

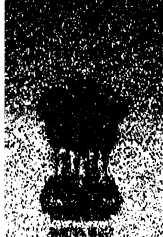
10

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

**CENTRAL BOARD OF
DIRECT TAXES**

**ESTIMATES COMMITTEE
1991-92**

TENTH LOK SABHA



**LOK SABHA SECRETARIAT
NEW DELHI**

TENTH REPORT
ESTIMATES COMMITTEE
(1991-92)

(TENTH LOK SABHA)

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)
CENTRAL BOARD OF DIRECT TAXES



Presented to Lok Sabha on 23 March, 1992

LOK SABHA SECRETARIAT
NEW DELHI

March, 1992/Phalguna, 1913(S)

E.C. No. 1273

Price : Rs. 12.00

© 1992 BY LOK SABHA SECRETARIAT

PUBLISHED UNDER RULE 382 OF THE RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN LOK SABHA (SEVENTH EDITION) AND PRINTED BY THE MANAGER, P.L.U., GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI.

C O N T E N T S

	PAGE
COMPOSITION OF THE COMMITTEE 1991-92	(iii)
INTRODUCTION	(v)
CHAPTER I	DIRECT TAXES—SOME FUNDAMENTAL ISSUES
	A. Philosophy of Taxation..... 1
	B. Widening of the Tax Base 4
	C. Evasion of Tax..... 7
CHAPTER II	DIRECT TAX LAW AND PROCEDURE
	ISSUES
	A. Simplification of procedure 12
	B. Direct Tax Code..... 15
	C. Stability of Tax laws..... 15
	D. Clubbing of Spouse's income 17
	E. Provision of Advance Tax 18
	F. Refund 20
	G. Forms 22
CHAPTER III	DIRECT TAXES ORGANISATIONAL AND
	ADMINISTRATIVE ASPECTS
	A. Central Board of Direct Taxes 29
	B. Organisation 29
	C. Status of Chairman and Members of C.B.D.T..... 32
	D. Manpower 36
	E. Training 39
	F. Rewards and Incentives 39
	G. Vigilance..... 42
	H. Buildings..... 45
CHAPTER IV	ADMINISTRATION OF DIRECT TAXES
	A. Survey Operation 53
	B. Searches & Seizures 54
	C. Staff Security during Searches 56
	D. Promoting Voluntary Compliance..... 58
	E. Tax Arrears..... 59
	F. Cases in Litigation 63
	G. Appellate Machinery..... 63
	H. Prosecution of Tax Law Offenders..... 64

	PAGE
	I. Settlement Commission..... 66
	J. Grievance Redressal Machinery 70
	K. Redressal of Staff Grievances 71
APPENDIX I	Composition of the Estimates Committee (1990-91)..... 77
APPENDIX II	Organisation chart of C.B.D.T..... 78
APPENDIX III	No. of Training Courses and officers trained during 1987, 1988 and 1989. 79
APPENDIX IV	Details of some important courses for Group A officers 80
APPENDIX V	Tax arrears cases with demand of highest amount 81
APPENDIX VI	Statement of consolidated receipt and disposal of applications by Income Tax Settlement Commission. 83
APPENDIX VII	Statement of Recommendation..... 84

COMPOSITION OF THE ESTIMATES COMMITTEE (1991-92)

Shri Manoranjan Bhakta—*Chairman*

MEMBERS

2. Shri Rajendra Agnihotri
3. Shri Mumtaz Ansari
4. Shri A. Charles
5. Shri Somjibhai Damor
- @6. Shri Digvijaya Singh
7. Shri Pandurang Pundlik Fundkar
8. Shrimati Girija Devi
9. Shri Nurual Islam
- *10. Shri R. Jeevarathinam
11. Dr. Viswanathan Kanithi
12. Shri Ayub Khan
13. Shri C.K. Kuppuswamy
14. Shri Dharampal Singh Malik
15. Shri Manjay Lal
16. Shri Hannan Mollah
17. Shri G. Devaraya Naik
18. Shri Rupchand Pal
19. Shri Sriballav Panigrahi
20. Shri Harin Pathak
21. Shri Harish Narayan Prabhu Zantye
22. Shri Ebrahim Sulaiman Sait
23. Shri Moreshwar Save
24. Shri Manabendra Shah
25. Shri Mahadeepak Singh
26. Shri Ramashray Prasad Singh
27. Shri Sartaj Singh Chhatwal
28. Shri Syed Shahabuddin
29. Shri D. Venkateshwara Rao
30. Shri Braja Kishore Tripathy

SECRETARIAT

1. Shri G.L. Batra — *Additional Secretary*
2. Shri K.K. Sharma — *Joint Secretary*
3. Shri B.B. Pandit — *Director*
4. Shri K.L. Narang — *Under Secretary*

@Resigned from the membership of the Committee w.e.f. 6th March, 1992.

*Elected w.e.f. 6th March, 1992 *vice* Shri Vijay N. Patil resigned from the Committee.

(iii)

INTRODUCTION

1. the Chairman of Estimates Committee having been authorised to submit the Report, on their behalf, present this Tenth Report on the Ministry of Finance (Department of Revenue) — Central Board of Direct Taxes.

2. The Committee considered the replies given by the Ministry of Finance (Department of Revenue) to a detailed questionnaire issued on the subject whereafter the Committee took evidence of the representatives of the Ministry on 19.12.1990. The Committee wish to express their thanks to the officers of the Ministry of Finance (Department of Revenue) for placing before them the detailed written notes on the subject and for furnishing whatever information they desired in connection with the examination of the subject. The Committee also appreciate the frankness with which the officials/representatives shared their views, perceptions and constraints with the Committee.

3. The Committee also wish to express their thanks to the non-official organisations viz. FICCI, CEI, ASSOCHAM, FIEO, Indian Merchant's Chamber, Bombay, Bengal Chamber of Commerce and Trade, Nilgiri Chamber of Commerce and Industry and Indian Revenue Service Association for furnishing to them valuable information/memoranda which helped the Committee in their examination of the subject.

4. The Report was considered and adopted by the Committee at their sitting held on 14.2.1992.

5. The Report is divided into following chapters:—

- (i) Direct Taxes — Some Fundamental Issues
- (ii) Direct Tax Law and Procedure
- (iii) Direct Taxes — Organisation and Administrative Aspects
- (iv) Administration of Direct Taxes

6. (i) Chapter I of the Report is focussed upon philosophy of taxation, narrow tax base and tax evasion. The Committee have *inter alia* recommended.

(a) spelling out clearly the philosophy governing Direct Tax Laws and bring greater clarity in the objectives determining these laws and related procedures; and

(b) review of the minimum taxable income at the end of every financial year and to adjust it upwards taking into account the rate of inflation and consequential increase in the cost of living.

(ii) Chapter II of the Report discusses the complexity of Direct Tax law and procedure. It *inter alia* calls for—

(a) rationalisation of the manpower utilization in the Income Tax Department so as to re-deploy it more productively;

- (b) suitable amendments in the law to recognise a team of husband and wife who are engaged in running a small business enterprise for the purpose of assessment of income of each spouse in such cases separately which help raise women's status; and
- (c) review of the procedure for refunds to facilitate payment of refunds through nationalised banks other than State Bank of India particularly in places where Branches of State Bank of India do not exist.

