDA TO 71ST REPORT OF PAC
(8TH LOK SABHA)

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(i) 3rd and 4th October, 1985.	
(ii) 30 December, 1986.	

*Not printed. One cyclostyled copy laid on the Table of the House and 5 copies placed in Parliament Library.

PUBLIC ACCOUNTS COMMITTEE
(1986-87)

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2. Shri S. M. Mehta—*Senior Financial Committee officer.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee do present on their behalf this 71st Report of the Committee on paragraph 3.26 of the Report of Comptroller and Auditor General of India for the year 1982-83, Union Government (Civil), Revenue Receipts, Vol. II, Direct Taxes relating to working of a film circle.

2. The Report of the Comptroller and Auditor General of India for the year 1982-83 Union Government (Civil), Revenue Receipts, Vol II, Direct Taxes, was laid on the table of the House on 16 April 1984.

3. The Report deals with the efficacy of film circles established at Calcutta, Bombay, Madras, Bangalore and Hyderabad with a view to achieving greater coordination and effective handling of assessment of film personalities. As the working of these circles has not been reviewed since their inception, the Committee have stressed the urgent need to undertake evaluation of their performance so that the evils of unaccounted money could be effectively curbed. The Committee have also noted with deep concern the non-compliance of statutory provisions relating to the filing of statement by every person carrying on production of cinematograph films giving particulars of all payments over Rs. 5000 made by him, within 30 days from the end of the financial year or from the date of completion of production of films and have suggested specific entrustment of responsibility to concerned officers so that they could be held accountable for failure to implement the provisions of law.

4. The Committee have also found penal provisions under Section 272A of the Income-tax Act for failing to furnish the statement under Section 285-B, *ibid*, to be totally inadequate and have suggested amendment of existing provisions of law to incorporate imposition of progressive rate of penalty to act as an effective deterrent.

5. The Committee have also suggested that to obviate the possibility of evasions of income-tax by artistes connected with abandoned/incomplete films, the Ministry of Finance should formulate

procedure in consultation with concerned authorities to ensure that income from such films do not go unassessed and untaxed.

6. The Committee have also suggested suitable legal enactment to provide uniform accounting system and assessment year even on proforma basis for the assessment of tax liability.

7. The Committee have also viewed that extension of the summary assessment scheme to the film industry would not be in the interest of revenue and have suggested a review of criteria for the aforesaid scheme and critical analysis of returns filed by the film industry so as to obviate the possibility of under-statement of income. The Committee have accordingly recommended constitution of more benches of Settlement Commission to facilitate expeditious disposal of cases pending with the Commission.

8. The Public Accounts Committee examined this para at their sittings held on 3 and 4 October, 1985. The Committee considered and finalised this Report at their sitting held on 30 December, 1986. Minutes of the sitting form Part II of the Report.

9. A statement containing conclusions and recommendations of the Committee is appended to this Report (Appendix III). For facility of reference these have been printed in thick type in the body of the Report.

10. The Committee place on record their appreciation of the assistance rendered to them in the examination of this paragraph by the Office of the Comptroller and Auditor General of India.

11. The Committee would also like to express their thanks to the officers of the Ministry of Finance (Department of Revenue) for the cooperation extended to them in giving information to the Committee.

NEW DELHI;
20 February, 1987
1 Phalgun, 1908 (Saka).

E. AYYAPU REDDY,
Chairman,
Public Accounts Committee.

REPORT

PART I

WORKING OF A FILM CIRCLE

Audit Paragraph

1. In their 91st Report (1981-82), the Public Accounts Committee (Seventh Lok Sabha), recommended *inter alia* a review of the method of allowing the cost of production/distribution rights of feature films. The Committee desired that a Study Group consisting, among others, of experts in taxation, accountancy and audit and eminent non-officials having intimate knowledge of the operations of the film industry should be set up to make an indepth study to devise ways and means to curb the growing tendency to funnel large amounts of un-accounted money into star studded films and to ensure that the interests of revenue are adequately protected.

2. The Committee also recommended initiation of legislative measures for regulating the deferred annuity scheme not only in regard to film artistes but also in respect of other professionals so that revenue is not in jeopardy. The Committee further urged a thorough and critical evaluation of the usefulness and effectiveness of film circles with a view to streamlining their functioning.

3. Some aspects of working of the Film Circle, Bombay were reviewed in audit in March—May 1983. The results of this review are given below:

“With a view to ensuring proper co-ordination and enforcement, cases of all producers, distributors, film artistes, film editors, exhibitors, camera-men, movie-art and dance directors, film financiers and others connected with the film industry in Bombay were centralised in the Film Circle which came into existence in 1964.

The circle is headed by a range Inspecting Assistant Commissioner, supervising the work of 10 Income-tax Officers and other complementary staff like Inspectors. From 1979, one Inspecting Assistant Commissioner (Assessment) is also associated with the assessment work. The

Commissioner of Income Tax III exercises jurisdiction over the Circle and the two Inspecting Assistant Commissioner's ranges.

Cases of some assesseees which require investigation have been assigned to Income-tax Officers in central circles, under the jurisdiction of the Commissioner of Income-tax (Central)."

4. No. of films produced

The number of films certified for exhibition by the Bombay Regional Office of the Central Board of Film Censors during the last five years were as follows:—

Year	No. of pictures
1978	172
1979	178
1980	201
1981	206
1982	218

5. No. of assesseees

The numbers of assesseees borne on the records of the department category-wise, as on March ending, from 1980 to 1983 were as follows:

Category	As on 31 March 1980	As on 31 March 1981	As on 31 March 1982	As on 31 March 1983
Film Financiers	41	56	106	14
Producers	310	371	393	327
Distributors	244	299	394	174
Artistes	454	511	546	379
Others	5,624	5,946	5,769	5,076

6. No. of assessments completed/pending

The number of assessments completed during the year 1982-83 and those pending on 1 April, 1982 and 31 March, 1983 were as follows:

Tax	Pending as on April 1, 1982	Completed during 1982-83	Pending as on 31 March, 1983
Income-tax	7,563	5,282	7,464
Wealth-tax	2,465	830	2,441
Gift-tax	122	44	93

7. Demand, collection and arrears of tax

The table shows the arrears of demand of tax at the commencement of the year, the demand made during the year 1982-83, the tax collected and the balance outstanding as on 31st March, 1983 (as furnished by the department):

Nature of tax	Demand outstanding as on 1 April 1982	Demand made during 1982-83	Total	Demand collected during 1982-83	Demand outstanding on 31 March 1983	Demand outstanding on 31 March 1983 as reported by the department
1	2	3	4	5	6	7
(In lakhs of rupees)						
Income-tax	877	1,209	2,096	471	1,625	1,189
Wealth-tax	146	63	209	28	181	140
Gift-tax	7	3	10	..	10	5
Total:	1,040	1,275	2,315	499	1,816*	1,334*

*The difference of Rs. 482 lakhs (Rs. 1,816—1,334 lakhs) remains to be reconciled.

8. The Income-tax Act provides that a film producer should file with the Income-tax Officer concerned a statement in Form 52 A for each financial year or part of it till completion of production, showing particulars of all payments of over Rs. 5,000 in the aggregate made by him or due from him. This statement is to be filed within 30 days from the end of the financial year during which the

production of film is carried on or within 30 days from the date of completion of the film whichever is earlier. It is intended as a check on the tendency on the part of film producers to inflate the cost of production of pictures likely to be a grand success fetching huge profits.

In 15 out of 16 cases test checked in audit the said annual statements were not filed by the producers, though they had indicated the total cost of production in the returns of income. In one case where the statutory statement was filed by a producer, it was noticed that the total cost of the film as returned was Rs. 1.22 crores and the total payments of over Rs. 5,000 in the aggregate made during the financial years 1979-80 to 1981-82 were only Rs. 18.29 lakhs i.e. the percentage of the payments exceeding Rs. 5,000 in the aggregate to total cost worked out to fifteen.

The penalty prescribed in the Act for omission to file the statutory statement by the due date may extend to Rs. 10 for every day during which the failure continues. The quantum of penalty even over a long period of delay would be very nominal, compared to the huge cost of production of a film. The following table brings out the number of producers who had not filed the statutory statement and number of cases where penal action was initiated and the amount of penalty levied.

Year	No. of producers who had filed the statement belatedly	No. of producers who had not filed the statement	No. of producers in whose cases penal action was taken	Amount of penalty levied and the No. of cases
				Rs.
1976-77	11	10	3	2,500 (2 cases)
1977-78	51	4	11	5,620 (5 cases)
1978-79	19	10	5	1,650 (4 cases)
1979-80	24	20	6	Nil (one case)
1980-81	28	5	7	6,840 (3 cases)

9. In a note furnished to the Public Accounts Committee about the system followed to check correctness of returns filed by film artistes in October 1981, the Ministry of Finance had stated

that since all the top producers were assessed in Film circles, in important cases, receipts shown by the artistes were cross-verified with the producers' cases and with the statements filed by the producers under section 285B.

An attempt was made in audit to reconcile the payments made by the producers to various artistes, etc. in respect of a few films with the receipts shown in the returns of the artistes. The reconciliation was found to be impracticable due to the following reasons:

- (a) While the producers maintained their accounts on mercantile basis, the artistes maintained their accounts on cash basis. The different systems of accounting would require correlation of receipts and payments over a number of years. No such correlation was made in the wards.
- (b) The accounting years of producers and artistes were different.
- (c) In most cases, the producers did not furnish artists-wise and picture-wise details indicating the total amount of remuneration/fees payable as per agreement, the amount actually paid by cheques or through annuity, dates of payments and balance of amount payable. Similarly, the artistes also did not file vital details like date of contract, contract money and date of release of pictures, name of the film producer, particulars of annuities received, etc. The assessing officers also did not obtain necessary details from producers and artistes and keep them on record.

Despite the aforesaid limitations, the following discrepancies were noticed in a test check of the records of 16 pictures:

- (a) The particulars of amounts due to a director from the producers in a case as per the producer's records and the amounts received by the director as per his records,

available in the assessment records showed the following:

As per producer's account Assessment Year (previous year ended)	Amount due	Balance shown as outstanding under sundry creditors	As per Director's a/cs.	
			Assessment year (previous year ended)	Receipts included in the return
1978-79 (30 June 1977)		LIC annuity 3,36,848	1979-80 (31 March 1979)	1,25,000
1979-80 (30 June 1978)		Remuneration 16,55,193	1980-81 (31 March 1980)	1,25,000
1980-81 (30 June 1979)	Over flow share 35 per cent 5,27,901	2,40,808	1981-82 (31 March 1981)	32,000
1981-82 (30 June 1980)	Do. 3,95,819	6,24,715	1982-83 (31 March 1982)	1,50,000

As the system of accounting and the period of accounting of the producer and the director differed, a reconciliation could not be effected.

(b) A partnership firm consisting of family members produced a film at a total cost of Rs. 3.03 crores and the film was released in August 1975. A private limited company also consisting of the family members of the producer as shareholders, was appointed in August 1975 as distributor of the film for the Bombay circuit for a period of 11 years. As per the terms and conditions, the distributors were to spend, on behalf of the firm, up to Rs. 3 lakhs towards pre-release and release publicity of the film and in consideration of the service, the distributors were entitled to a commission of 10 per cent on the net realisation of the said film.

The total realisations from the picture as shown by the distributors in their books for the period ending 30 September, 1977 and

by the producers in their books as at the end of 31 December, 1977 were as below:

Distributors Accounts		Producers Accounts	
Period	Amount (Rupees)	Period	Amount (Rupees)
As on 30 September 1976	53,64,341	As on 31 December 1976	55,11,496
1 October 1976 to 30 September 1977	24,72,868	1 January 1977 to 31 December 1977	16,05,587
As on 30 September 1977	78,37,209	As on 31 December 1977	71,17,063

The producers' account in the books of the distributor for the year ending 30 September 1976 showed a credit balance of Rs. 0.61 lakh i.e. amount payable to the producer. However, the opening balance on 1 October, 1976 was shown as debit of Rs. 14.95 lakhs, i.e. amount receivable from the producer. In the books of the producer, the total amount of collections in respect of the picture from various distributors for the previous year relevant to the assessment year 1978-79 was indicated as Rs. 14.43 lakhs against the distributing company for the Bombay circuit. However, in the ledger account of the distributing company responsible for collections in the territory for the same period, amount collected was indicated as Rs. 16.06 lakhs.

The discrepancies in the figures of realisations in respect of the same film as recorded in the producers' books and distributors' books and the amounts due to the producer and vice versa were not reconciled.

10. In para 1.68 of their 91st Report (Seventh Lok Sabha), the Public Accounts Committee called for a review of the scheme of amortisation laid down in Rules 9A and 9B of the Income-tax Rules. Rule 9A prescribes procedure for amortisation of expenditure on production of feature films. When a film producer sells the rights of exhibition of a feature film for all territories specified in sub rule 11 of Rule 9A along with table in it, he is allowed to deduct the entire cost of production while computing the profits and gains of the business of production of the feature film. The sale of exhibition rights does not always conform to the classification of territories and the Income-tax officers have been given discretion in the matter of allowing reduced deduction in such

Cases. The Income-tax Officers, however, had allowed full deduction even when sale of exhibition rights to only part of the territories was made by the producers to the distributors. A few instances are given below:

- (i) As per Income-tax Rules, amortisation of cost of production is allowed at 17 per cent if the exhibition rights are sold for the territory comprising the whole of the States of Assam, Bihar, Manipur, Meghalaya, Nagaland, Orissa, Tripura, Sikkim, West Bengal, the whole of the Union Territories of Andaman and Nicobar Islands, Arunachal Pradesh and Mizoram.

Similarly, amortisation is allowed at the rate of 8 per cent if the exhibition rights are sold for the territory comprising the whole of the States of Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab and the Union Territory of Chandigarh. Amortisation is allowed at 17 per cent if the exhibition rights are sold for the territory comprising districts of Ahmednagar, Greater Bombay, Collaba, Kolhapur, Nasik, Pune etc., the whole of the State of Gujarat, some districts in Karnataka and the Union Territories of Dadra, Nagar Haveli, etc.

- (a) In the case of a film, the cost of production of which was Rs. 1.28 crores and the date of release was 24 August 1979 amortisation was allowed at 17 per cent and 8 per cent even though, the exhibition rights were sold only for a part of the territory, namely Bengal and East Punjab, respectively.