(iii) Chapter III has focussed on organisational and administrative aspects including the status of Chairmen of C.B.D.T and C.B.E.C., Training, Rewards and Incentives and Vigilance. The Committee in their Report have urged the Government to raise the status of the post of Chairmen of Central Board of Direct Taxes and Central Board of Excise and Customs to the level of the Secretary to the Government of India. This they hope will not only streamline the functioning of the two organisations but also raise the morale of the two premier revenue services of the country. The Report also underlines the need for various training programmes run by the Department being re-structured and integrated to provide the requisite professional and managerial development of personnel at all levels.

(iv) The Committee have also urged the Department to replace the existing reward scheme by instituting awards for outstanding and meritorious performance in realisation of higher revenue for the Government.

(v) The Report emphasizes the need for showing greater sensitivity in regard to complaints of corruption received against the Gazetted Officers of the Department.

(vi) Chapter IV of the Report discusses the survey efforts, processing and completion of assessments on the basis of results of searches and seizures, keeping search operation strictly confidential, staff security, tax arrears, setting up of National Tribunal, defending worthwhile cases by engaging competent and reputed lawyers, increasing the strength and Benches of the Settlement Commission and redressal of public grievances. The Committee have recommended concentration of the survey efforts on the category of people like doctors, lawyers, small contractors, property dealers and also petty businessmen who have substantial income but usually escape the tax net, and reviewing the provisions of the Income Tax Act in regard to processing and completion of assessments on the basis of results of searches and seizures so that such cases are not allowed to linger on for years.

(vii) The Report also calls for strict confidentiality, or active and healthy liaison with top police authorities in order to make search operations more effective, a fixed tenure for key personnel engaged in survey search and a serious consideration of the suggestions for increasing the strength and Benches of the Settlement Commission and for vesting of more powers in the Commissioners of Income Tax to settle cases without reference to the Settlement Commission.

7. The Committee have also emphasised that there is urgent need to bring about necessary attitudinal changes among the officials responsible for redressal of public grievances.

8. The Committee would like to express their thanks to the Estimates Committee (1990-91) for taking evidence on the subject and obtaining valuable information thereon. The composition of the Committee is given at Appendix I.

9. For facility of reference the recommendations/conclusions of the Committee have been printed in the thick type in the body of the Report and have also been reproduced in consolidated form in Appendix II of the Report.

NEW DELHI
March 4, 1992

Phalguna 14, 1913 (S)

MANORANJAN BHAKTA,
Chairman,
Estimates Committee.

CHAPTER I

DIRECT TAXES—SOME FUNDAMENTAL ISSUES

A. Philosophy of Direct Taxation

1.1 The Central Board of Direct Taxes is a statutory Board created under the Central Board of Revenue Act, 1963. In exercise of the powers conferred by Section 3(1) and 4(1) of the Act, the Central Government have made rules for regulating the transaction of Business by the Board. The Board shall, subject to the control of the Central Government exercise such powers and perform such duties as may be entrusted to it by the Central Government or by or under any law. The Board is responsible for execution of policies and measures, decided upon by the Central Government, in respect of matters relating to direct taxes.

1.2 During evidence of the representatives of the Ministry (Department of Revenue) the Committee asked whether there was any specific philosophy underlying direct taxation, the Secretary of the Ministry in his response to the query stated:

“There is a long-term fiscal policy document and much of the Government’s policies are spelt out there. The basic objective of the Government is to ensure that there is sufficient taxation in a fair and just manner and that there is sufficient accrual of the revenue. But, at the same time, the economic activities should not suffer on account of taxation which is counter-productive to basic economic activity and economic growth of the country”.

The witness added:

“The basic philosophy, as I would think, is that we must of course maximise tax revenue through direct taxes, at the same time extending all possible assistance for the tax-payers so that they are not put to undue difficulties and also those who are escaping the tax net today come under the tax net.”

The Secretary added further:

“Basically we are living in a welfare State and unlike the situation before the country became free, now the long arm of the Government influences more or less every facet of activities of the people. There are many schemes of the Government which are designed for the welfare of the weaker sections, for the welfare of the people, for economic and social good of the country. Obviously, Sir, to subserve the goals which are laid down in our Constitution and also to achieve the objectives of our Five Year Plan we need to raise revenues because unless we raise revenues, the schemes will not be

implemented and revenues are raised both for schemes which are being implemented by the Central Government as well as the State Government as also many other agencies. The basic philosophy is that we have to garner necessary revenues for the purpose and therefore, taxation on a voluntary basis is not always possible. There are views on whether there should be any direct taxation at all. But these are only the debates which are going on."

The representative of the Ministry added:

"Unfortunately, the direct tax as a proportion to the total tax collection is still very very low. In its very nature, the indirect tax is regressive and direct taxes are considered progressive. Therefore, some changes to the direct tax structure should be introduced. This is the most important aspect of philosophy and in doing this, the attempt is to ensure that the tax laws are made as simple as possible, in other words, compliance is made easier and the inducement to compliance was also made better by the lower rates of taxes. On the other hand deterrence was introduced so that reliance on tax compliance is not abused. This is one aspect. But the other aspect is that the tax law, however, much there is a case for simplification cannot but be utilised for certain socio-economic objectives. It was thus used to encourage labour intensive technology. Industrialisation itself is a goal. But it was found not really helping in the direction of development of backward areas and we had also introduced, apart from economic side, on the social side, things like developing savings. This is a very very major role of the tax structure. There are certain provisions meant to help handicapped and the encouragement of cooperative societies. These are some of the socio-economic purposes which we had sought to achieve through the tax structure. The witness added further:

"There is a view that special deductions for everything except for encouragement of exports and savings should totally go. An attempt was made to move towards that. But, it was not possible to do so because it was seen later that we cannot totally ignore industrialisation, development of industry, labour intensive technology or energy saving devices and pollution saving devices and the like. All these things have to be given weightage. One has to have a mix of all these. One has to achieve the overall objective. The tax system cannot merely say that our duty is to tax and nothing else. We are trying to achieve a mix of objectives that we have and we must say that we have had a great deal of success in this regard."

1.3. A representative of the Ministry added in this regard:

"In the Preamble of the Constitution, there is a specific clause 'to secure to the citizens social and economic justice'. This social and economic justice can only be brought about, as understood by most

of the countries in the world by a greater equal distribution of wealth or income. Not only that. The Constitution-makers made a further amendment in 1976 by adding the words 'secular and socialist' to the Constitution. The addition of the words 'Socialist' is much more significant. It seeks to bring about a greater equality in the 'sharing of the wealth and income of the country. The Philosophy which underlies the Department is itself enshrined in the Constitution."