- (b) In the case of another film, the cost of production of which was Rs. 60.21 lakhs, the exhibition rights were sold only for part of the territory, namely, Bombay. However, full amortisation at 17 per cent was allowed. The same mistake as in (a) was committed in this case also.

The grant of amortisation in full, though the distribution rights were sold only for a part of the territory resulted in excess amortisation allowance leading to short-levy of tax.

- (ii) One of the methods of transferring the distribution rights of the films is to sell them for a fixed period of years. The producer has nothing to do with the profits or losses on the film except that the distribution rights will revert to the producer after the expiry of the stipu-

lated period. Distribution rights of many of the highly successful films have good resale value. To quote a film weekly old pictures like "Phool aur Pathar", "Ek Phool Do Mali", "Roti Kapada Aur Makaan", "Talash" and "Gunnam" released—recently in Bombay were doing bumper business. The Department has no system to watch whether income from sale of distribution rights of such old films was returned and charged to tax. The value of rights of such old pictures is also neither returned by the producers nor assessed by the department for the purposes of levy of wealth tax.

11. The Direct Taxes Enquiry Committee (December 1971) observed that one of the devices which tax dodgers often adopt to escape proper liability to tax and penal consequences is to take shelter behind the plea that no accounts have been maintained and recommended insertion of a statutory provision in the Income-tax Act requiring maintenance of accounts by all persons in professions and by businessmen having income above a certain monetary level. An enabling provision was incorporated in the Act through the Taxation Laws Amendment Act, 1975 effective from 1 April 1976 providing therein that the books of accounts and other documents required to be maintained would be prescribed by rules. In Para 1.78 of their 91st Report (Seventh Lok Sabha), the Public Accounts Committee noted that the books of the accounts required to be maintained from 1 September 1982 were specified as late as in December 1981 i.e. only after the matter was raised by the Committee, though the enabling provision had been inserted in the Act from 1 April 1976. The Income-tax Rules have thereafter been amended in 1983 requiring the assesseees to maintain the prescribed books of accounts with effect from 1 March 1983.

12. In his Report "Indian Reform Report of a Survey" Professor Nicholas Kaldor (1956) expressed the view that malpractices like the presentation of false and miscellaneous accounts could be checked to a great extent if it were made compulsory for tax payers to present audited accounts in all cases in which income or property exceeded certain limits. The Direct Taxes Enquiry Committee (December 1971) also considered that it would facilitate the administration of tax laws to a considerable extent if simultaneously with a compulsory maintenance of accounts, there is a statutory provision for their mandatory audit, at least in bigger cases.

Necessary enabling provision was brought into the statute through the Finance Act 1975 effective from 1 April 1976 providing

that the Income-tax Officer can, with the prior approval of the Commissioner of Income-tax, direct the assessee to get the accounts audited by an accountant to be nominated by the Commissioner. The compulsory audit of accounts has not, however, been made mandatory. In Para 1.65 of their 91st Report (Seventh Lok Sabha), the Public Accounts Committee desired to know how frequently the power to get the accounts audited has been exercised in each of the Commissioner's charges during the last three years in the cases of assessments of films artistes, producer etc. and with what results. The Ministry stated in reply in March 1983 that no case was referred to a nominated Chartered Accountant under this enabling provision.

13. The income and wealth returned and assessed in respect of some of the leading film artistes are as below:

Name	Assessment	Income		Wealth	
		Returned	Assessed	Returned	Assessed
		(In lakhs of rupees)			
H	1974-75	3.30	3.71	(-) 5.72	10.49
	1975-76	10.76	12.78	(-) 5.78	46.53
	1976-77	9.81	18.85	26.52	37.88
	1977-78	13.28	18.46	29.53	48.54
	1978-79	7.66	10.98	29.97	45.98
	1979-80	5.30	8.43	7.97	..
	1980-81	5.99	9.23	(-) 10.43	..
	1981-82	6.44	..	(-) 10.07	..
R	1974-75	6.40	6.97	1.80	6.62
	1975-76	7.57	10.67	(-) 3.10	12.56
	1976-77	7.43	7.31	0.99	22.52
	1977-78	(-) 1.21	*	(-) 2.59	39.74
	1978-79	(-) 0.04	*	(-) 1.19	35.76
	1979-80	(-) 2.59	*	(-) 5.49	..
	1980-81	(-) 1.15	..	2.65	..
	1981-82	6.26	..	(-) 12.46	..
S	1974-75	0.72	0.86	1.20	1.71
	1975-76	1.94	2.14	4.83	1.43
	1976-77	3.87	4.05	8.81	6.22
	1977-78	8.51	9.04	11.19	7.50
	1978-79	5.97	7.33	9.80	22.65
	1979-80	11.22	33.41	10.39	..
	1980-81	(-) 4.68	(-) 0.79	12.20	..
	1981-82	6.02	..	10.34	..
K	1974-75	2.19	2.24	1.12	6.86
	1975-76	2.38	2.54	0.71	6.40
	1976-77	1.61	1.71	2.59	7.89
	1977-78	3.66	5.74	4.47	10.11
	1978-79	3.92	6.83	7.63	13.24
	1979-80	3.35	7.88	8.27	..
	1980-81	7.37	7.22	8.84	..
	1981-82	11.86	..	12.07	..

(-) denotes assessments pending.

* denotes assessments cancelled.

14. Some of the cases of artistes in which the arrear demand exceeded Rs. 25 lakhs are listed below together with the assessment years to which they relate:

Name of the film artiste	Demand Outstanding	Assessment years to which arrears related
	(In lakhs of rupees)	
H	26.04	1973-74 to 1980-81
J	34.89	1979-80 and 1980-81
R	31.80	1975-76 and 1978-79

(i) The assessee 'J' filed return of income for the assessment year 1979-80 on 28 July 1979 for Rs. 14,710. He filed a revised return on 15 September 1980 showing income of Rs. 10,180. On 24 November 1982, he filed another revised return showing income of Rs. 5,00,678. He had neither paid advance tax nor self-assessment tax. The assessment was completed on 25 March 1982 determining the income at Rs. 37,80,020. The assessee preferred an appeal and the Commissioner of Income-tax (Appeals) partly allowed it in April 1983. The assessment awaited rectification. Meanwhile, the assessee made a settlement petition for addition of Rs. 24,85,000 to the returned income. The Department had issued a show cause notice for levy of penalty for concealment of income.

The same assessee filed return of income for the assessment year 1980-81 on 14 July 1982 showing income of Rs. 1,23,094. On 24 December 1982, he filed a revised return with income of Rs. 9,66,094. For this year also, he neither paid advance tax nor self-assessment tax. The Income-tax Officer fixed the income as Rs. 20,17,760 on 21 March 1983 and raised a tax demand of Rs. 22,27,396 including interest for belated filing of return and non payment of advance tax. The demand is pending recovery.

(ii) The assessee 'R' filed return of income for the assessment year 1975-76 on 3 March, 1976 showing the income as nil. He had not paid any advance tax or self-assessment tax. In the assessment made on 18 March 1981, after obtaining the approval of the Inspecting Assistant Commissioner.

the Income-tax Officer determined the income at Rs. 20,98,075 with 30,000 as agricultural income. In April 1981, the assessee preferred an appeal to the Commissioner of Income-tax (Appeals). The appeal is still pending. The Department has issued a notice for levy of penalty for belated filing of the return.

- (iii) In the case of assessee 'K' referred to in sub-para 13 above, a search was conducted in 1980-81 and cash of Rs. 12,12,274 and jewellery of Rs. 72,275 were seized. The assessment for the assessment year 1980-81 was made adding an income of Rs. 4,98,000 and raising a demand for payment of tax of Rs. 3,52,800. The assessment for the assessment years 1979-80 and 1981-82 remained to be completed. However, a settlement was arrived at in the case for an addition of Rs. 16,22,270 towards concealed income.

15. To sum up—

- (i) Despite the formation of separate film circles there is no proper co-ordination in the assessments of producers, distributors, film artistes, etc. Apart from inherent difficulties due to different accounting years, different systems of accounting etc., vital data, necessary for proper co-ordination, are not collected by the Department and kept on record.
- (ii) Amortisation of cost of production of films is not regulated as laid down in the rules. The Public Accounts Committee had suggested a review of the system by a study Group consisting among others, of experts in taxation, accountancy and audit and eminent non-officials having intimate knowledge of the operations of the film industry. The Ministry of Finance have stated (July 1983) that a departmental Study Group had been formed for the purpose in July 1983 and their report is awaited within three months from the date of formation.
- (iii) Deferred annuity schemes through which current income gets distributed to a number of years in the future and become chargeable to tax only in the spread-over years, is very popular in the film world. No date of policies purchased and the beneficiaries thereof are collected and correlated with assessments. The Public Accounts Committee in para 1.72 of their 91st Report (Seventh Lok

Sabha), recommended legislative measures for regulating such schemes so that the revenue is not affected adversely. Action is yet to be taken in this regard.

- (iv) Provisions made in the law to secure better check on the assessments in the film wards are not enforced:
- (a) No watch is kept on the receipt of statements prescribed to serve as a check on the tendency to inflate the cost of production of successful films. In most of the cases, no penal action is initiated for failure to render the statements or for rendering them belatedly.
 - (b) Provisions for compulsory maintenance of accounts was made in the Act in 1976. Rules to give effect to this provision have been framed only in 1983.
 - (c) Provisions for having the accounts audited was also made in 1976. The power has not been used in any case.
 - (v) The assessees falling in high income groups return disproportionately low incomes, avoid payment of advance and self-assessment taxes and when after strenuous deliberations, real incomes are determined and heavy demands of tax are raised, they come up with settlement petitions. In the process recovery of final tax demand gets postponed. The arrear demand which was Rs. 1040 lakhs on 31 of March 1982 rose up to Rs. 1816 lakhs on 31 of March 1983.

16. The paragraph was sent to the Ministry of Finance in September 1983; their reply is awaited (December 1983).

[Para 3.26 of the Report of the Comptroller and Auditor General of India for the year 1982-83, Union Government (Civil) Revenue Receipts, Vol. II Direct Taxes.]

17. The following film circles are functioning from the dates indicated against each:

- (i) Film Circle, Bombay—Since 1964
- (ii) Film Circle, Calcutta—Since 2-12-1963
- (iii) Film Circle, Madras—Since 1-4-1962
- (iv) Film Circle, Bangalore—Since 19-4-1962
- (v) Film Circle, Hyderabad—Since 1-7-1962

18. Separate film circles for assessment of film personalities have been created with a view to centralising the cases connected with film industry like the producers, artistes, directors, camera-man,

financiers etc., for greater coordination and effective handling. According to the Ministry of Finance (Department of Revenue) coordination becomes comparatively easy when the producers and artistes are assessed in the same Circle. For example, verification of payments claimed to have been made/received by the Producers/Artistes. When there is proper coordination in the assessment of these personalities, the film circles as a consequence, become more effective. The Central Board of Direct Taxes monitors the performance of film circles through annual inspections of the concerned Income Tax Officers by the concerned Inspecting Assistant Commissioners, which are reviewed by the concerned Commissioners of Income Tax and Directorate of Inspection (Income Tax) working under the Board. Besides, it is always open to the Inspecting Assistant Commissioner to call for individual files and give such directions for the purpose of assessment as are necessary under section 144A of the Income Tax Act, 1961. The Intelligence Wing of the Department working under the respective Commissioner of Income Tax may also take necessary action as and when called for in individual cases.

19. The Committee in their 91st Report (7th Lok Sabha) had recommended in Para 1.79 as under:

“The Committee strongly urge that a thorough and critical evaluation of the usefulness and effectiveness of the various film circles and other Circles dealing exclusively with professionals, should be carried out immediately with a view to streamlining their functioning. The Committee need hardy stress that multipronged and well coordinated plan of action needs to be drawn up and implemented in conjunction with the Departments concerned for tackling this evil which is eating into the vitals of the socio-economic system of the country.”

20. The Ministry of Finance who were asked to intimate whether any review had been conducted on the working of the film circles, have replied in the negative.

21. During evidence, the Committee enquired about the reason for not conducting the review of the working of the film circles. The representative of the Ministry of Finance (Department of Revenue) stated:

“Our film circles have been regularly inspected under normal procedure. One Inspection was done in 1983-84 and the other, the Bombay Inspection, was done in 1984-85.”

22. The Chairman, Central Board of Direct Taxes, added:

"We have not undertaken a review, apart from the inspection, to see whether the officers are doing their work properly and whether the film circle is worthwhile or not."

23. Asked to state the total demand of all the film circles, the witness stated that it was Rs. 32 crores.

24. On an enquiry whether the expenditure on the film circles was more than the income, the witness replied in the affirmative.

25. As regards the revenue from the film circles, the witness stated:

"I think that the revenue from all the circles is approximately Rs. 15 crores per annum."

26. Asked whether the Ministry was satisfied with the demand raised and revenue realised from the film circles, the representative of the Central Board of Direct Taxes replied as follows:

"Certainly, 32 crores appears to be low. But I would say the same thing about other industries also. Considering the growth of industry, the total income tax collection itself should go up and we are trying to do it by better implementation."

27. The Committee were also informed that during 1984-85 the total collection from the Bombay Film Circle was as follows:

Income Tax—Rs. 12.4 crores

Wealth Tax—Rs. 80 lakhs

Gift Tax—Rs. 3.98 lakhs

28. The Committee then enquired as to whether by constituting the film circles, the Ministry have achieved greater coordination and effectiveness. The witness stated:

"All the persons involved in the film making are being assessed together even though they may be living in different localities. One of the points made is cross-referencing."

* * * *

"One of the points made by the Audit is that the loans should be checked both from the borrower and from the lender."

When a producer says that he took Rs. 16 crores from X, we must check from the person who is supposed to have given whether any entry exists there. The ITO checks that."

29. Asked to explain the problem faced by the Department, the witness stated as under:

"I will tell you the real problem. We do not levy the tax on films, we do not work out the cost of the film and assess it. We tax the income of the people who have taxable income and who are involved in film making industry. One of the points relating to this: how many films were made. That is the kind of data that is collected. Income tax is a tax on the income of the individuals. It is not a tax on the income of a film. You may amend the Act tomorrow. But today, it is not a group of people who are involved in a particular industry called the film making industry."