1.4 Asked whether taxation was an efficient medium for achieving social equality and has achieved the objective of development of country as a whole and areas in particular, the Secretary of the Ministry explained during evidence:

"To some extent, we want to tax the rich more for the benefit of the poorer sections. As far as direct taxation in India is concerned,—even if Direct Taxation is called progressive—there are many problems in its collection and the implementation of the law because of which many people escape the taxation net and we have a parallel economy running on the basis of blackmoney generated through evasion of tax. So, I think it will be difficult to say that we have succeeded in refining tax laws fully ensuring that to subserve all these objectives. But there is another plan and we were really more on that. We are making the taxation effort—be it indirect tax or direct tax—in order to finance the schemes which are for achieving the social justice in the country. There are schemes meant for the uplift of the poor sections and also for devising ways and means of ensuring growth through a process of improved agricultural production and improved industrialisation in the country. So, in that sense it is subserving certain objectives because it is giving us a wherewithal, the means for implementing such schemes. But the question whether it is succeeding in reducing the inequality is a different thing. There can be many opinions. There can be difference of opinion as to what extent it is achieving these objectives."

1.5 Asked whether the purpose of a welfare State and social justice is being served, Secretary of the Ministry explained:

"Given our paucity of resources, the kind of welfare schemes you have in mind perhaps cannot be put together and implemented in our country. The objectives are there and they are very much enshrined in the Constitution, in the manifesto of the political parties etc. They have come to power on that basis and to the extent possible, every effort is being made to implement them. But in view of the constraint of resources and the lack of resources, many of these objectives would be only implemented in course of time. I think this is the kind of a response we can give."

A representative of the Ministry added:

"I think, redistributive justice through tax has not been successful

world over. I would still say that ability to pay tax should be the criterion now. In other words, I would say whenever tax has to be raised, it should be raised on the basis of ability to pay, in the best manner possible. That I think, should be one of the imperative, in this."

1.6 Asked how the laws pertaining to direct taxation are functioning, the Secretary of the Ministry explained:

"We cannot certainly claim that they are functioning perfectly; otherwise there is no need for the changes that we contemplate from time to time. I think we can lay the claim that they are functioning with a moderate degree of efficiency and the overall purpose is being served as reflected in the fact that tax revenues are always on an upward trend. We also try to get the feed back about what the tax payers feel about the tax administration. The feed back that we get is not at all negative. So we can take satisfaction from the fact that the machinery is doing a fair job. But there is certainly scope for improvement both in refining the structure and also ensuring that the collection of the tax revenues does not become arbitrary."

B. Widening of Tax Base

1.7 During evidence of the representatives of the Ministry, they were asked to define tax base. The representative of the Ministry stated:

"The base is the non-agricultural income of the country for the Central taxation. Under the Constitution agriculture has been assigned to the States."

1.8 The Committee desired to know if the rate of taxation could be brought down if the base was wider in terms of numbers. In reply, the Secretary of the Ministry during evidence stated:

"Widening of the top tax base in terms of getting larger numbers into the tax net is dependent on the growth of the economy. The more is number of persons with higher incomes, the greater is the scope for widening the net. With development resulting in a greater number of people having higher incomes, I think there will be an automatic expansion of the tax base."

The Secretary of the Ministry added:

"Widening of the base to my mind is not feasible if we are to confine ourselves to only one segment of the population who are now paying taxes, that is the urban population. The only other way we can widen the base is to touch those segments of population having agricultural income, who for other reasons are not touched. But we have discussed this issue. I would request you to consider and suggest how we can widen the base within the frame work we are operating."

1.9 When asked whether the Ministry was thinking of extending the tax base to cover agricultural income the Secretary of the Ministry replied:

“Taxing agricultural income is an avenue that we have left to the States. There are certain levies on agriculture also. There are land revenue, irrigation cess and many other avenues through which indirectly agricultural income is also taxed. They pay increased land revenue when it is irrigated land and so on.”

Minimum Taxable Income

1.10 When asked to define surplus on which the Ministry starts taxation, the Secretary of the Ministry stated:

“An assessment has been made that after allowing for certain essential demands, if a person has an income of about Rs. 20,000 a year, he can afford to pay tax and that is the line we have drawn...Although I used the word surplus, I am not very happy myself about it. I would probably say that is the level at which the Government feels that a person can afford to pay the tax where it would not become inequitable or go contrary to the principles of ensuring social justice if we take some money from him by way of taxation.”

1.11 Responding to a question about the rationale of determining the exemption limit for income tax, the Secretary of the Ministry stated:

“I do not think that there is any absolute scientific basis for determining the base. Initially when this effort was started, I believe the base was only Rs. 3000/- a year. It has been enhanced over the years to a level of Rs. 22000/- a year. I suppose, mostly, this increase takes care of the impact of inflation. Over the years, we are only moderating it against inflation. To some extent, I think we have also recognised that there is a genuine need to add to the real income of the person. Besides moderating it against inflation, we have allowed a higher tax base. But, I do not think there is any scientific basis or exercise which is done to determine the base. In general terms, in the overall context of the income which is generated in the country, this seems to be something in order.”

The Secretary added further:

“It will be a very difficult exercise to reach a figure which is acceptable to all and which conforms to all parameters. Just how my colleague has told me that before deciding on the levels and various other connected issues, the Finance Minister holds discussions with a very wide cross-section of people, like economists trade union representatives, industrialists and so on and then only, a final decision is taken at the time of budgetary exercise in which *inter-alia* this issue is also decided.”

1.12 When asked as to whether a line can be drawn on the analogy of poverty line, along a certain level of affluence, the Secretary of the Ministry explained:

“We really, do not have any income tax line except the minimum income which is taxable, that can be treated as the line. My own feeling is that if we try to build a strait jacket system into which we try to fit this line in, then it will be a very difficult exercise because the variable are very many. If you compare a man living in a mofussil area and a man living in a metropolitan city, then you will see that one is not taxed at the same level as the other. From one angle, a man living in a mofussil area has a better standard of living than a man living in a metropolitan area. But the man in the metropolitan area enjoys many advantages and facilities for which the infrastructure has been provided by the city-services which the man in the mofussil does not have. So, you have to moderate them. There are infinite variable. We have to go in for a judgemental approach. If we do not do that, then, we will be entering a domain from where we would not be able to come out. We will be opening a Pandora’s box. But I have not made a study of the subject. It is worthwhile to look into that, as to what is being done in other countries. They are more successful. But we should have an open mind.”

1.13 The Committee pointed out that during 40 years of tax-administration it should have been possible to attempt to approach the question of a income tax line on a somewhat emperical basis rather than purely judgemental. In reply, the Secretary, Revenue stated:

“The enormity of the exercise involved is such that if we attempt to tackle it, it may be a very vast kind of area. But initially as an academic exercise, we could undertake this probably in certain wings of our own set-up and see whether any framework can be arrived at for pragmatic implementation.”