30. Apart from film circles there are also Central Circles which are meant for carrying out coordinated and sustained investigation in complicated cases of tax evasion with high revenue potential. According to the Ministry of Finance (Deptt. of Revenue) the statutory functions of an Income Tax Officer in a Central Circle are the same as those of any other Income Tax Officer dealing with assessment work in a non-central circle. The assessing officers in the Central Circle are expected to handle complicated cases with higher degree of efficiency and concentration as compared to the officers in other circles. Their work is closely supervised by the Inspecting Assistant Commissioner and the Commissioner of Income tax. Centralisation of cases in Central Circle also ensures a greater measure of coordination with the result that a larger number of assessing officers do not have to dissipate their time and efforts in correspondence, etc. with the other assessing officers who have jurisdiction over other cases in the same group.

31. Asked as to how many cases from film circles have been referred to the Central Circle, the representative of the Ministry of Finance (Department of Revenue) stated "About 38 cases have been referred."

32. The Chairman, Central Board of Direct Taxes added:

"The film circle deals with everybody connected with the film

industry. ITO's time is a little limited. We have made a search and found good material for investigation and probed at length there. The Central Circle comes into play not only for film personalities but for others also. The Central Circles deal in a number of cases and usually senior ITOs are posted there. They have more time to examine and deal with these cases."

33. In a note, the Committee were informed by the Ministry of Finance (Department of Revenue) that no special training was given to the staff working in the Film Circles.

34. During evidence, when the Committee enquired about the training of the staff, the representative of the Ministry of Finance (Department of Revenue) stated:

"The Government feels that ITOs must be experienced. They must have at least five to ten years experience. They must have high integrity rate also. Shri Narayanan has suggested some new courses for training them. We have issued elaborate instructions about how a film account should be analysed and assessed. If a man who is experienced goes through these things, he can work efficiently. To supplement it, from this year we have a special course also in films accounts."

Certification of Films

35. Audit para has pointed out that the number of films certified for exhibition at Bombay has been steadily increasing since the year 1978 onwards and the total number of assesseees on the records of the Department has gone down steeply. The position regarding pendency of assessments has remained more or less static.

36. The number of films certified in Bombay during the years 1978—82 is as follows:

Year	No. of Pictures
1978	172
1979	178
1980	201
1981	206
1982	210

37. The Ministry of Finance (Deptt. of Revenue) in a note have stated that during the financial years 1981-82, 1982-83 and 1983-84 the number of Indian feature films certified by the Bombay region was 195, 201 and 205 respectively.

38. The number of films certified in other film circles during the years 1978-84 is as under:

Year	Calcutta	Madras	Bangalore	Trivandrum	Total
1978 . . .	57	390	..	..	447
1979 . . .	61	475	..	..	536
1980 . . .	62	479	..	..	541
1981 . . .	61	470	..	..	531
1982 . . .	66	487	..	..	553
1983 . . .	71	468	..	..	539
1984 . . .	61	515	24	16	616

39. The Ministry of Finance who were asked to indicate the number of abandoned/incomplete films with name of producers including the cost of production, stated as under:

“The production of films in India is mainly in private sector. The Ministry of Information and Broadcasting do not have the information.”

Assesseees on record, Assessments, Tax Demand

40. The number of assesseees on record of the Department category-wise as on end of March each year from 1980 to 1985 in respect of Bombay Film Circle was as under:

Category	As on 31 March, 1980	As on 31 March, 1981	As on 31 March, 1982	As on 31 March, 1983	As on 31 March, 1984	As on 31 March, 1985
Film Financiers . . .	41	65	105	14	14	29
Producers . . .	310	371	393	327	297	270
Distributors	244	299	394	174	165	199
Artistes . . .	454	511	546	579	245	205
Others . . .	5,624	5,946	5,769	5,076	5,131	5,304

41. The number of assesseees on record of the Department category-wise as on end of March each year from 1980 to 1985 in respect of Film Circles other than Bombay was as follows:

Category	As on 31 March, 1980	As on 31 March, 1981	As on 31 March, 1982	As on 31 March, 1983	As on 31 March, 1984	As on 31 March, 1985
Film Financiers	1	1	62	170	34	42
Producers	29	40	456	393	523	542
Distributors	148	201	799	781	804	824
Artistes	228	241	562	797	1503*	1521*
Others	1361	1533	2169	2654	2580	2549

* These figures include persons under the category 'others' above in respect of Tamil Nadu Charge only.

Note : Film Circles in Tamil Nadu, Karnataka and Andhra Pradesh were created only in or after May, 1982.

42. The position regarding number of assessments completed during the year 1982-83, and pending at the end of each year in respect of Bombay Film Circle is as indicated below :

Tax	Pending as on 1 April, '82	Completed during 1982-83	Pending as on 31-3-83	Completed during 1983-84	Pending as on 31-3-84	Completed during 1984-85	Pending as on 31-3-85
Income Tax	7,563	5,282	7,464	5,806	5,903	7,550	3,432
Wealth Tax	2,465	830	2,441	1,065	1,979	1,564	1,465
Gift Tax	122	44	93	85	65	183	Nil

43. Position regarding the assessments pending and completed in respect of the film circles other than Bombay film circle is as follows :

Tax	Pending on 1-4-1982	Completed during 1982-83	Pending on 31-3-83	Completed during 1983-84	Pending on 31-3-84	Completed during 1984-85	Pending on 31-3-85
Income Tax	7,730	4,211	4,892	5,044	4,751	5,282	3,793
Wealth Tax	1,977	664	1,571	858	1,389	894	1,429
Gift Tax	29	17	27	31	33	42	28

44. The following is the position regarding the total number of ITOs in the film circles, No. of assessment made, tax demanded/raised, Revenue realised, and balance out standing during the years 1979-80 to 1984-85 :

(In Lakhs of rupees)

Year	Total No. of I.T.O.s in the Film Circles	Total No. of assessments made	Total tax demanded/	Revenue realised	Balance Outstanding
1979-80	14	4163	1084.03	509.42	574.61
1980-81	15	6211	1267.64	704.13	563.51
1981-82	15	6655	1412.98	755.68	657.30
1982-83	21	9376	1901.33	862.25	1039.08
1983-84	21	10861	2631.40	1022.85	1608.55
1984-85	21	12832	3351.47	1545.55	1783.99

45. The table below indicates the position in respect of the years 1983-85 the arrears of demand of tax at the commencement of the each year and the demand made, the tax collected during each year and balance outstanding at the end of each year :

Tax	Demand as on 31-3-83	Demand made during 1983-84	Total Demand	Demand collected during 1983-84	Demand out-standing as on 31-3-84	Demand Total	Demand collected during 1984-85	Demand as on 31-3-85
Income-tax	99094	114135	213189	85989	143853	287306	123992	163314
Wealth-tax	11331	5312	16643	5981	12651	24755	8008	16747
Gift-tax	328	192	520	105	354	2298	337	1961

(Rs in thousands)

(* After verification and transfer in/out)

46. Asked to state the steps taken to reduce the pendency of the assessments, the Ministry of Finance (Deptt. of Revenue) have intimated:

“With the extension of Summary Assessment scheme to cases with returned income upto Rs. 1 lakh, the pendency in film circle is expected to be significantly reduced in subsequent years.”

Filing of statutory statements

47. Section 285B of the Income Tax Act, 1961 provides as follows:

“Any person carrying on the production of a cinematograph film during the whole or any part of any financial year shall, in respect of the period during which such production is carried on by him in such financial year, prepare and deliver or cause to be delivered to the Income-tax Officer within thirty days from the end of such financial year or within thirty days from the date of the completion of the production of the film, whichever is earlier, a statement in the prescribed form containing particulars of all payments of over five thousand Rupees in the aggregate made by him or due from him to each such person as is engaged by him in such production as employee or otherwise.”

48. Section 285B was introduced by the Taxation Laws Amendment Act, 1975 with effect from 1 April, 1976. The Central Board of Direct Taxes circulated instructions (No. 996) on 10 August, 1976 directing all the Commissioners of Income Tax that widest publicity should be given to the provisions of Section 285B of the Income Tax Act, 1961 and that the officers working in the film circles might be alerted to this. The instructions further desired that the concerned officers might write to the known film producers individually making them aware of the provisions.

49. The table below indicates the number of film producers who did not file the statutory statement and the number of cases where penal action was initiated and the amount of penalty levied during the years 1976-77 to 1984-85 :

Years	No. of producers who had filed the statement	No. of Producers who had not filed the statement	No. of Producers in whose case penalty action was taken	Amount of penalty levied	No. of cases	Penalty levied
1976-77*	11	10	3		2	2,500
1977-78*	51	4	11		5	5,620
1978-79*	19	10	5		4	1,650
1979-80*	24	20	6		1	NIL
1980-81*	28	5	7		3	9,840
1981-82@	26		4		4	5490
1982-83@	15		6		6	23100
1983-84@	15		32		32	57740
1984-85@	7		11		11	5870

The Statements are required from producers who have completed production of films in a year as well as films which are under production in a year. Since information about the latter is not available the precise figures in respect of this item cannot be given.

*As per Audit Para

@As per information supplied by the Ministry of Finance (Deptt. of Revenue)

50. On being asked, the Ministry of Finance (Department of Revenue) have furnished the following information in respect of statutory statements required to be furnished by the producers of films in all the film circles during the years 1979 to 1984 :

Year	No. of films produced	No. of statements furnished (*)	No. of statements required to be actually received (**)	Penal action taken	Penalty imposed
1979	585	475	74	NIL	NIL
1980	587	479	57	NIL	NIL
1981	622	488	43	NIL	NIL
1982	673	538	25	4	Rs. 5,490/-
1983	642	535	28	6	Rs. 23,100/-
1984	761	646	34	56	Rs. 1,18,527/-

Note :—

1.* The CIT, Bombay, City-III, Bombay in whose charge film circle at Bombay is working has reported that number of statements required to be furnished depends on the number of years over which the production of film was completed as the statement is to be filed annually and on completion of the production of film. Hence the information in col. (3) does not contain required information relating to CIT, Bombay City-III, Bombay i.e. in respect of Film Circle, Bombay.

2.** The CIT, Tamilnadu IV, Madras in whose charge film circle at Madras is functioning, has reported in respect of col. (4) that year-wise correct number of such statements received could not be furnished in the absence of any source register in this regard. He has, however, informed that suitable instructions have now been issued to the Income-tax Officers of Film Circle and the concerned IACs to maintain a register and record all cases of producers to enable initiation of penal proceedings under Section 272A of the Act in the case of defaulting producers.

3. The CIT, West Bengal-II, Calcutta in whose charge Film circle at Calcutta is functioning has informed that no action was earlier taken against the defaulting producers. However, show cause notices have not been issued in the cases of defaulting producers.

51. During evidence, on an enquiry why the Department was not insisting on filing of the statutory statements, the Chairman, Central Board of Direct Taxes replied:

"This (Section 285B) is a new provision and enough publicity has not been given. Now we have given instructions to give publicity and recently out of ten films produced in Bombay, statements have been received from 6 cases and in the other four cases we have initiated penal action. As pointed out earlier by the audit, the penalty of Rs. 10 per day is not enough to induce these people to submit the form. They recommended to increase it to Rs. 100 and we have done so."

52. On a suggestion being made as to whether the progressive rate of penalty for failure to furnish statutory statement, would be more effective, the witness replied:

"The progressive rate is a good suggestion which would make them take it seriously."

53. The Committee then invited attention of the witness to the instructions issued by the Board for giving wide publicity to the provisions of Section 285B of the Income Tax 1961. The witness admitted:

of

"The number of films shows that nothing much has been done."

54. To a further question about the usefulness of the statement in the form 52A, the representative of the Ministry of Finance (Department of Revenue) replied:

"Yes it is useful in checking of the producer's payment against the Income-tax statement of the actors or others, so that the story given by the producer about the payment to the actors or others are cross-checked by the story about the payment received by them."

55. The Ministry of Finance (Department of Revenue) in a subsequent note have stated:

"The books of accounts being primary source of information, even information given in form 52-A is based on the books. Therefore, correctness of the income declared can be judged with reference to the books of accounts and supporting documents such as bills and vouchers. In

cases where a statement in form No. 52A is not available, the correctness of the income returned by producers can be checked by the I.T.O. with reference to the books of accounts maintained by them.

Film Artists also maintain accounts in respect of their income and expenditure. ITOs can check the correctness of the income declared by Film Artistes with reference to these books of accounts. In cases where statements in form No. 52-A are not available, the ITO can verify the correctness of the income declared by the film artistes by making reference to the film producer regarding the payment made by him to the particular artist, who would then look into his books of accounts and give the particulars as recorded therein. It will, therefore, be observed that the absence of statements in form 52A does not preclude proper examination or verification of the income declared by film producers or film artistes."

56. Audit Para has quoted a case in which the statutory statement filed by a producer indicated that the total cost of the film as returned was Rs. 1.22 crores and the total payment of over Rs. 5000 in the aggregate made during the financial year 1979-80 to 1981-82 were only Rs. 18.29 lakhs. The percentage of the payments exceeding Rs. 5000 in the aggregate to total cost was worked out to 15.

57. During evidence, inviting the attention of the representatives of the Ministry of Finance to the above mentioned case the Committee enquired as to why only 15 percent of the cost of production of the film got reflected in the form 52-A and why no attempt was made to verify the facts. The witness stated:

"In this particular case why they could not do so was because the period of accounting was different."

58. In a subsequent note, the Ministry of Finance (Department of Revenue) have stated as follows:

"The reference appears to be to the film 'Kala Pathar' produced by Yas Raj Chopra. The aggregate amount shown in the statement in Form No. 52-A, no doubt forms a small percentage of the total cost of production of the film. It is however relevant to note that under Section 285B of the Act, the producer is required to give particulars of payment over Rs. 5,000/- only in case where the persons to whom the payment has been made is "engaged" by him

as an employee or otherwise. This provision appears to have been construed by the film producers in a very restrictive manner with the result that only payment made to employees or others engaged to render professional services are shown in the statement."

Reconciliation of Accounts

59. The audit para brings out the difficulties experienced in reconciliation of accounts on account of different systems of accounts followed, adoption of different accounting years and other reasons. In a note, the Ministry of Finance (Deptt. of Revenue) have intimated as follows:

"In suspected cases of evasion, Income-tax Officers verify the transactions as recorded in the books of account of the assessee with corresponding entries as recorded in the books of accounts of the other party to the transactions. This procedure is not confined to assessments of film producers, Film Artistes etc. but is used by Departmental Officers in the case of all assessees.

It is, no doubt true that variations in the accounting years or method of accounting followed by different tax payers may cause some difficulties in verifying the transactions, But the difficulty is not insurmountable and Income-tax Officers can detect, through a pains-taking and thorough examination, discrepancies in entries in the books of accounts maintained by two parties to a transaction. Moreover, the question of adopting a uniform previous year is also under consideration, in connection with the exercise of simplification of Income-tax Laws."

60. The Committee desired ^{to} know the number of cases where reconciliation could not be effected alongwith the reasons therefor and also the number of cases where the reconciliation had actually been effected with result of such reconciliation in respect of Bombay Film Circle. The Ministry of Finance (Deptt. of Revenue) intimated, in a note, as follows:

"When an Income-tax Officer comes across a cash credit or a loan, he makes an enquiry about its genuineness. Hence loans shown by the producers are investigated as to their genuineness in the course of assessment proceedings. The

results achieved during such enquiries in the case of Bombay Film Circle are the following:

- (i) In the case of one film producer, a loan was shown from a film financier. On information received by the assessing authorities assessing the financier that loans advanced in the years 1974 to 1981 to the tune of Rs. 15 lakhs are bogus in nature, the assessment in the case of the producer for the assessment year 1976-77 has been re-opened. The case is under process for re-opening assessments for the other years.
- (ii) In the case of another film producer, the following additions have been made:

<i>Assessment year</i>	<i>Amount</i>
	Rs.
1978-79	27,000
1980-81	60,000
1981-82	10,000
1982-83	30,000

Intelligence Wing

61. A film entitled 'Sholay' was certified for release in August, 1975. The Ministry of Finance (Deptt. of Revenue) have intimated that the statement in Form 52A was not necessary in the case as the film had been completed prior to 1-4-76 (i.e. before the coming into force of Section 285B). The expenditure claimed to have been incurred by the producer was test checked with reference to the Vouchers. Out of the total cost of production of the film of Rs. 3.03 crores payments made to senior artistes amounted to Rs. 14.44 lakhs and payments made to individual artistes ranged from Rs. 10,000 to Rs. 5 lakhs. The Committee desired to know whether the Intelligence Wing of the Department had ever investigated the total payment made to the main artistes either directly or indirectly. The Ministry of Finance (Department of Revenue) have informed:

"Intelligence Wing of the Income Tax Department has not conducted any investigation either about the total payments made to the main artistes or films or about the play back singers, junior artistes and music director of the film 'Sholay'.

However, the assessing officers look into these aspects in the course of assessment proceedings in individual cases."

62. In a further note, the Ministry of Finance (Department of Revenue) while explaining the functioning of the Intelligence Wing, stated as follows:

"The Investigation Wing of the Department also functions as an intelligence gathering agency for detecting cases of tax evasion. The objective and function of the Directorate of Inspection (Inv.) is to collect information about tax evasion, make investigation into it on its own and/or to communicate the information to the assessing authorities in the field for investigation and to guide and monitor the progress of such investigations by the field officers. It also conducts search and seizures operations in suitable cases. It has four units, each headed by a Director of Inspection (Inv.). The four units have their headquarters at Delhi, Bombay, Madras and Calcutta.

The Government have also created a post of Director General (Inv.) in the Income-tax Department with a view to making it more effective in the task of checking tax evasion. The Director General (Inv.) supervises, controls and coordinates the working of the Directorate of Inspection (Int.), Directorate of Inspection (Survey) and the four units of the Directorate of Inspection (Inv.) which are engaged in the working of combating tax evasion. He also plays a vital role in search and seizure matters and supervises investigation wherever necessary.

The Directorate of Inspection (Int.) was set up in the Income-tax Department in 1981. It is headed by the Director of Inspection (Int.) with headquarters in New Delhi. This also has some zonal officer. This agency is mainly responsible for collection, collation and dissemination of information concerning industrial and commercial trends leading to the proliferation of black money, economic mal-practices and tax evasion techniques. It is also responsible for gathering of intelligence regarding specific cases of large scale evasion of all India remittance. Search and seizure operations are normally taken by the Director of Inspection (Inv.) and the Commissioners of Income-tax.

The commissioners of Income-tax and the Organisation working under them also play a vital role in gathering of intelligence and in combating tax evasion.

Information regarding tax evasion is collected from various sources, including, *inter alia*, from informants who furnish information in expectation of monetary rewards. There is a scheme for payment of rewards to such informants. Information is also gathered through (a) *suo motu* enquiries,

- (b) follow-up of the leads available from the Departmental records, petitions, press reports and other publications and (c) liaison with enforcement agencies of other departments, for example, Enforcement Directorate, Revenue Intelligence etc.

Whenever any useful information is gathered by the Directorate of Inspection (Inv.), or the Directorate of Inspection (Int.), it makes investigation into it on its own. Wherever necessary the information is communicated to the assessing authorities in the field for investigation. Information collected by a Commissioner of Income-tax/Assessing Officer which could be of use of another Commissioners/Assessing Officers is passed on to such officers for proper utilisation."

63. Asked about the follow up action taken in respect of searches and seizures, the witness stated:

"We have considered this matter in detail, we are in the process of reorganising the whole of this Directorate of Inspection. When we carry out a raid, we get the help of 100 ITOs from the Circles. At the end of the raids we get three truckloads of books. The munshi has to come and explain all this. Otherwise it is very difficult to go through all of them.

* * * *

For instance, there will be seven truckloads of books of Surat. We will take six months or so even to understand them. After a raid on a group, the amount of paper that comes is unwidely. Unless the man concerned is ready to help us out, we have no other way. So we have to accept the position that regular inspection and investigation staff will have to be sufficient so that they can do all this follow-up by themselves. The Government has proposals for reorganisation of all the Intelligence agencies and inspection wings of Income-tax which are under consideration."

Cost of Production and Amortisation

64. The cost of production of films 'Sholay', 'Kala Pathar' and 'Doosra Admi' was stated to be of the order of Rs. 3.03 crores,

Rs. 1.28 crores and Rs. 60.21 lakhs, respectively. Explaining the vast difference in the cost of production, the Ministry of Finance (Department of Revenue) have in a note stated as follows:

“The cost of a film depends upon various variable factors, such as the number of top artistes and artistes in a film the remunerations charged by them, the nature of the sets, whether the film has been produced in cinemascope or otherwise, quality of film used and the number of prints taken etc. Top stars charge high remuneration for their roles in a film. Cost of bigger sets is bound to be higher than smaller sets, for example, in the case of ‘Sholay’, the film was entirely shot in a remote village in Karnataka. There was no facility available in the said village and the producer had to incur expenditure for the construction of Kacha roads and transportation of men and equipment. The producer had to construct sets for Haveli, Bridges, Temples etc. in that village. This factor is also responsible for the high cost of this film. Department also look into the cost of film show and varifies the same at the time of assessment of producer. No fixed norms can be prescribed to judge the reasonableness of the cost of a film because the number of variables on which the cost depends is very large.”

65. In the case of the film ‘Sholay’ interest of Rs. 31.49 lakhs was paid, according to the information furnished to the Committee. In response to a question, it was stated by the Government that the tax was duly deducted at source by the producer while making payment of interest to the financiers but the producer did not furnish a statement to the Department showing the particulars of interest paid.

66. The expenses stated to have been incurred by the Film Producers on the films ‘Sholay’, ‘Kala Pathar’ and ‘Doosra Admi’ are shown at Appendices I and II.

67. In reply to another question it was stated by the Ministry of Finance that the Wealth-tax returns of the artistes were always verified to ensure that the total annuity incomes had been returned by them and assessed for Wealth-tax.

68. In reply to a question by the Committee regarding non-furnishing of picture-wise details of income received, it was stated by the Government that Assessing Officers are expected to call for details of remuneration received by film artistes in respect of each film for which they received remuneration during the relevant

year. It was further stated that in cases of suspected evasion the ITO would also cross-check the information given by the film artiste with reference to the particulars given in the statement in form No. 52-A or where such statement was not filed by making a reference on this point to the film producer.

69. In regard to another question relating to scrutiny by the Internal Audit or by the Inspecting Assistant Commissioner in his administrative inspections, it was stated by the Government that the Internal Audit does not look into this aspect of work by the assessing officers and that the IAC would comment on this aspect of the work, particularly in cases of suspected evasion. Government also observed that no case of any serious lapse on this account has been noticed or commented upon by the IAC Film Range, Bombay.

70. In regard to unexplained investments, unexplained money, unexplained expenditure and amount borrowed or repaid on hundies, the law lays down that the amount involved should be treated as income and brought to tax as relating to the financial year in which the detection is made. In reply to a question by the Committee as to whether the Ministry have considered insertion of a similar provision in regard to the concealed income arising out of searches and seizures operations so that the revenue defaulted could be taken to the exchequer quickly and also the assessing officers and the assessee spared of the labour involved in reopening the past completed assessments, the Ministry stated that the provisions contained in Sections 69A, 69B, 69C and 69D of the Income-tax Act, 1961 already took care of such eventuality because the concealed income detected out of searches and seizures could not take any form other than the form described in the aforesaid Sections.

71. The Study Group appointed by the Board at the instance of the Committee made the following observations:

“In the matter of unearthing of black money in the case of film artistes, the Department has to work against heavy odds and the degree of proof required of the department by appellate authorities is almost impossible of achievement. Raids in the case of film stars have also not succeeded in unearthing sizeable quantum of unaccounted cash or assets.”

72. In reply to a question as to how the Ministry propose to surmount the difficulties expressed by the Study Group in bringing out the black money, the Ministry stated as under:

“One of the important and essential functions of the Income-tax Department is to check tax evasion effectively. In

the Income-tax Department the task of combating tax evasion is handled by several agencies which function under senior and experienced officers of the Department. The Directorate of Inspection (Inv.), the Directorate of Inspection (Int.) and the Commissioners of Income-tax and the organisation working under them play a vital role in this direction. The Government have also created a post of the Director General (Investigation) in the Income-tax Department with a view to making it more effective in the task of checking tax evasion. The cases of persons connected with the Film Industry are treated at par with the cases of other persons who are suspected of evading taxes. However, in bigger charges film circles have been constituted for dealing with the assessment work in cases of film personalities."

73. Asked about the basis on which the amortisation was allowed on the cost of production of film 'Sholay', the Ministry of Finance (Deptt. of Revenue) stated:

"Amortisation was allowed on the basis of the recovery of the first three years after the release of the film."

Asstt. Year	Collection	Percentage	Amortisation
1976-77	1,54,36,369	460.2%	1,31,34,218
1977-78	1,07,60,838	32.08%	91,55,709
1978-79	73,47,315	21.90%	62,50,312
Total	3,35,44,522	100.00%	2,85,40,239

The Ministry further stated:

"The cost of the film amount to Rs. 3.03 crores includes Rs. 59.20 lakhs being the cost of the prints and Rs. 12.92 lakhs being the cost of publicity. Since these expenses were incurred before the release of the picture, they were not included in the cost of production for the purpose of allowing amortisation in respect of the film. It may

be added that the amortisation was allowed on an amount of Rs. 2,85,40,239/- which was worked out as under:

Cost shown		Rs. 3,02,92,771
<i>Less :</i>		
Interest relating to cost realisation period included in the above cost	Rs.	15,52,531
Expenditure disallowed	Rs.	2,00,030
		<hr/>
	Rs.	17,52,531
		<hr/>
Balance	Rs.	2,85,40,240

74. Asked to offer their comments on the observations made by the Audit in respect of two films whose cost of production was Rs. 1.28 crores and Rs. 60.21 lakhs, respectively, the Ministry of Finance (Deptt. of Revenue) intimated as follows:

"Regarding the picture whose cost of production was Rs. 1.28 crores, the same (Kala Pathar) was released in assessment year 1980-81. The entire cost was allowed (except for some minor disallowances) in the same assessment year, since as per assessment order the picture was released in all the territories. According to C&AG's Report amortisation was allowed at 17 per cent and 8 per cent even though the exhibition rights were sold only for a part of the territory namely, Bengal and East Punjab. These two territories figure under the categories of territories C&D of Rule 9A. From the relevant agreement, it is seen the picture was sold to distributors for exhibition in the Bengal Territory as known in film trade comprising of West Bengal, Bihar, Assam, Orissa, Nepal, Bhutan, Sikkim, Burma, Andaman and Nicobar Islands and Bangladesh. All these will cover up all the places mentioned in the territory C of Rule 9A. From another agreement, it is seen that the picture was distributed for exhibition in territory of East Punjab Circuit as known in the Film Trade. The assessee has subsequently clarified in a letter that Bengal territory as per film Trade corresponds to all the territories 'C' as per table attached to Rule 9A and comprises of the States of Assam, Nicobar Islands, Sikkim,

Bihar, Manipur, Meghalaya, Nagaland, Tripura, West Bengal and similarly East Punjab territory as per film trade corresponds to territory 'D' of Table to Rule 9A, and comprises of States of Haryana, Himachal Pradesh, J&K, Punjab and Chandigarh. In view of this amortisation of 17 per cent and 8 per cent was correctly allowed in respect of these two territories in the assessment.

Regarding the picture whose cost of production was Rs 60.21 lakhs, the same (Doosra Admi) was released in assessment year 1979-80. The entire cost has been allowed in the same year since as per assessment order the picture was sold on M.G. outright and commission basis in all the territories and more than 6 territories in overseas territory. According to C&AG's Report, the picture was released in part of the territory namely Bombay, yet full amortisation at 17 per cent was allowed. From the relevant agreement in the assessment records, it is seen that the picture was sold to distributors for the entire territory of Bombay as known in the film trade which as per agreement would include Maharashtra, Gujarat, four districts of Karnataka, Goa, Diu, Daman and Bombay City and suburbs. The places mentioned correspond to all the places mentioned under territory A of Rule 9A. Assessee has also subsequently clarified that Bombay Circuit as per film trade would include all the areas mentioned in territory 'A' of Table to 9A. Hence full amortisation at the rate of 17 per cent was rightly allowed in the assessment in respect of the said territory."