Another representative of the Ministry added:

“The direct taxes not only are a means of collection but they improve the savings of the country also. There are many provisions under the Act which encourage the saving potential of different citizens. So, while we are trying to tax an individual depending on his capacity to pay, the capacity to save also is increased corresponding to the capacity to pay. This is essential. It becomes useful for developmental activities. At the same time, the capacity of the richer man to pay. This is the essential conflict in all direct taxes. So, it favours the upper strata of society because they are able to save far better and faster and take advantage than the common citizens. But that, I think, is inbuilt in a direct tax system which also goes and improves the saving system.”

The Secretary of the Ministry added:

“As far as personal taxation is concerned, the base is determined by a judgement as to which group of income-earners can start paying taxes and that is the base from which we start taxing the person.”

1.14 The Committee desired to know what yard-stick is applied in measuring the total tax effort and whether this is highlighted in terms of number of tax payers or the volume of tax collection.

“The Secretary (Revenue) responded by stating that the measurement yardstick is the total revenue collected”

Another representative of the Ministry, however, added.

“The tax base is the most important element. If we expand the total number of tax payers, the result of this will be higher revenue and also more people contributing to the developmental process.”

1.15 Asked whether by merely adopting the volume of tax collections as the yardstick of measuring tax effort influences working of tax administration in a particular fashion, Secretary, Department of Revenue stated:—

“I think to some extent both because when we are doing an exercise, Budget for instance, we make a judgement as to the possible collection that could be raised and we give a figure. So, in the Budget the number of individuals paying tax would not figure: it is the total collection that would figure. But at the back of our mind is certainly the paying capacity and when we talk of the paying capacity we come to the number of people who are able to pay. So, in arriving at the overall figure we have to keep the base in my mind in terms of the number of people who pay tax.”

1.16 In this context Chairman, Board of Direct Taxes added:

“As we reduce the income limit the collection cost will be far more. So, the Government has to balance the cost of collection.”

C. Tax Evasion

1.17 In a memorandum furnished to the Committee by a non-official organisation it has been stated:—

“It is estimated that more than Rs. 50,000 crores are in circulation in the parallel economy and a substantial sum unaccounted held abroad illegally. This black money is generated by tax evasion, shortages, artificially pegged prices and cumbersome fiscal controls which has fuelled inflation and conspicuous consumption. The leakages from public expenditure programmes have also caused serious distortions in the economy. This problem has to be tackled on all fronts and in the field of fiscal administration Government must reduce the scope of discretionary powers and place better reliance on general, non-discretionary, fiscal and financial instruments. Further, some incentives may be given similar to that of MMC so that moneys held abroad illegally by resident Indians flow into the country. At present,

the incentive on exchange rate is not sufficient and would not bring in foreign capital.”

1.18 The Committee asked the Ministry to furnish their comments in this regard. As regards tax evasion the Ministry in their comments stated:—

“Amendments have been made in the last few years to the direct tax laws, in order to cut down the areas of subjective decisions of tax authorities and to ensure, as far as possible, taxation of real income. The more important of the amendments so made are regarding.”

- (i) change in the concept of assessment whereunder a majority of the returns of income (97% of the total returns) are accepted as such and no formal order is passed,
- (ii) incorporating the concept of uniform accounting period,
- (iii) charging of mandatory interest for late filling of returns and defaults in payment of advance tax,
- (iv) removal of a number of ceilings provided on the allowability of expenses, and
- (v) non-charging of national income of self-occupied house property to tax.

1.19 As regards generation of black-money the Ministry stated:

“There is no official estimate of the amount of black money in circulation in the country. The National Institute of Public Finance & Policy in their report titled ‘Aspects of the Black Economy in India’ have estimated the black money for 1983-84 between Rs. 31,584 to Rs. 36,786 crores. The authors have, however, admitted that their estimate is based on numerous assumptions and approximations, each of which can be challenged.

1.20 Some of the measures taken by the Income-tax Department to check tax evasion and to curb the generation, growth and use of black money are as under:—

- (i) Systematic survey operations;
- (ii) Search and seizure operations in appropriate cases;
- (iii) Verification of information by Central Information Branches in a planned manner;
- (iv) Pre-emptive purchase of immovable property by the Central Government under the provisions of Chapter XX of the Income tax Act in certain notified cities.”

Conclusions

1.21 The Committee are informed that the basic considerations which have had an influence in shaping the tax laws and structure in the country are the need to carry out various development and welfare

oriented programmes and the desire to achieve socio-economic objectives like removal of iniquities and backwardness through re-distribution of income and re-allocation of productive enterprises. However, on the operative plane the objective of the Government is to ensure that taxation does not impede economic growth and that tax-payers are not put to undue difficulty while maximising the tax revenues. The Committee further understand that these determinant objectives of direct taxation have not been realised to a satisfactory degree. They find that iniquities of income and economic status have grown and that country is still be set with the problem of economic backwardness. They also note that welfare activities of the State are too few and small in magnitude in comparison to welfare programmes being run in other countries. This is so essentially because the generation of resources through direct taxes has not taken place on expected lines and today the situation is that the direct taxes account for only a fraction of the total tax revenue of the Union Government.

1.22 The Committee have also been apprised that if tax compliance is to be made easier and enforced widely, the related laws and procedures have to be simplified. However, if the aim of taxation is to achieve various objectives other than that of generating revenue, simplification of laws and procedures becomes a complex matter. From the views expressed by the representatives of the Government during oral evidence the Committee have come to an inescapable conclusion that direct tax laws, as these exist today, reflect a confused thinking while the direct tax system is intended to achieve the twin objectives of maximising the revenue as well as utilising the direct taxes for achieving socio-economic objectives, in actual practice, the system has failed to achieve either of these objectives. In fact, the complex regime of incentives and disincentives built into the direct tax law cannot but lead, perse to difficulties in enforcement and to the opening of opportunities for tax-dodgers/evaders. At the operational levels this has resulted in undue bureaucratisation, corruption and harassment of the citizens. The Committee, therefore, feel that time has come to resolve these contradictions and to usher in a direct tax regime which focuses essentially on simple tax laws, and generation of resources besides achieving some limited but important economic objectives like promotion of savings and conservation of energy.

1.23 The Committee are informed that Government in the course of formulating the Budget proposals decide upon the required tax effort in terms of the volume of tax collections even though the total number of people capable of paying income tax is also taken into account, albeit not directly. Since the existing tax base is limited to non agricultural income, the overall base of income tax is limited. The Committee are also apprised that the success of any effort to widen the tax base in terms of number of tax payers as well as the volume of tax collections depends essentially on the rate of economic growth and the number of people who join the higher income group, as well as on bringing affluent sections of rural population

within the income tax net. The Committee are also apprised that taxing agricultural income has been left to the States and that there are already various other kinds of levies on agriculture and that levying income tax on agricultural income may not be widely acceptable. The Committee while appreciating the difficulties in levying tax on income derived from agriculture and the level of poverty that exists in the rural areas nevertheless feel that if the tax base is to be widened, the affluent sections of population living in rural areas and small towns ought to be brought within the income tax net in a gradual but systematic manner.

1.24 The Committee regret to note that even after 40 years of tax administration no rational basis exists for determining the minimum taxable income. They find that the present limit is not even based on any methodical study but merely a figure determined through subject judgement of the tax administration. They are also apprised that in view of the complexities and variations existing in India, which is the country of sub-continental dimensions, it is not practicable to determine, for the purpose of personal taxation, a realistic and universally acceptable income line that would take into account the minimum needs of a family based on certain indices of quality of life, even though such an exercise may be academically possible. The Committee however feel that it should be possible to undertake a study for the purpose of ascertaining a minimum income level for the purpose of personal taxation on an inverse enology "Poverty Line". This, the Committee believe could logically lead the Government towards more rational basis for levying income tax on individuals. The Committee to underline the fact that in absence of such a rational basis the minimum income limit for the purpose of personal taxation has become unrealistic as it does not take into account the rapid increasing cost of living and the fall in the real income of the salaried individuals. The Committee are also aware that year after year demand for raising the minimum taxable income limit has been raised inside as well as outside Parliament. However the Committee find it hard to reconcile Government's indifference to such demands with the periodic offers of immunity, to those in possession of black money from legal consequences of tax evasion in return for their willingness to pay certain amount of tax of their own volition.

1.25 The Committee are perturbed to find that according to the findings of the National Institute of Public Finance the estimated magnitude of black money in the country for the year 1983-84 ranged between Rs. 31,584 crores to Rs. 36,786 crores. They are, however, surprised to be informed by the Government that they do not even have an estimate about the magnitude of black money in circulation in the country. It is obvious that the Department of Revenue in the Ministry of Finance who are responsible for liquidating black money have so far been able to achieve very little in this direction notwithstanding various measures stated to have been undertaken by the Government for the purpose. The Committee feel that these measures have been half-heartedly conceived and implemented. They

are not very sanguine about the outcome of a mere administrative approach in the matter. In their view, for liquidating black money a vigorous and multipronged strategy on the part of all the Government Departments concerned alone can bring about tangible results. Needless to say that introduction of a tax system which is simple, and just and equitable can go a long way to curb tax avoidance as also to unearth the black money.

Recommendations

1.26 The Committee make the following recommendations:—

(i) Government should clearly spell out its philosophy governing Direct Tax laws and bring greater clarity in the objectives determining these laws and related procedures.

(ii) Efforts to bring all affluent sections of people including those in rural areas and small towns may be stepped up so as to widen the tax base in a gradual but systematic manner.

(iii) Pending an exercise to ascertain rational basis for determining minimum level of income for the purpose of personal taxation the Government should at least review the minimum taxable income at the end of every financial year and adjust it upwards taking into account the rate of inflation and consequential increase in the cost of living.

(iv) The Government should make an all-out effort to combat the menace of black money and introduce a tax system which is simple, just and equitable.

CHAPTER II

DIRECT TAX LAW AND PROCEDURE

A. Simplification of Procedure

2.1 The Ministry have informed the Committee that since 1985, the Government has embarked upon a concerted effort to simplify laws, rules and procedures concerning work relating to the tax administration. The enactment of Direct Taxes Laws (Amendment) Acts, 1987 and 1989 sought to simplify the tax laws. Such an exercise is extremely complex, tedious and time consuming as tax laws are no longer mere instruments of tax collection. The Government's social and economic policies are implemented through such laws and this makes the tax laws difficult.

2.2 The introduction of the New Assessment Procedure, the application of presumptive tax on incomes derived from certain specified sources, continuance of the lower rates of tax through-out since 1985, without change and the latest amendment relating to the calculation of rebates on savings are some of the steps taken to simplify the laws and rules. The efforts undertaken include:—

1. Simplification of Tax Return forms for individuals, HUFs and firms from 1st June, 1990 on the recommendations of the Committee on tax Return Forms.
2. Decentralisation of system of receipt of tax return forms in I.T. offices.
3. Reduction in the number of non-statutory forms used in tax administration and simplification of the forms retained for use.
4. Simplification of procedures regarding issue of Tax clearance Certificates to Foreign Technicians and issue of No Objection Certificate for remittances of certain incomes.

2.3 The Department is constantly reviewing its work procedures particularly those which affect the tax payers. The Directorate of O&M Services, an attached office of the Board, is constantly reviewing the work methods and procedures to make them simple, easy to operate and effective in meeting the Objectives.

2.4 The Government has also set up a Committee under DG(MS) and comprising experts from professional bodies to review all tax return forms with a view to make them simpler, shorter and easy to accomplish. Another Expert Group has recently been set up under DG(MS) to accelerate the use of computers to improve service to taxpayers, effectiveness of tax administration and information processing for policy planning.

2.5 It must however be stated that it is not easy to keep a balance between simplification and effectiveness of tax administration.

2.6 The Ministry have further informed the Committee that some of the important innovations introduced recently to simplify procedures and methods of work are highlighted below:

- (i) To give effect to the new assessment procedure and expedite the distribution of returns amongst the Assessing Officers, the department switched over to a decentralised system of receipt of returns. Instead of the returns being received at a Central return counter for the entire range and then being distributed amongst the Assessing Officers, the Assessing Officers and their staff were authorised to receive returns directly from taxpayers. As a result delays in distribution on work drastically reduced.
- (ii) The hitherto existing procedure of assessment, wherein every case of return of income/loss filed, an assessment order had to be passed, had been dispensed with in favour of the new procedure u/s 143(1)(a). Under the new procedure all returns of income are processed so as to make *prima facie* adjustments, without calling the assessee or the account books and without looking to the past records. This procedure, thus lays greater emphasis on voluntary compliance by the taxpayers, leaving the department free to undertake only a selective scrutiny by concentrating on about 3 percent of returns of income.
- (iii) On the basis of a study carried out by the DOMS, the Board issued instructions for a one time clearance certificate under section 230 of the Income-tax Act, for the entire period of the service contract of a foreign technician. This clearance is issued against a guarantee given by the employer.
- (iv) The department has very recently concluded a through re-examination and review of the non-statutory forms in vogue under the various Direct Tax Acts. This review was carried out in three parts: As a result, 91 non-statutory forms have been discontinued and 66 such forms have been modified. The purpose behind this exercise was to eliminate unnecessary forms, redesign new forms using modern techniques, eliminate waste and see how best the objectives for which the forms are intended is achieved. In short, the effort was directed towards reducing administrative costs and facilitating taxpayers' convenience. These objectives have been fulfilled.

- (v) Another reform relates to the discontinuance of advice notes in cases, where the refund does not exceed Rs. 999/- This has helped the department to improve its service to small taxpayers who now experience no difficulty in encashing their refunds. The department is currently considering extending this procedure to refunds upto a limit of Rs. 9999/-
- (vi) The department has been attempting to decentralise its decision-making structure. Certain statutory, administrative and financial powers hithertofore exercised by the Board have now been vested in Chief Commissioners of Income-tax and Director Generals. As a result, a large number of files which earlier had to travel to Delhi for decision-making now terminate locally with the Chief Commissioners and Director Generals.
- (vii) The system of deduction of tax at source has been streamlined. Tax deductors have been allotted permanent numbers referred to as Tax Deduction Account Number (TANs). Assessing Officers have been appointed with exclusive jurisdiction over the important function of verification of tax deductions and deposits. Certificate for tax deducted at source have been rationalised. The new system is being continuously monitored and reviewed with a view to removing difficulties in its smooth functioning and improving it still further.
- (viii) In addition to these reforms, the department is currently in the process of reviewing its retention schedule for records re-examining work norms for officers and staff in the light of the new assessment procedure, re-writing office manuals for its officers and staff etc.