75. The Audit para points out that the Department has no system to watch whether income from sale of distribution right of old films like 'Phool Aur Pathar', 'Ek Phool Do Mali', 'Roti Kapada Aur Makaan' 'Talash' and Gumnam' was returned and charged to tax and that the value of rights of such old pictures is also neither returned by the producers nor assessed by the Department for the purposes of levy of Wealth tax. The Ministry of Finance (Department of Revenue) on being asked to offer their comments on the audit observation, have intimated:

"The old films when they revert back to the producer after the expiry of the initially stipulated period of agreement are either sold for a further fixed period of the distributors or they are exhibited by the producers themselves. Either way the receipts constitute income to the hands of the producers concerned e.g. Shri O. P. Ralhan, Prop. of

M/s. Ralhan Productions had declared the following realisations in respect of 'Phool Aur Pathar' and 'Talash' and Shri N. N. Sippy, Prop. of Prithvi Picture in respect of 'Gumnam' as under:

Asstt. Year	Phool Aur Pathar	Talash	Gumnam
1976-77	3,50,540	62,873	1,22,034
1977-78	4,32,102	67,530	3,05,401
1978-79	6,22,539	19,595	2,40,884
1979-80	Assesst. completed u/s 144 Details not filed. Reopened u/s 146		1,46,283
1980-81	10,97,190	3,06,612	1,25,290
1981-82	3,95,371	2,32,198	Not on record.

As regards value of re-versionary rights of the old picture being taxed as an asset under the W.T. Act in the hands of producers, an attempt has been made to assess the same in the case of Deluxe Pictures Group and Gulshan Rai but the Department's stand has not been upheld by the Appellate Authorities.

There is an in-built mechanism in the assessment procedure itself through which it can be ascertained whether receipts from old films have been shown by the producers or distributors. Once a producer or a distributor shows income from a movie; in subsequent years enquiries are invariably made to ascertain if there are any receipts from that movie. Since the prints or the movie form stock-in-trade of the producers/distributors, the ITO makes enquiries regarding utilisation of the prints during the year. In addition to this, various Trade Journals are supplied to the ITOs in Film Circles like "Trade Guide" and "Film Information" to enable them to be aware of the films released including reissue of old prints. Moreover, ITOs in these circles are also supplied popular film magazines to supplement the information."

76. The Public Accounts Committee (Seventh Lok Sabha) recommended in para 1.63 of their Ninety-first Report as follows:

"The Committee find that the growing tendency to funnel large amounts of unaccounted money into star studded

films; many of which continue to be exploited for several years not only in India but abroad also, call for a review of the scheme of amortization laid out in Rules 9A and 9B of the Income-tax Rules so as to devise ways and means to curb this evil and to ensure that the interests of revenue are adequately protected. The Committee therefore desire that a Study Group consisting among others, of experts in taxation, accountancy and audit and eminent non-officials having intimate knowledge of the operations of the film industry, may be set up to make an in-depth study of the whole question and its findings reported to the Committee."

77. The Ministry of Finance (Deptt. of Revenue) informed the Committee that "it has been decided that the study may be entrusted to a Group of Senior Officials of the Department only and this group may invite and hear the views of some of the professionals, associated with the film industry."

78. During evidence, on an enquiry as to why a departure from the recommendation was made by appointing a group of officials of the Department to make a study, the representative of the Ministry of Finance (Department of Revenue) stated:

"If you go into the purpose of the Committee, it was not a Commission of Inquiry. It was not having various wide type of terms of reference. It was to judge the rule of amortisation under Rule 9A or B. The second idea was whether the new methods have been found for funnelling black money into the film industry and the relationship between the two. The whole purpose of this Committee is distinct from the Commissions of Inquiry."

79. Subsequently, in a note, the Ministry of Finance (Department of Revenue) explained the difficulties faced by them in appointing the Study Group as recommended by the Committee as under:

"This was not done on account of administrative constraints and difficulties which the Department could have come across in the payments of fees and reimbursement in the expenses of non-official members. The Department also

considered the problem which it could face in the arrangement and conduct of meetings and discussions as well as in the provisions of secretarial assistance for the Study Group. It may be emphasised that the views of the concerned persons, namely, that of tax experts and representatives of industry were invited and duly considered by the Study Group."

80. The Study Group set up by the Central Board of Direct Taxes has made the following main recommendations:—

- (i) Since the amortisation Rules were framed in 1976, the pattern of exhibition of Feature Film as also the conditions in the country have changed considerably and the market potential of various territories have also altered, with the result that the Rules do not cater to the changed conditions. After considering the changes in the pattern of exploitation, with a view to ensure uniformity as also by way of laying down a formula that will not require frequent alterations, the rules of amortisation should be changed so as to prescribe that in respect of both regional and non-regional films, full amortisation of the cost should be allowed if the picture is released atleast 180 days before the end of the accounting year and in case, the picture is released at any time within 180 days before the end of the accounting year, amortisation should be allowed upto the actual realisation during the year and the balance cost should be allowed to be amortised in the next following year.
- (ii) The Rule 9B should be suitably amended and more particularly the definition of "cost of acquisition" so as to include sub-distributors also along with distributors.
- (iii) The provision of section 285 and section 272A(2) of the Income Tax Act 1961 should be strictly enforced. The penalty for non-filing of the statement required under the above provision of the Act should be increased to Rs. 100 per day of default. The words "as employee or otherwise" appearing at the end of section 285B should be deleted.
- (iv) There should be a provision compelling the producers to file an abstract of cost of production before the film is

allowed to be taken up before the Board of Film Certification.

(v) The producers of feature films should also, over and above the regular books of accounts maintained by them, maintain the following registers/documents:

(a) stock register of raw film

(b) script book

(c) time-table or shooting schedule

(d) film editors report

(e) laboratory register

(f) call sheets

(g) statement, if any, given by the controller of production

(h) daily, weekly and monthly collection statements received from exhibitors and distributors.

(vi) There should be an arrangement for compulsory registration of all agreements, arrangements, contracts etc. between the film producers and artistes, film producers and distributors, distributors and sub-distributors etc. with the Department within 30 days of their being entered into. The present section 285A should be extended so as to provide for this registration of agreement with the Department.

81. The Ministry of Finance (Department of Revenue) have accepted all the recommendations except that at (vi) above. A Notification was issued on 31 March, 1986 giving effect to the recommendations of the Study Group appearing at (i) and (ii) above, amending rule 9A and 9B of the Income Tax Rules, 1962. Asked to explain the reasons why the Ministry have not accepted that recommendation at (vi) above, the representative of the Ministry of Finance stated:

“There will be no reason why this provision should apply only to film circle. Whenever there is a big industry which involved a number of arrangements, then we will have to ask for copies of documents of all of them.”

Searches and Seizures

82. Audit para makes a mention of film artistes etc. in whose cases search and seizures operations were conducted. Information furnished by the Ministry of Finance (Dept. of Revenue) in respect of search and seizures made in the case of film artistes, singers, producers, directors etc. discloses the following position:

(As on 29-9-1984, 13-3-1986 and 3-4-1986)

Name of assessee	Date of search	Cash seized	Jewellery seized	Income/Wealth concealed	Assessment year	Tax effect	Reasons for pendency
1	2	3	4	5	6	7	8
Sri. Sushil Kapoor	22-10-82	1,48,524		21,00,000 (Income)	1979-80 1980-81	6,59,039 3,43,680	All assessments relevant to search and seizure have been completed by 31-3-85.
Sh. Rajesh Khanna	23-10-81	3,380	38,887	NII (Cash & Jewellery released)		NII	Assessment years relevant to searches are 1982-83, 1983-84 and 1985-86. Assessment for assessment years 1982-83 was completed <i>ex parte</i> under section 144 on 25-3-1985. However, this order has been set aside. by CIT on 23-12-85 with a direction to reframe the same.

No return was filed for assessment year 1983-84 by 31-3-85. However, subsequently in response to the notice u/s 148 the return has been filed on 30-10-85. Notice under section 142(1) was served but remained uncompiled with so far.

No return for assessment year 1985-86 has been filed so far. Notice under section 139 (2) was served on 24-7-85. Notices u/s 131 and 142(1) issued so far have not been complied with.

Out of 3 assessment years relevant to the search i.e. 1981-82, 1982-83 and 1983-84 assessments for assessment years 1981-82 and 1982-83 have been completed. Assessment for assessment year 1983-84 is under scrutiny.

Assessments for all the 3 assessment years (1979-80, 1980-81 and 1981-82) relevant to the search, had been completed.

1-4-82 13.03 lakhs

1-4-82	1,38,693	9,47,870	1982-83	5,20,181
15-6-84	90,000			

Smt. Hemra Malidai 27-5-82 1,80,700 21,000 (Approx)

Sh. Kishor Kumar 6-1-81 11,70,000 17,60,000 3,52,850 3,52,800 4,40,398

1979-80
1980-81
1981-82

83. As regards the demand pending recovery from Shri Jitendra, the Commissioner of Income Tax, Bombay City III stated during evidence as follows:—

“The arrear position till date in the case of Shri Jitendra is like this. For the assessment year 1977-78 only a sum of about Rs. 82,000 is pending recovery which represents penal interest. He has applied to the Inspecting Assistant Commissioner for waiver of the interest. For 1979-80, a demand of about Rs. 98,000 has been pending which again is for penal interest. He says that his case is covered by settlement and therefore, he should not be charged for any levy of penal interest. The matter is pending with the Board. For 1981-82, there is a demand of about Rs. 17.36 lakhs which is in dispute before the Tribunal. For 1982-83, the amount due from him is Rs. 6,70,000 which is in dispute in the first appeal. The Inspecting Assistant Commissioner has granted him time for payment till December 1985 or till the appeal comes up before the Commissioner (Appeals), whichever is earlier. There is no arrear of wealth tax and no arrear of gift tax.”

84. Asked about the penal provision of the Income Tax Act, 1961 applicable to the cases of submission of false returns, the Secretary (Revenue) stated:

“There is a provision for penalty. In respect of Jitendra the penalty for concealment under Section 271(1)(c) is Rs. 3,43,867 and penalty for statement under Section 273(1)(b) is Rs. 54,409 for the year 1979-80.”

85. In the case of Shri Jitendra Kapoor, the Ministry of Finance (Deptt. of Revenue) have intimated as under:

“In this case no search operation was conducted by the Income-tax Department. There was, however, a search by the Enforcement Directorate. A diary seized by the Enforcement Directorate was requisitioned by the Income-tax Department under Section 132A of the Income-tax Act, 1961 on the 8th September, 1980. On the 1st May, 1982, the assessee submitted an application under Section 273A of the Income-tax and offered an amount of Rs. 10 lakhs for taxation in one or more than one year. After a careful consideration of the facts and the circumstances of the case the amount of addition was determined at Rs. 20 lakhs to which the assessee agreed. It was decided

to assess the extra income in the following years as follows:—

Assessment year	Amount of addition
	Rs.
1970-71	3,40,000
1971-72	2,19,000
1978-79	4,02,000
1979-80	4,96,000
1980-81	5,43,000
	20,00,000

The information regarding tax effect and tax paid is given below:

Assessment Year	Tax effect	Tax paid
1970-71	2,42,055	2,42,055
1971-72	1,62,965	1,62,965
1978-79	2,53,460	Fresh Assessment pending
1979-80	3,39,867	3,26,200
1980-81	3,70,960	3,00,000"

86. During evidence, the Committee invited the attention of the representative of the Ministry to the variation in the figures given in the audit para and those given by the Ministry in their note. The audit para showed that the assessee made addition of Rs. 24,85,000 to the returned income for the assessment year 1979-80 whereas the information furnished by the Ministry indicated that only Rs. 4,96,000 was added. The Committee desired the witness to clarify the position.

87. The Commissioner of Income Tax, Bombay City III informed the Committee as follows:

"I find from the papers that have been shown to me here that the Commissioner had wrongly reported the figures and

the Revenue Audit based those observations on that Report."

* * * *

"The Commissioner had said that his figures are not correct. Rs. 28,85,000 was the amount of an addition made by the Income Tax Officer which was set aside in appeal."

85. He further added that the Board (CBDT) had given a clarification to the Revenue Audit in their letter dated 24-4-1984. The clarifications given by the Central Board of Direct Taxes to the Audit is as follows:

"As per para No. 3.26.14(1) of C&AG's Report for 1982-83, it was mentioned that Shri Jitendra Kapoor offered Rs. 24,85,000/- to be taxed in Assessment year 1979-80. This statement is incorrect. In fact, the assessing officer had added Rs. 24.85 lakhs to the returned income of the assessee on the basis of inferences drawn by him from the entries in the diary seized by the enforcement Directorate. In first appeal, the CIT (Appeal) set aside the addition and restored the matter to assessing officer. However, in the appeal for A.Y. 1978-79 while setting aside the assessment the CIT(A) had held that the inference drawn and the conclusions reached by the assessing officer from the entries of the diary were not reasonable or legal. Meanwhile, the assessee filed an application under section 273A on 1-5-1982 offering aggregate amounts of Rs. 10,00,000/- in one more year. The amount finally determined by CIT was Rs. 20,00,000/- to be taxed in 5 assessment years. However, this settlement has been rejected by the CIT who was holding city Charge-III, in March 1985. The total income finally assessed as per order giving effect to CIT(A)'s order is Rs. 5,60,361/- This includes the sum of Rs. 4,96,000/- as per original settlement under Section 273A.

Assessment for assessment year 1980-81 has been set aside by the CIT, Bombay City-III, Bombay in March, 1985."

39. In the case of Miss Rekha Ganeshan, the Ministry of Finance (Deptt. of Revenue) have stated:

"Miss Rekha Ganeshan, a film artist had filed an application for settlement on the 8th July, 1983 in respect of, the

Income-tax cases for the assessment years 1980-81, 1981-82, 1982-83 and 1983-84 and the wealth-tax cases for the assessment years 1978-79, 1979-80, 1980-81, 1981-82, 1982-83 and 1983-84. Settlement petitions in respect of Income-tax cases for the assessment years 1978-79 and 1979-80 were filed on the 24th September, 1984. The amounts offered are as follows:

Assessment year	Amount offered in Income-tax assessments (Rs.)	Amount offered in Wealth-tax assessments (Rs.)
1978-79	2,55,000	4,65,000
1979-80	1,85,000	6,15,000
1980-81	1,65,000	7,70,000
1981-82	3,05,000	10,50,000
1982-83	7,15,000	17,50,000
1983-84	5,05,000	22,55,000

Applications in respect of the Income-tax assessments for the assessment years 1980-81 and 1982-83 have been rejected by the Settlement Commission. The Settlement Commission has also rejected the application in respect of Wealth-tax assessments for the assessment years 1978-79 and 1982-83."

90. The Ministry of Finance (Deptt. of Revenue) have furnished further information in respect of Miss Rekha Ganeshan as follows:

"Assessment years relevant to the search are 1980-81, 1981-82, 1982-83 and 1983-84. In respect of assessment years 1981-82 and 1983-84, the Settlement Commission had admitted assessee's applications for settlement. In respect of assessment year 1980-81, assessment was completed on 16-3-1983 but the same has been set aside by CIT (Appeal) on 19-1-1984. Shri T. S. Ganeshan Ex-Secretary of Miss Rekha Ganeshan has to be cross examined in respect of two diaries, who unfortunately has gone completely blind. Assessment for assessment year 1982-83 has been completed on 26-3-1985 and the assessee has filed appeal before CIT (Appeal), Bombay."

91. The Ministry have also furnished information about some other persons connected with the Film Industry who had also filed settlement petitions before Settlement Commission. The information is as follows:

(1) PRAKASH MEHRA GROUP OF CASES

1. S/Shri S.P. Chaudhary	Wealth-tax Income-tax	1974-75 to 1983-84 1974-75 to 1983-84
2. Prakash Mehra	Wealth-tax Income-tax	1979-80 to 1983-84 1975-76 to 1983-84
3. Neera Mehra	Income-tax Wealth-tax	1976-77 to 1983-84 1977-78 to 1983-84
4. Sumit Films	Income-tax	1979-80 to 1983-84
5. Prakash Mehra Combines	Income-tax	1975-76 to 1978-79 1981-82 to 1983-84
6. Pratap Mehra	Income-tax Wealth-tax	1976-77, 1979-80, 1981-82 to 1983-84 1979-80 to 1983-84

According to the Ministry, assessments have been completed except in the case of Shri S. P. Chaudhary for assessment year 1983-84 for which application has been admitted by the Settlement Commission.

(2) SHRI O. P. RALHAN

(1) Date of filing of settlement petition before the Settlement Commission	October, 1980
(2) Date on which application was admitted by the Settlement Commission	18-4-1981
(3) Amount offered by the assessee	A.Y. 1970-71 Amount Rs. 2,50,000/-
(4) Tax involved with reference to (3) above	Rs. 1,70,000 (Approx.)

The Ministry have also informed as follows:

“Unexplained cash credits were earlier included in the assessment for the assessment year 1970-71. This assessment was set aside by A.A.C. Now the Settlement Commission has decided the case for assessment year 1970-71 on 31-7-1985. Assessments for the assessment years 1967-68 to 1969-70 have been reopened to tax the cash credits.”

(3) SHRI SATRAM ROHRA

Asstt. Year	Date of filing of application	Income offered	Tax payable (Rs.)	Tax paid (Rs.)
1976-77 . . .	24-6-1977	Rs. 8 lakhs	5,92,559	6,72,000
1977-78 . . .	19-5-1978	Rs. 13 lakhs	8,35,120	
1978-79 . . .	19-5-1978	Rs. 4 lakhs	2,52,080	
		Rs. 25 lakhs	16,79,759	

All the assessments relevant to search i.e. assessment years 1976-77, 1977-78 and 1978-79 are before the Settlement Commission for which assessee's application has been admitted.

92. As regards the cases referred for compulsory audit, the Ministry of Finance informed that one case of Film Producer in the Film Circle, Bombay had been so referred and while the audit was in process, the assessee furnished a revised return declaring an additional income of Rs. 9,00,000/-

93. Sections 276C (1) and 277 of the Income Tax Act, 1961 read as follows:

"276C (1) If a person wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable—

(i) in a case where the amount sought to be evaded exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine."

"277. If a person makes statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he

either knows or believes to be false, or does not believe to be true, he shall be punishable:

- (i) in a case where the amount of tax, which would have been evaded if the statement of account had been accepted as true, exceeds one hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;
- (ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine."

94. The Committee desired to know the details of the prosecution complaints filed against the film stars under Section 276C of the Income Tax during the last four years. The Ministry of Finance in a note informed the Committee as under:

"Prosecution complaints have been filed against film stars Shri Dharmender Singh Deol, Smt. Hema Malini and Shri Rajesh Khanna. The details are given as under:—

SHRI DHARMENDER SINGH DEOL.—The film actor Shri Dharmender Singh Deol had received an amount of \$ 5,000 from Shri Tapan Guha, a film producer, during the course of the shooting of the film 'Aatank' in Japan. The assessee, did not disclose this income of approximately Rs. 45,000/- in his return of income for the asstt. year 1981-82. This fact came to light during the course of search and seizure operations carried out in August, 1982. For the failure on the part of the assessee to disclose this income, a complaint has been filed against the assessee under section 276-C(1) and 277 (ii).

SMT. HEMA MALINI: The film actress Smt. Hema Malini had received \$ 3,500 from Shri Tapan Guha, a film producer, during the course of the shooting of the film 'Aatank' in Japan. The assessee, did not disclose this income of Rs. 31,500/- in her return of income for assessment year 1981-82. This fact came to light during the course of the search and seizure operations carried out in August, 1982. In addition to the failure of the assessee had credited her bank A/c maintained at Madras, with a sum of Rs. 19,53,000/-. During the

course of investigation the assessee could not establish the source of the funds and gave explanations which were not supported with definite and reliable evidence. The assessee had just claimed that her bank account was misused allegedly by Mr. Girdharilal Lalchand. In order to find out the correctness of the assessee's statement, investigations were conducted at Madras, which further showed that the assessee's explanations were not correct. Thus, the total amount of income in respect of which the assessee attempted to evade income-tax and with reference to which the false varification was made in the return of income came to Rs. 19,85,500/-. Accordingly, the Department has filed complaints against the assessee under section 276-C(1) and 277 (i).

SHRI RAJESH KHANNA: The film actor Shri Rajesh Khanna has been chargesheeted under section 276C and 277 of the Income-tax Act for assessment years 1976-77, 1977-78 and 1979-80. Similar proceedings U/s 35A and 35D of the Wealth-tax Act, have been launched in the same case for assessment years 1976-77 to 1981-82. A complaint regarding offence under IT Act was filed before the Metropolitan Magistrate, 28th Court, Bombay on 30-3-1983 (case No. 172 to 174/S/83 dated 30-3-1983). The gist of the complaint was that Shri Rajesh Khanna had failed to declare the source of investment in M/s Ashirwad Mini Theatre by non-declaration of Income and investment therein."

95. The audit para states that the assesseees falling in high income groups return disproportionately low income and avoid payment of advance and self assessment taxes and when after strenuous deliberations real incomes are determined and heavy demands of tax are raised they come up with settlement petitions. The Ministry have intimated the following particulars of cases of income-tax and wealth-tax pending before the settlement commission as on 31st March, 1985:

Income-tax	Wealth tax	Total
1718	647	2365

This includes applications which have already been admitted and which are pending for admission.

Year wise analysis	IT	WT	Total
(i) Pending over 5 years	287	174	461
(ii) Pending for more than 3 years but less than 5 years.	289	87	376
(iii) Pending for more than 1 year but less than 3 years.	768	261	1029
(iv) Pending upto 1 year	374	125	499
	1718	647	2365

96. The statement given below gives information regarding the number of cases in which proper statement of facts had not been filed by the assessee upto the 31 March, 1985, number of cases in which Commissioner's report under section 245D(1) of the Income-tax Act, 1961/22D(1) of the Wealth-tax Act, 1957 had not been furnished upto that date and the number of cases in which the Commissioners' report on the statement of facts had not been received by the Settlement Commission upto the 31st March, 1985:—

Analysis	No. of cases pending as on 31-3-85	No. of cases in which proper statement of facts have not been filed by applicant upto 31-3-1985	No. of cases in which commissioner report under sec. 245D(1) of IT Act, 61/22 D(1) of WT Act. 57 not recd. upto 31-3-85	No. of cases in which commissioner report on statement of facts have not been recd. upto 31-3-85.
(i) Cases pending for over 5 years.	461	41		86
(ii) Pending for more than 3 years, but less than 5 yrs.	376	21	1	62
(iii) Pending for more than 1 yr. but less than 3 yrs.	1029	182	3	186
(iv) Pending upto 1 yr.	199	19	81	12
TOTAL :	2365	263	85	34

97. During evidence, the Committee enquired about the working of the Settlement Commission. The Settlement Commissioner explained as follows:

“The Settlement Commission is a quasi-judicial body functioning within the Department of Revenue. It consists of a Chairman and two members only. This Settlement Commission was constituted in 1976 on the basis of a recommendation made by the Wanchoo Committee. Now, any income-tax payer can at any stage of his case file an application with the Settlement Commission to get his case settled. The application is filed in a prescribed form. In the prescribed form he has to give many particulars. Full particulars such as the income which he has concealed, the manner in which he has concealed that income and the tax payable on that income. If the additional income-tax that is payable, on the basis of the settlement application exceeds Rs. 50,000, then only the application lies with the Settlement Commission. Now, after this application is received, we send a copy of this application to the Commissioner of Income-tax. We do not send the particulars regarding income concealed by him which are in the form of Annexure. Now, the Commissioner of Income-tax can raise an objection that the Department has already established concealment of particulars of income in a particular case or the concealment of particulars of income is likely to be established. He can also raise objection on this ground that perpetration of fraud with a view to avoiding income-tax has been established or likely to be established. Once the Commissioner raises that objection, then the Settlement Commission gives a hearing to the petitioner and if the Settlement Commission is satisfied that the objection of the Commissioner is not well-founded, they can admit the application. Otherwise the application is accepted by the Settlement Commission, we send to the Commissioner the Annexures given by the assessee which show how much income he has concealed and the manner in which he has concealed the same. Then, it is sent to the Commissioner of Income-tax and he gives his report within three months.

After the Commissioner's report is received in our office, we have our regional offices where our Deputy Directors of investigation examine that report and then alone the

case becomes ripe for hearing by the Settlement Commission. Now, the Settlement Commission has the power to determine the total income, the tax payable, the penalty leviable, the interest payable by the assessee and all other matters that may be necessary to make the settlement effective. It has one unique power of giving immunity to the tax-payer from prosecution for any offence under the Income-tax Act or Wealth Tax Act or under the IPC or even under any other Central Act, only with reference to the case covered by the settlement. But this immunity can be granted only on three conditions. These conditions are that the Commission must be satisfied that the assessee has made a complete disclosure of his income, he has cooperated with the Commission during the proceedings and he has also given the manner in which the concealed income was derived by him.

Now, there are 2365 applications which were pending with the Commission as on 31-3-1985. Out of this, we have 974 applications which are pending for admission. There are 1391 applications which have been admitted and which are pending for further consideration. The three members of the Commission have to sit together and give a hearing and decide the case."

98. Asked to inform the objectives achieved by the Settlement Commission and the time limit for disposal of cases pending with the Settlement Commission, the Ministry of Finance (Deptt. of Revenue) stated in a note as follows:

"Uptil the 31st March, 1985, the Settlement Commission had settled 1458 cases involving 5617 assessments. A majority of the cases pertained to search and seizure operations and involved complex investigations. In the normal course, these cases would have involved protracted litigation. The main objective of settling complicated cases and avoidance of protracted litigations, in such cases, can therefore, be said to have been achieved to a great extent.

The Income-tax Act, 1961 and Wealth-tax Act, 1957 do not provide for any time limit for making an order of settlement by the Settlement Commission. Considering the fact that the Settlement Commission has to deal with highly controversial and complicated issues and has to allow reasonable opportunities of hearing both to the

Department as also to the assessee before making a final order, it is not advisable to lay down a time limit for making the final settlement orders.

It is not obligatory on the part of the assessee to pay the sums due on the income/wealth disclosed in the petition filed before seeking a settlement thereof. However, in cases where the settlement application is allowed to be proceeded with, the assessee is required to pay within 35 days of the receipt of the copy of the order under section 245D(1) of the Income-tax Act, 1961, the additional amount of income-tax payable on the income disclosed in the application. He is also required to furnish proof of such payments to the Settlement Commission. The Wealth-tax Act, 1957 also contains similar provisions. If the Settlement Commission is satisfied on an application made in this behalf by the assessee that he is unable by good and sufficient reasons to pay the additional amount of tax within 35 days of the receipt of a copy of the order allowing the application to be proceeded with, it may extend the time for payment of the amount which remains unpaid or allow payment thereof by instalments if the assessee furnishes adequate securities for the payment thereof. In all cases where the additional amount of tax is not paid within 35 days of the receipt of the copy of the order allowing the application to be proceeded with, the assessee is liable to pay simple interest at the rate 15 per cent per annum on the amount remaining unpaid from the date of the expiry of the period of 35 days referred to above. In cases where the additional amount of tax is not paid within the specified time or the extended time, as the case may be, the Settlement Commission, may direct that the amount of income-tax remaining unpaid, together with any interest payable thereon be recovered and any penalty for default in making payment of such additional amount may be imposed and recovered, in accordance with the provisions of Chapter XVII, by the Income-tax Officer having jurisdiction over the assessee."

99. With a view to achieving greater coordination and effective handling, the assessments of film personalities were centralised in special circles created at Calcutta, Bombay, Madras, Bangalore and Hyderabad. The film circles at Calcutta and Bombay have been functioning from 1963 and 1964, respectively and those at Madras,

Bangalore and Hyderabad from 1982. The Public Accounts Committee had in their 91st Report (Seventh Lok Sabha) had recommended a critical evaluation of the usefulness and effectiveness of these circles and had reiterated in their 177th Report (Seventh Lok Sabha) that the Ministry should indicate the precise action taken on their recommendations. The Committee are surprised to learn that apart from the routine annual inspection, the Ministry have not undertaken any review of the working of the film circles so far to judge their efficiency and to see whether the objectives behind the creation of these circles have been achieved, though more than 2 decades have passed since their creation in the metropolitan cities of Calcutta and Bombay. The Committee once again stress the urgent need to undertake the review of the film circles to evaluate their effectiveness to achieve better coordination and to tackle the evils of unaccounted money.