2.7 Asked whether the Ministry will be able to complete this work of reviewing the retention schedule before the next financial year i.e. 1991-92, the Ministry stated as follows:—

“The retention schedule for records has been reviewed for the financial year 1990-91. A limited study for re-examining the work norms for officers and staff in the light of the new assessment procedure was carried out and the additional manpower requirement consequent to the introduction of the new assessment procedure with effect from assessment year 1989-90 has been projected in the study. Since this study was only a limited one, the full impact of new assessment procedure on the manpower has not been assessed. It can be assessed at the earliest during the financial year 1991-92, by which time the new assessment procedure would have established. As far as the re-writing of the manual of office procedure is concerned, the study is being carried out by the department and should be ready in the financial year i.e. 1991-92. Efforts will be made to complete this work in the next financial year i.e. 1991-92.”

B. Direct Tax Code

2.8 During evidence the representatives of the Ministry were asked to state the latest position in regard to drafting of the Direct Tax Code. the representative of the Ministry stated:—

“We have assigned this task to leading lawyer and we are in the process of attempting a Direct Tax Code in which all substantive provisions and laws will be kept in one volume and all the procedural or machinery provisions will probably be included in a second volume. We are at it now.”

The Secretary further added:

“Sir, personally I will have to familiarise myself on this matter. Firstly we will have to take a view basically whether enactment as such is needed, perhaps it could also be achieved by preparing a manual which has at one place all the relevant features and which is accessible to all. We will have to see whether a separate law indeed is required. Given a situation where we come to the conclusion after mature consideration that a separate law is required, then we can think of a time frame.”

2.9 When asked how long Direct Tax Code has been under consideration of the Government, the representatives of the Ministry stated:—

“The decision to have Tax Code was taken very recently. Sometime in 1990 this gentlemen started working on this.”

The Secretary further added:

“As of today, we would not like to commit ourselves for enactment of a law. As you have rightly said, this would require consideration at the political level also. Unless we are able to take a view that a law is required, a time limit for enactment is premature.”

C. Stability of Tax Laws

2.10 In a note furnished by the Ministry the Committee was informed that the Finance Act, 1990, while withdrawing the investment allowance and the investment deposit account, has substantially reduced the tax rates in the case of domestic companies with effect from the assessment year 1991-92. While in the case of the company in which the public are substantially interested, the tax rate has been reduced from 50% to 40%, the rates in the case of a company in which the public are not substantially interested have been reduced from 60% to 50% to (in the case of a trading company or an investment company) and from 55% to 45% (in any other case). Thus, the rates of taxation have uniformly been reduced by 10% in the case of all domestic companies. The rates of tax in the case of firms and co-operative societies have also been substantially reduced. Besides the minimum tax on corporate book profits was also abolished.

2.11 With the substantial reduction in the rates of tax with effect from the assessment year 1991-92, and the abolition of the minimum tax, there is no justification for continuation of investment allowance and investment deposit account beyond the assessment year 1990-91. An analogy cannot be drawn with the earlier withdrawal of investment allowance when some time was allowed, because at that time the withdrawal of investment allowance was not accompanied by such reduction in tax rates.

2.12 The Committee asked the Ministry to furnish comments on following:—

“Section 143(1)(a) should be amended to clarify that if there is a dispute regarding the amount of loss, depreciation, investment allowance, etc. to be carried forward from the earlier year and the matter is pending at any stage when the assessee has filed the current year’s return of income in accordance with his claim in the earlier year, then upon finalisation of that assessment, the same should not be treated as an item *prima facie* inadmissible, and no additional tax should be payable as a result of such adjustment.”

The Ministry in their reply stated:—

“Under the provisions of section 143(1)(a) of the Income-tax Act, *prima facie* adjustment is not possible with reference to the past records. Further, such an adjustment is also not possible where two or more opinions exist regarding the admissibility of a deduction, relief or allowance while computing income. The Assessing Officer is not competent to substitute the Department’s interpretation of the law for that of the assessee, if the latter is supported by the decision of the High Court or the Tribunal etc. The fact that the Department has not accepted the decision of the Tribunal/High Court is immaterial.”

2.13 It was pointed out to the Committee by a non-official organisation that discontinuation of investment allowance, investment deposit scheme coupled with removal of minimum tax on corporate book profits was estimated to yield a net additional corporate tax revenue of Rs. 800 crores after reduction in revenue due to Across-the-Board 10% reduction in corporate tax rates. This would mean a gross additional corporate tax revenue of Rs. 1200 Crores in 1990-91 as a result of withdrawal of investment allowance alone. However, this estimate is subject to serious doubt because companies paying book profit tax are bound to have a sizeable backlog of unabsorbed investment allowance and depreciation available for set-off in financial year 1990-91. It, therefore, appears unrealistic that prospective withdrawal of investment allowance for machinery installed after 31.3.1990 would yield additional revenue of Rs. 800 crores in 1990-91 itself. On the contrary removal of minimum book profit tax coupled with available set-off of unabsorbed investment allowance and depreciation of these companies are likely to be zero tax companies for the next 2-3 years. Therefore, benefits of withdrawing

investment allowance would start yield revenue on a substantial scale only after 2 to 3 years. The CBDT analytical input for estimating revenue is, therefore, inadequate and unreliable and requires thorough review of the estimation mechanism in CBDT.

2.14 In their reply, the Ministry explained as under:—

“The additional resource mobilisation of Rs. 800 crores under the corporation tax was projected after taking into consideration all the relevant factors.”

2.15 During evidence when asked as to why investment allowance was first introduced and later withdrawn, the Secretary of the Ministry explained:—

“I do not think we will be able to give a cogent argument for those changes. I suppose, it was in the light of the consideration which prevailed at that time that these actions were taken and thereafter different considerations prevailed.”

D. Clubbing of Spouse's Income

2.16 It has been suggested to the Committee that by clubbing the income of spouse, which ordinarily means wife, in the hands of tax-paying spouse the Direct Tax Law discriminates against women and to that extent Section 64(1)(ii) of Income-tax Act, 1961, which enable equity of income arising of spouse (wife) by way of salary, commission or fee or any other form of remuneration, whether in cash or in kind, from a concern in which the individual, i.e., husband has a substantial interest. Although proviso exists that if the spouse is technically or professionally qualified and the income is solely attributable to the application of technical or professional knowledge of the spouse (wife), such clubbing need not be resorted to. However, in a business carried on by the husband if the spouse by sheer experience having worked in office, looks after the administrative side of the business, say, she looks after the sales counter at a departmental store or looks after the correspondence or types letters, the remuneration paid for the services ought not to be clubbed with the income of a husband. In other words, the Income-tax Department expects the wife to be MBA to look after the administrative side of the business. This militates against the policy of the Government of equal participation of women in all fields including business and enterprise. Therefore, section 64 should be suitably amended as any misuse of such an amended law can be taken care of by Section 40A(ii) of the Act which enables disallowance of any expenditure (not necessarily salary) etc. which, in the opinion of the Assessing Officer, is excessive or unreasonable having regard to the nature of the services rendered. Therefore, if any person, including the wife, is paid salary etc. disproportionate to the services rendered Section 40A(i) can be resorted.

2.17 The Committee therefore enquired about the rationale of clubbing the income of spouses which often results in derecognition of the contribution of women in running of a business enterprise.

2.18 The Ministry in their reply stated that the provisions of section 64(1) (ii) are not discriminatory against women, because they apply equally to the husband as well as wife. The objective is only to check the diversion of income to the spouse under the guise of an employment. Such diversion was seen to result in tax avoidance through income splitting. It may be noted that the provision was introduced on the basis of a recommendation of Wanchoo Committee in view of the wide prevalence of such a practice.

2.19 It is also provided in section 64(1) (ii) that where the spouse possesses technical or professional qualifications and the income is attributable to the application of his or her technical or professional knowledge and experience the clubbing provisions will not apply. The use of the expressions "technical or professional knowledge and experience" has been interpreted and accepted to include knowledge gained through experience and not just through academic qualifications. Hence there is no hardship in genuine cases.

2.20 The other sub-clauses of section 64(1) also use the expression "spouse". The object of the section is to foil an attempt by any assessee (whether husband or wife) to reduce the incidence of tax on him/her by transferring the assets to family members, like spouse or minor child or by getting the minor child admitted to the benefits of a firm or by taking the spouse as a partner or as an employee.

2.21 Since, in none of the provisions of section 64, there is a discrimination against women, no amendment is called for in these provisions on that account.

2.22 During evidence explaining the position further the representatives of the Ministry stated:—

"It is only in specific situations like where the husband has transferred his assets to the wife without adequate consideration and to the extent of the income relatable to such assets, such income is clubbed in the hands of the husband. There is a specific provision which is providing an exception. I would invite your attention to the proviso below section 64(i) (ii)."

E. Provisions of Advance Tax

2.23 In a memorandum furnished to the Committee by a non-official body, it has been stated:—

"Presently, a tax payer has to pay tax on estimated income in three instalments as under:—

- (a) On or before 15th September —20% of the Tax;
- (b) On or before 15th December — Additional 30% of the tax;
- (c) On or before 15th March — Balance amount of tax.

If there is any default or shortfall in the matter of payment, mandatory interest is payable.

In a case where the tax payer is able to estimate his income correctly or in a case where the income is of a type which is earned evenly over a period, there should be no difficulty in complying with the advance tax payment obligation.

It is, however, wrong to presume that the flow of income is always even or predictable. In such situations, it is unfair and unjust to expect an assessee to "forecast" his income which he cannot "estimate" and then subject him to the levy of mandatory interest on the promise that his "estimate" was incorrect.

The following could be the illustrative cases in which an honest tax payer would bear burden of mandatory interest as he would not be able to pay his tax correctly.

- (a) A company which is incorporated in January 90 or an assessee who commences business in January, 90 would obviously not be able to pay advance tax on 15th September, 89 or 15th December, 89. Such an assessee would, however, pay interest for failure to pay the first two instalments of the advance tax;
- (b) On account of sudden change in business trends or a change in Government Policy, it is very likely that the entrepreneur who may not have earned profit in the first three quarters may mop up his losses by his earning in the last quarter;
- (c) Incomes such as speculation income or income from trading in items the prices whereof are subject to wide fluctuations can never be anticipated or estimated.
- (d) A charitable trust which has to pay advance tax cannot predict the amount of voluntary contribution or donation amount that will be received by it during the year.

The practice of advance tax payment rests on the principle or canon that a tax payer must pay tax "as and when he earns". This pre-supposes that a person must earn first and then pay the tax. It is wrong to recover mandatory interest even when a tax payer is ready and able to establish that he did not pay tax because he did not earn income upto a particular date or month.

We, therefore, suggest that some senior authority in the Tax Department should have discretion to reduce or waive mandatory interest in all reasonable cases. We appreciate that grant of discretion "may" increase the work load of the Department, but we strongly submit that it is wrong to be quiet on such injustice to achieve simplicity and quicker disposal."

2.24. The Committee desired the Ministry to furnish their comments in this regard. The comments furnished by the Ministry are as follows:—

“Section 119(2) (a) of the Income-tax Act, 1961, empowering the Central Board of Direct Taxes to relax, by issue of general or special orders, the provisions of certain sections of the Act relating to assessment and collection of revenue in respect of any class of incomes or class of cases, has been amended with effect from 1st April, 1990 to provide that the Board can now relax the provisions of section 234B as well. Section 234B provides for the charging of mandatory interest for defaults in payment of advance tax. The question of extending similar facility in respect of interest liability under section 234C in cases of deferment of advance tax is under consideration.”

2.25 In a memorandum furnished to the Committee by a non-official, it has been stated:—

“In cases where profitability of company is retrospectively affected by a decision of Government on prices or subsidies, such companies may be allowed to compute and pay advance tax on such incomes in the next instalment. Any shortfall in the bill due to such adjustment should not be treated as default.”

2.26 The Committee desired the Ministry to furnish their comments in this regard. The Ministry in their comments sent to the Committee stated:—

“Interest for shortfall in the payment of advance tax and for deferment of advance tax is in the nature of mandatory interest. It is meant to compensate the Government for the loss on account of the delayed realisation of amounts due to it. Further, under the present scheme of payment of instalments of advance tax, an assessee is required to pay only 20% of the advance tax payable by the 15th day of September and 30% of the advance tax payable by the 15th day of December of the Financial year. Thus, in the first nine months of the financial year, an assessee is required to pay only 50% of the advance tax payable. The remaining 50% of the such tax is payable by the 15th day of March of the financial year. The scheme of payment of advance tax takes care of the variations in the current income in the latter part of the financial year. Further, in cases of genuine hardship, the Board is empowered under section 119 of the Income-tax Act, 1961 to relax in suitable category of cases the provisions of section 234B regarding charging of interest for defaults in payment of advance tax. This is considered adequate. In any case, any exception to safeguard individual cases will only result in complicating the law.”

F. Refund

2.27 When enquired whether the Central Board of Direct Taxes or any authority under is monitoring the refund of tax the Ministry informed the

Committee that the Director-General (Administración) does not oversee the progress achieved in making refunds to the assesseees. The supervisory officers such as the Deputy Commissioner and the Commissioner of Income-tax are entrusted with the task of overseeing all aspects relating to the assessment of cases and recovery of tax demands. They also monitor the speedy despatch of refund vouchers.