100. During evidence, the Committee were informed that the total revenue from all the circles was approximately Rs. 15 crores per annum. According to the Report of the C & AG of India for 1984-85 on Direct Taxes, the total revenue from direct taxes were nearly Rs. 4800 crores. The total collection of the film circles constitutes nearly 0.31 per cent of the total revenue from direct taxes during 1984-85. The Committee are not at all satisfied with the meagre revenue from the film industry whose turn over in India is fairly high.

101. The method of working out the amount of amortisation i.e. gradual writing off of expenses to be allowed in respect of the cost of production of feature film in the hands of the film producers is given in Rule 9A and that in respect of the cost of distribution rights acquired by the distributors is detailed in Rule 9B of the Income-tax Rules, 1962. With a view to curbing the growing tendency of funnelling of large amounts of unaccounted money into the star studded films and to ensuring that the interests of revenue were adequately protected, the Committee had in paragraph 1.68 of their 91st Report (Seventh Lok Sabha) recommended a review of Rules 9A and 9B by a Study Group consisting, among others, of experts in taxation accountancy and audit and eminent non-officials having intimate knowledge of operation of film industry. Obviously, the Committee intended to keep the study independent of official thinking. But contrary to the wishes of the Committee the Ministry entrusted the matter to a study group consisting of departmental officials only. The argument of the Ministry that the association of non-officials was fraught with administrative difficulties relating to payment of fees etc. is not at all tenable. That apart, the Ministry did not even in-

form the Committee before appointing the study group, of the reasons why they deviated from the recommendation. In paragraph 1.12 of their 177th Report (7th Lok Sabha), the Committee had further recommended inter alia that the study group must be directed to consult the experts in accounting, audit, besides non-officials having intimate knowledge of film industry, before finalising the report. The Committee, however, do not find any evidence of the Study Group having consulted any experts as desired. The Committee cannot but regret the apathetic attitude of the Ministry to their recommendations and would recommend that responsibility for this lapse should be fixed.

102. Since the Ministry of Finance have already considered and taken decision on the recommendations made by the Study Group, the Committee would like to be apprised of the precise action taken on each recommendation of that Study Group.

103. Under section 285B introduced by the Taxation Laws Amendmend Act, 1975, with effect from 1-4-1976, every person carrying on production of cinematograph film, is required to furnish a statement in form No. 52-A giving particulars of all payments of over Rs. 5000, in aggregate, made by him or due to him for each financial year, or part of it till completion of production, within 30 days from the end of the financial year or within 30 days from the date of completion of production, whichever is earlier. The objective of this provision is to keep a check on inflation of expenditure by film producers. The Central Board of Direct Taxes issued instructions in August 1976 directing all the Commissioners of Income-tax to give widest publicity to the aforesaid provisions and to alert the officers working in the film circles about the legislation. The Committee are dismayed to find that out of 3161 statutory statements required to be furnished by the film producers during the five years from 1979 to 1984, only 261 statements were actually received in the Department. The default in the filing of statutory Statements was as high as 92 per cent. Penal action was taken only in 66 cases imposing a penalty of Rs. 1.47 lakhs. Apparently, no action was taken against the defaulting film producers in as many as 2834 cases for failure to file the estimates. This clearly shows that the legislation was merely on the Statute book without being properly implemented. Mere incorporation of the provision in the Statute book is of no use unless and until it is enforced earnestly and objectively. The admission by the Commissioner of Income-tax, Tamil Nadu, Madras that in the absence of source register the correct number of statements actually received could not be given and that the suitable instructions had been issued to the concerned Inspecting Assistant Commissioners to maintain a register and record of cases of producers in order to ini-

tiate the proceedings, is clearly indicative of the slackness on the part of Income tax department in implementing the provisions of law. The Committee need hardly point out that the entrustment of responsibility to a set of officials must be specific so that they can be held responsible and accountable if a particular provision of law is not properly implemented.

104. Section 272A of the Income Tax Act, 1961 provides that if a person fails to furnish the requisite statement under section 285B, he shall be liable to pay by way of penalty a sum which may extend to ten rupees for every day during which the failure continues. The Study Group set up by the Ministry of Finance found the penalty totally inadequate to act as deterrent and recommended that the penalty for default should be increased to Rs. 100 per day of default. The Committee are of the view that even the penalty suggested by the Study Group will not serve the interests of revenue and will not act as sufficient deterrent. The Committee suggest the imposition of a progressive rate of penalty to act as effective deterrent. The Committee hope that the Ministry would give serious thought to the matter and consider suitable amendment of the existing provisions of law with due promptitude.

105. The Audit Para has reported a case of a film 'Kala Pathar' in which the cost of production of the film as returned was Rs. 1.28 crores but the total payments of over Rs. 5000 made during the financial years 1979-80 to 1981-82 were only Rs. 18.29 lakhs. The percentage of the payments exceeding Rs. 5000 in the aggregate to the total cost works out to 15. The Ministry of Finance have stated that the provisions of section 285B have been construed in a very restrictive manner by some film producers to cover only employees or others engaged to render professional service. The Study Group had also observed that the scope of the section as it existed might not cover most of the payments made by the producers, and had recommended the deletion of words 'as employees or otherwise' appearing at the end of that section. The Ministry of Finance have, however, held the view that the provisions are quite clear and the interpretation thereof made in certain quarters was totally incorrect. The Ministry have, accordingly, issued clarificatory instructions to the Commissioners of Income Tax to enforce these provisions strictly. The Committee, however, agree with the views of the Study Group and feel that the existing provisions, as worded, are not free from doubts and may lead to litigation. The Committee, therefore, recommend that the intention behind the legislation should be made clear and unambiguous through suitable amendments.

106. The Committee are amazed to find that there is no machinery or source with the Department through which one could get details in respect of abandoned/incomplete films. The Ministry of Information and Broadcasting who are responsible for the administration of the Cinematograph Act, are also not maintaining any such record. In reply to a question, the Ministry of Finance (Department of Revenue) have stated:

“None of the film artistes (named in the Audit Para) have been able to furnish information regarding the films featuring them which have been abandoned. In view of this, details of remuneration receivable/received in respect of such incomplete/abandoned films are not available on record.”

Apparently, this goes to indicate that the remuneration received by the cine artistes, in all probability, escaped assessment. Lack of information with the Department leaves a sufficient scope for manipulation of cost of production or inflation of expenditure by the film producers with impunity. It is, therefore, desirable for the Ministry of Finance (Department of Revenue) to examine all the aspects of the matter in depth and evolve some methodology, in consultation with the Ministry of Information and Broadcasting and the State Governments concerned, so as to ensure that income from the incomplete/abandoned films do not go unassessed and untaxed for lack of information.

107. There are no norms or guidelines prescribed for the assessing staff to see whether the cost of a film shown by the Film Producer was reasonable or not. There was wide variation in the costs of production of films ‘Sholay’ (Rs. 3.03 crores), ‘Kala Pathar’ (Rs. 1.28 crores) and ‘Doosra Aadmi’ (Rs. 60.21 lakhs). The Ministry have expressed their inability to fix any norms to judge the reasonableness of the cost of film because of variable factors like the number of artistes, their remuneration, nature of sets, number of prints etc., on which the cost depends. Obviously, assessing officers have no means of verifying the correctness of expenditure on production of films and have to rely on the expenditure shown in film Producer’s record. For instance, there is a vast difference between the cost of prints of the film ‘Sholay’ (Rs. 59.20 lakhs) on the one hand and of the films ‘Kala Pathar’ (Rs. 1.42 lakhs) and ‘Doosra Aadmi’ (Rs. 4.32 lakhs) on the other, which requires very close scrutiny and investigation. The Committee feel that as there are no norms to judge the reasonableness of the cost of films, the details of expenditure indicated by the producers should be critically scrutinised by the assessing officers.

108. According to the information furnished by the Ministry of Finance, the number of feature films certified for exhibition in the Bombay region during the financial years 1981-82, 1982-83 and 1983-84 was 195, 201 and 205, respectively. The number of film financiers feeding the industry which was at one time i.e. during the year ending March 1982, 105, however, dropped down to incredibly low figures of 14, 14 and 29 during years ending March 1983, 1984 and 1985, respectively. The Committee feel that the sudden drop in the number of film financiers and the sources from where the producers arranged their finances in the later years, should be thoroughly investigated and their findings made known to them.

109. The Committee note that 7225 income tax assessments were pending completion at the end of March, 1985 in all the film circles. According to the Ministry of Finance (Department of Revenue) the Summary Assessments Scheme has been extended in cases involving returned income upto Rs. 1 lakh. This measure will no doubt reduce the pendency of Income tax assessments. But considering the sizeable investment in the film industry and the considerable scope for manipulation of cost of production leading to generation of unaccounted money, the Committee apprehend that extension of this scheme to this industry would not serve the interests of revenue. It would, rather, help unscrupulous assesseees who would very easily in the absence of detailed scrutiny by the Department, get away by returning their income within the prescribed limit. This will defeat the very purpose for which film circles were created. The Committee feel that there is need to review the criteria for Summary Assessment Scheme in such cases and recommend that some positive measures be taken to ensure that there is no understatement of income. The Committee also consider it imperative that returns filed by those connected with the film industry are critically analysed to obviate the possibility of under-statement of income.

110. Audit Para has pointed out certain difficulties faced by the Audit in reconciling the payments made by the film producers to various artistes with the receipts shown in the returns of the artistes. The reconciliation was found impracticable due to the reasons like different accounting years of producers and artistes, different systems of accounting followed by the film producers and the artistes, and non-furnishing of artiste-wise and picture-wise details about the amount of remuneration or fees payable as per agreement etc.

111. The Ministry of Finance have a proposal under their consideration for introducing a uniform accounting year for all the assesseees. This would no doubt help the assessing officers of the Department in cross checking the income returned by assesseees

However, the Committee feel that the introduction of uniform accounting year would not be enough in cases where the assessee particularly in areas like film industry, follow different accounting systems namely, cash system (i.e. transactions on actual basis) and mercantile system (i.e. transactions on accrual basis), for maintaining their accounts. In order to facilitate accurate cross-verification of various payments and receipts of different assessee and to reduce the scope of tax evasion to the minimum, it is but imperative that all the assessee adopt the same accounting system in addition to following the same accounting year. The Committee hope that the Ministry would give due consideration to this aspect of the matter and take suitable steps to amend the law in consultation with the Ministry of Law. In case it is not found practicable or feasible to introduce uniform accounting system, the assessee should be required to submit proforma accounts in the specified system of accounting for purposes of income tax assessments.

112. It is common knowledge that cine artistes, film producers and other connected with the Film Industry spend lavishly on their living, travels, entertainments and also enter into benami transactions to hide their income and assets. The Committee trust that the Ministry will devise ways and means by strengthening their intelligence wing, for collection of information on the extravagant spendings and underhand practices resorted to by the persons suspected to be tax evaders in the film industry.

113. The Committee also find that the film personalities having undisclosed income come before the Settlement Commission, with the object of pre-empting raids on their premises. To quote a few cases, a film artiste filed applications for settlement on 8 July, 1983 and 24 September, 1984 in respect of assessment years 1978-79 to 1983-84 offering aggregate amounts of Rs. 21.30 lakhs and Rs. 69.05 lakhs in Income Tax and Wealth Tax Assessments, respectively. Similarly, another film artiste offered an additional amount of Rs. 20 lakhs in respect of five assessment years 1970-71, 1971-72, 1978-79, 1979-80 and 1980-81. A third film personality offered an aggregate amount of Rs. 25 lakhs in respect of the assessment years 1976-77, 1977-78 and 1978-79. The Committee are of the view that if the intelligence wing of the Department is sufficiently strengthened it will have salutary effect of preventing tax evasion in the film industry.

114. Under section 142(2A) of the Income-tax Act, 1961 an ITO may, with the prior approval of the Commissioner of Income-tax, direct an assessee to get his accounts audited by an accountant to be nominated by the Commissioner of Income-tax. The Committee in their 177th Report (Seventh Lok Sabha) had desired that the

powers of compulsory audit of accounts conferred under section 142(2A) *ibid* be made use of in all cases where necessary. It is a matter of regret that upto the end of March 1985, only one case of film producer in Bombay was referred for compulsory audit. The Committee find from the information furnished by the Ministry of Finance that while the audit was in progress in the said case, the assessee filed revised return declaring additional income of Rs. 9 lakhs. The Committee are of definite view that afore mentioned provisions, if invoked from time to time in the cases of established film producers and artistes, would go a long way in unearthing unaccounted income.

115. The Committee find that the Settlement Commission is hard pressed with the workload of settlement cases pending with it. As on 31 March, 1985, 2365 cases were pending with the Commission and out of these 461 cases were pending for more than five years. This does not indicate healthy State of affairs so far as the working of the Commission is concerned. There should not be any reason for a settlement petition to remain pending for such a long time. While there may be certain complicated cases which need thorough examination, yet five years period is too long to justify any such examination.

116. At present, the Settlement Commission is functioning with a Chairman and two members. Considering the number of cases pending before the Settlement Commission, the Committee are of the view that more benches should be constituted for expeditious disposal of pending cases.

117. The Committee are not satisfied with the prosecution of cases filed in Courts relating to default in payment of income tax. A review as to why there is delay in prosecution and as to why a number of cases result in acquittals, is therefore called for.

NEW DELHI;

E. AYYAPU REDDY,

20 February, 1987

Chairman,

1 Phalgun, 1908 (Saka)

Public Accounts Committee.

APPENDIX - I

(Vide para 66 of the Report)

Statement indicating the Expenses incurred by the Film Producer on Film 'Sholay'

		(Rupees in lakhs)
1	Artistes	14.44
2	Salary . . . . .	.56
3	Cameraman	0.56
4	Art Director	0.36
5	Make-up	1.49
6	Musician	2.62
7	Play back singers	0.17
8	Setting	22.21
9	Junior Artistes	24.07
10	Travelling	5.51
11	Foreign Travel	0.04
12	Wages	23.09
13	Messing	29.38
14	Interest	31.49
15	Sound recording	0.05
16	Lyrics	0.25
17	Music Director	0.30
18	Costume	7.08
19	Director	10.00
20	Publicity	12.92
21	Hire charges	29.47
22	Petrol & Repairs	8.35
23	Maintenance of sets	0.04
24	Cost of prints	59.20
25	Story	0.95
26	Others	12.42
Total :		303.00

APPENDIX- E

(Vide para 66 of the Report)

Statement indicating the expenses incurred by the Film Producers of Films 'Kala Pathar' and 'Doosra Admi'

	Kala Pathar	Doosra Admi
	(Rupees in lakhs)	
1 Artists	16.48	10.46
2 Publicity	9.93	6.71
3 Still Photo	1.63	0.51
4 Raw Stock	10.74	11.95
5 Music	5.08	2.35
6 Lodging & Boarding	21.80	2.42
7 Labour	9.47	1.31
8 Story & Dialogue	4.53	0.78
9 Technicians	8.60	4.99
10 Dress, Costumes & make-up	2.90	2.15
11 Shooting fee, Property fee	5.33	0.58
12 Setting expenses for mine sequence	8.68	..
13 Setting & decoration	5.96	2.14
14 Electricity	5.05	..
15 Developing & Print	1.42	4.32
16 Others	10.58	9.72
	<hr/>	<hr/>
	127.58	60.59

APPENDIX—iii

Conclusions/Recommendations of the Committee

Sl. No.	Para No.	Ministry/ Dept.	Conclusions/Recommendations
1	2	3	4
1	69	Finance (Rev.)	<p>With a view to achieving greater coordination and effective handling, the assessments of film personalities were centralised in special circles created at Calcutta, Bombay, Madras, Bangalore and Hyderabad. The film circles at Calcutta and Bombay have been functioning from 1963 and 1964, respectively and those at Madras, Bangalore and Hyderabad from 1982. The Public Accounts Committee had in their 91st Report (Seventh Lok Sabha) had recommended a critical evaluation of the usefulness and effectiveness of these circles and had reiterated in their 177th Report (Seventh Lok Sabha) that the Ministry should indicate the precise action taken on their recommendation. The Committee are surprised to learn that apart from the routine annual inspection, the Ministry have not undertaken any review of the working of the film circles so far to judge their efficiency and to see whether the objectives behind the creation of these circles have been achieved, though more than 2 decades have passed since their creation in the metropolitan cities of Calcutta and Bombay. The Committee once again stress the urgent need to undertake the review of the film circles to evaluate</p>

their effectiveness to achieve better coordination and to tackle the evils of unaccounted money.

During evidence, the Committee were informed that the total revenue from all the circles was approximately Rs. 15 crores per annum. According to the Report of the C&AG of India for 1984-85 on Direct Taxes, the total revenue from direct taxes were nearly Rs. 4800 crores. The total collection of the film circles constitutes nearly 0.31 per cent of the total revenue from direct taxes during 1984-85. The Committee are not at all satisfied with the meagre revenue from the film industry whose turn over in India is fairly high.

The method of working out the amount of amortisation i.e. gradual writing off of expenses to be allowed in respect of the cost of production of feature film in the hands of the film producers is given in Rule 9A and that in respect of the cost of distribution rights acquired by the distributors is detailed in Rule 9B of the Income-tax Rules, 1962. With a view to curbing the growing tendency of funnelling of large amounts of unaccounted money into the star studded films and to ensuring that the interests of revenue were adequately protected, the Committee had in paragraph 1.68 of their 91st Report (Seventh Lok Sabha) recommended a review of Rules 9A and 9B by a Study Group consisting, among others, of experts in taxation, accountancy and audit and eminent non-officials having intimate knowledge of operation of film industry.

Finance (Rev.)

Do.

Rs. 5000, in aggregate, made by him or due to him for each financial year or part of it till completion of production, within 30 days from the end of the financial year or within 30 days from the date of completion of production, whichever is earlier. The objective of this provision is to keep a check on inflation of expenditure by film producers. The Central Board of Direct Taxes issued instructions in August 1976 directing all the Commissioners of Income-tax to give widest publicity to the aforesaid provisions and to alert the officers working in the film circles about the legislation. The Committee are dismayed to find that out of 3161 statutory statements required to be furnished by the film producers during the five years from 1979 to 1984, only 261 statements were actually received in the Department. The default in the filing of statutory Statements was as high as 92 per cent. Penal action was taken only in 66 cases imposing a penalty of Rs. 1.47 lakhs. Apparently, no action was taken against the defaulting film producers in as many as 2634 cases for failure to file the estimates. This clearly shows that the legislation was merely on the Statute book without being properly implemented. Mere incorporation of the provision in the Statute book is of no use unless and until it is enforced earnestly and objectively. The admission by the Commissioner of Income-tax, Tarnal Nadu, Madras that in the absence of source register the correct number of statements actually received could not be given and that the suitable instructions had been issued to the concerned Inspect-

ing Assistant Commissioners to maintain a register and record of cases of producers in order to initiate the proceedings, is clearly indicative of the slackness on the part of Income tax department in implementing the provisions of law. The Committee need hardly point out that the entrustment of responsibility to a set of officials must be specific so that they can be held responsible and accountable if a particular provision of law is not properly implemented.

Finance (Rev.)

Section 272A of the Income Tax Act, 1961 provides that if a person fails to furnish the requisite statement under Section 285B, he shall be liable to pay by way of penalty a sum which may extend to ten rupees for every day during which the failure continues. The Study Group set up by the Ministry of Finance found the penalty totally inadequate to act as deterrent and recommended that the penalty for default should be increased to Rs. 100 per day of default. The Committee are of the view that even the penalty suggested by the Study Group will not serve the interests of revenue and will not act as sufficient deterrent. The Committee suggest the imposition of a progressive rate of penalty to act as effective deterrent. The Committee hope that the Ministry would give serious thought to the matter and consider suitable amendment of the existing provisions of law with due promptitude.

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The Audit Para has reported a case of a film 'Kala Pather' in which the cost of production of the film as returned was 1.28 crores but the total payments of over Rs. 5000 made during the financial

years 1979-80 to 1981-82 were only Rs. 18.29 lakhs. The percentage of the payments exceeding Rs. 5000 in the aggregate to the total cost works out to 15. The Ministry of Finance have stated that the provisions of Section 285B have been construed in a very restrictive manner by some film producers to cover only employees or others engaged to render professional service. The Study Group has also observed that the scope of the section as it existed might not cover most of the payments made by the producers, and had recommended the deletion of words 'as employees or otherwise' appearing at the end of that Section. The Ministry of Finance have, however, held the view that the provisions are quite clear and the interpretation thereof made in certain quarters was totally incorrect. The Ministry have, accordingly, issued clarificatory instructions to the Commissioners of Income-tax to enforce these provisions strictly. The Committee, however, agree with the views of the Study Group and feel that the existing provisions, as worded, are not free from doubts and may lead to litigation. The Committee, therefore, recommend that the intention behind the legislation should be made clear and unambiguous through suitable amendments.

The Committee are amazed to find that there is no machinery or source with the Department through which one could get details in respect of abandoned/incomplete films. The Ministry of Information and Broadcasting who are responsible for the administration of the Cinematograph Act, are also not maintaining any such

record. In reply to a question, the Ministry of Finance (Department of Revenue) have stated:

“None of the film artistes (named in the Audit Para) have been able to furnish information regarding the films featuring them which have been abandoned. In view of this, details of remuneration receivable/received in respect of such incomplete/abandoned films are not available on record.”

Apparently, this goes to indicate that the remuneration received by the cine artistes, in all probability, escaped assessment. Lack of information with the Department leaves a sufficient scope for manipulation of cost of production or inflation of expenditure by the Film Producers with impunity. It is, therefore, desirable for the Ministry of Finance (Department of Revenue) to examine all the aspects of the matter in depth and evolve some methodology, in consultation with the Ministry of Information and Broadcasting and the State Governments concerned, so as to ensure that income from the incomplete/abandoned films do not go unassessed and un-taxed for lack of information.

There are no norms or guidelines prescribed for the assessing staff to see whether the cost of a film shown by the Film Producer was reasonable or not. There was wide variation in the cost of production of films 'Sholay' (Rs. 3.03 crores), 'Kala Pathar' (Rs. 1.28 crores) and 'Doosra Aadmi' (Rs. 60.21 lakhs). The Ministry have expressed their inability to fix any norms to judge the reasonable-

ness of the cost of film because of variable factors like the number of artistes, their remuneration, nature of sets, number of prints etc., on which the cost depends. Obviously, assessing officers have no means of verifying the correctness of expenditure on production of films and have to rely on the expenditure shown in film producer's records. For instance, there is a vast difference between the cost of prints of the film 'Sholay' (Rs. 59.20 lakhs) on the one hand and of the films 'Kala Pathar' (Rs. 1.42 lakhs) and 'Doosra Aadmii' (Rs. 4.32 lakhs) on the other, which requires very close scrutiny and investigation. The Committee feel that as there are no norms to judge the reasonableness of the cost of films, the details of expenditure indicated by the producers should be critically scrutinised by the assessing officers.

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Finance
(Rev.)

According to the information furnished by the Ministry of Finance, the number of feature films certified for exhibition in the Bombay region during the financial years 1981-82, 1982-83 and 1983-84 was 195, 201 and 205 respectively. The number of film financiers feeding the industry which was at one time i.e. during the year ending March 1982, 1985, however dropped down to incredibly low figures of 14, 14 and 29 during years ending March of 1983, 1984 and 1985 respectively. The Committee feel that the sudden drop in the number of film financiers and the sources from where the producers arranged their finances in the later years, should be thoroughly investigated and their findings made known to them.

The Committee note that 7225 income tax assessments were pending completion at the end of March, 1965 in all the film circles. According to the Ministry of Finance (Department of Revenue) the Summary Assessments Scheme has been extended in cases involving returned income upto Rs. 1 lakh. This measure will no doubt reduce the pendency of income tax assessments. But considering the sizeable investment in the film industry and the considerable scope for manipulation of cost of production leading to generation of unaccounted money, the Committee apprehend that extension of this scheme to this industry would not serve the interests of revenue. It would, rather, help unscrupulous assesses who would very easily, in the absence of detailed scrutiny by the Department, get away by returning their income within the prescribed limit. This will defeat the very purpose for which film circles were created. The Committee feel that there is need to review the criteria for Summary Assessment Scheme in such cases and recommend that some positive measures be taken to ensure that there is no under-statement of income. The Committee also consider it imperative that returns filed by those connected with the film industry are critically analysed to obviate the possibility of under-statement of income.

Audit Para has pointed out certain difficulties faced by the Audit in reconciling the payments made by the film producers to various artistes with the receipts shown in the return of the artistes. The reconciliation was found impracticable due to the reasons like different accounting years of producers and artistes, different

systems of accounting followed by the film producers and the artistes, and non-furnishing of artiste-wise and picture-wise details about the amount of remuneration or fees payable as per agreement etc.

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Finance (Rev.)

The Ministry of Finance have a proposal under their consideration for introducing a uniform accounting year for all the assessees. This would no doubt help the assessing officers of the Department in cross checking the income returned by assessees. However, the Committee feel that the introduction of uniform accounting year would not be enough in cases where the assessees particularly in areas like film industry, follow different accounting systems namely, cash system (i.e. transactions on actual basis) and mercantile system (i.e. transactions on accrual basis) for maintaining their accounts. In order to facilitate accurate cross-verification of various payments and receipts of different assessees and to reduce the scope of tax evasion to the minimum, it is but imperative that all the assessees adopt the same accounting system in addition to following the same accounting year. The Committee hope that the Ministry would give due consideration to this aspect of the matter and take suitable steps to amend the law in consultation with the Ministry of Law. In case it is not found practicable or feasible to introduce uniform accounting system, the assessees should be required to submit proforma accounts in the specified system of accounting for purposes of income tax assessments.

It is common knowledge that cine artistes, film producers and others connected with the Film Industry spend lavishly on their living, travels, entertainments and also enter into benami transactions to hide their income and assets. The Committee trust that the Ministry will devise ways and means by strengthening their intelligence wing, for collection of information on the extravagant spendings and underhand practices resorted to by the persons suspected to be tax evaders in the film industry.

The Committee also find that the film personalities having undisclosed income come before the Settlement Commission, with the object of pre-empting raids on their premises. To quote a few cases, a film artiste filed applications for settlement on 8 July, 1983 and 24 September, 1984 in respect of assessment years 1978-79 to 1983-84 offering aggregate amounts of Rs. 21.30 lakhs and Rs. 69.05 lakhs in Income Tax and Wealth Tax assessments, respectively. Similarly, another film artiste offered an additional amount of Rs. 20 lakhs in respect of five assessment years 1970-71, 1971-72, 1978-79, 1979-80 and 1980-81. A third film personality offered an aggregate amount of Rs. 25 lakhs in respect of the assessment years 1976-77, 1977-78 and 1978-79. The Committee are of the view that if the intelligence wing of the Department is sufficiently strengthened it will have salutary effect of preventing tax evasion in the film industry.

Under Section 142(2A) of the Income-tax Act, 1961 an ITO may, with the prior approval of the Commissioner of Income-tax, direct

an assessee to get his accounts audited by an accountant to be nominated by the Commissioner of Income-tax. The Committee in their 177th Report (Seventh Lok Sabha) had desired that the powers of compulsory audit of accounts conferred under Section 142(2A) should be made use of in all cases where necessary. It is a matter of regret that upto the end of March 1965, only one case of film producer in Bombay was referred for compulsory audit. The Committee find from the information furnished by the Ministry of Finance that while the audit was in progress in the said case, the assessee filed revised return declaring additional income of Rs. 9 lakhs. The Committee are of definite view that aforementioned provisions, if invoked from time to time in the cases of established film producers and artistes, would go a long way in unearthing unaccounted income.

The Committee find that the Settlement Commission is hard pressed with the workload of settlement cases pending with it. As on 31 March, 1965, 2365 cases were pending with the Commission and out of these 461 cases were pending for more than five years. This does not indicate healthy state of affairs so far as the working of the Commission is concerned. There should not be any reason for a settlement petition to remain pending for such a long time. While there may be certain complicated cases which need thorough examination, yet five years period is too long to justify any such examination.

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At present, the Settlement Commission is functioning with a Chairman and two members. Considering the number of cases pending before the Settlement Commission the Committee are of the view that more benches should be constituted for expeditious disposal of pending cases.

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The Committee are not satisfied with the prosecution of cases filed in Courts relating to default in payment of income tax. A review as to why there is delay in prosecution and as to why a number of cases result in acquittals is, therefore, called for.