2.28 As regards allowing tax payers the facility of adjusting refunds in the following year's advance tax obligation, the Ministry in their note stated as under:—

“The refund claimed by a tax payer in his return of income can be, and is often, reduced after the *prima facie* adjustments are carried out or the assessment is completed. Therefore, till the return is processed by the Assessing Officer, it will not be possible to know the actual amount of refund due to the tax payer. As a result, it will not be possible to extend the facility of adjusting refunds to the tax payers in the following year's advance tax obligations. It may also be mentioned that according to the new provisions of law, the due dates for filling the returns of income in a large number of cases, fall in the month of October and December. The Department also requires a few months time to process these returns for carrying out the *prima facie* adjustments and complete the assessments. By the time this is done, two or sometimes even all the three instalments of advance tax would have been paid. The communication of the refunds due to the tax payers will also involve extra work load for the Assessing Officer.

Another reason for not extending the facility of adjustment of refunds against the advance tax liability is that the Department/CBDT will not be able to know from the figures of collection during a financial year as to how much advance tax has been paid less on account of the adjustment of refunds. This is because the tax payers are now not required to file the estimates of advance tax while paying an instalment of advance tax from which the above information could be ascertained. In the absence of this data, the Department will not be able to know the total advance tax relatable to the current year, which is an important information for policy formulation and budget monitoring purposes.”

2.29 During evidence of the representatives of the Department of Revenue, the Committee asked whether there was time limit for refund of payment to income-tax payers? Explaining the position in this regard the representative of the Ministry stated:—

“Under the present scheme, it is done very quickly and promptly because the acknowledgement slip is considered as the completion

of assessment and after processing the Returns for adjustments, the refund is issued....Normally refunds are issued immediately after the *prima facie* adjustment is made.”

2.30 When asked whether the refunds are paid only through the Reserve Bank, the representative of the Ministry stated:—

“We pay also through the State Bank. And if the amount is below Rs. 1000, no separate Advice Note is sent to the Bank.”

G. Forms

2.31 The Ministry have informed the Committee that *Form 2* (meant for non corporate assesseees with business income) and *Form 3* (intended for non-corporate assesseees without business income) have already been revised. The revised forms were introduced for the Assessment year 1990-91. These have been widely welcomed as simple and easy to fill. Detailed notes have been attached to the return forms to help a taxpayer accomplish the return on his own without seeking the help of an Advocate or Chartered Accountant.

2.32 The taxpayers are requested through audio visual media to give their reactions to the new forms. The feedback has been extremely good.

2.33 *Form 1* meant for companies has also been revised by the Committee. The Committee have submitted their report to the Board which is processing the matter in consultation with Ministry of Law. It is expected that this form will be introduced for the assessment year 1990-91 as the last date of filing of returns by corporate assesseees is 31st December.

2.34 *Form 3A* (meant for charitable and religious trust) and the Wealth-tax Return Forms are currently under revision. The Committee expect to finalise their recommendations by November end. The revised forms are likely made effective for the assessment year 1991-92 after incorporating the suggestions received by the Committee from Members of Public. The Committee is unable to revise the Return Form for Gift-tax. This is so because the Bill amending this Act is yet to be passed.

2.35 The Committee asked the Ministry to furnish their comments on the following points:—

- (a) It has been stated in a memorandum that frequent amendment of Rules create lot of problems for the assesseees. What has the Ministry to state in this regard?
- (b) The changes in the law, which do not involve any secrecy are not made public before making legislation thereabout. What are factors which are responsible for withholding this information for the public?

- (c) Rules are amended, prescribing new forms for furnishing by the assesseees. What are the reasons that such forms are not available in the Department?

The Ministry in their reply stated:

“Amendments in rules are generally made because of changes in the law. The Government on a continuous basis, received suggestions from various quarters, in particular, Chambers of Commerce and Industry, trade bodies, associations and field formation. These suggestions are examined and where necessary legislative changes are proposed. The Bill proposing the legislative changes is subsequently debated extensively both within and outside the Parliament. Based on such discussions, necessary amendments are also moved by Government. Since the changes are based on suggestions from a cross-section of the society and the same are also extensively debated and subject to amendment before enactment it is not necessary to make public, the changes at the time of their formulation.”

Conclusions

2.36 The Committee are deeply concerned about the complexity of direct tax law and procedure which often scare off an honest tax-payer and at the same time, offer a sanctuary to the tax-dodger. They are therefore, glad to note that the Government is seized of the need to simplify laws, rules and procedures concerning administration of direct taxes. The Committee note that Department is taking suitable measures to give effect to the New Assessment Procedure and to ensure speedy distribution of returns amongst the assessing officers. The Committee expect that these measures and the steps to simplify and reduce the non-statutory forms would also ease the situation.

Even though the Committee appreciate that efforts at simplification have to be balanced with the overall effectiveness of tax administration and that there exist no easy solutions in the matter, they would expect the Government to have a comprehensive blue print of simplifying tax laws and procedures. They would like to caution the Government against an ad-hoc approach in this regard and emphasise that piecemeal reforms may not improve the situation to a meaningful degree. With the Government's new economic policy emphasising the primacy of market forces the Committee hope it should be possible to extricate direct tax law and procedure from its undue entanglement with the socio-economic objectives of the country. In the opinion the Committee the sole objective of direct taxes ought to be to realise greater revenues from the citizens keeping in view their capacity to bear such burden.

2.37 The Committee are informed that in addition to the reforms already initiated. Department is also stated to be reviewing the retention schedule for its records and re-examining the work norms for officers and staff in the light of New Assessment procedure. They are further informed by the Ministry that the study already undertaken for re-examining the

norms was a limited one and therefore a comprehensive picture about the full impact of the changes brought about under the New Assessment Procedure on the work norms and the manpower requirements is expected to emerge only during the financial year 1991-92 by which time the new procedure would have stabilized. The Committee are of the opinion that, apart from making compliance of tax laws and procedure easy for the tax-payers, the objective of any exercise at simplification ought to be to help the Department in utilising its human resources in an optimal manner and for an enhanced effort at revenue generation. The Committee, therefore, are surprised to note that, the limited study made so far about the New Assessment Procedure has resulted in projection of additional manpower requirement. In this connection, it may be pointed out that in their 173 Report (8th Lok Sabha), the Public Accounts Committee has pointed out how even after the adoption of new summary procedure, the number of pending cases in Income Tax Department have not been brought down.

2.38 The Committee welcome the idea of bringing out the Direct Tax code in which all substantive provisions of Direct Tax Law and Procedure can be incorporated for easy reference of the tax-payers. They note that decision to bring out such a tax has already been taken and that the work relating thereto has already been entrusted to an eminent expert/lawyer. The Committee are, however, surprised to find from the evidence of the Revenue Secretary that the need to prepare such a code is being reconsidered and there is an attempt to reopen the whole question of bringing out a Direct Tax Code. The Committee are strongly of the view that there is an urgent need to bring out such a code and there is no occasion to back track from decisions already made.

2.39 The Committee note that under the Finance Act, 1990 investment allowance and the investment deposit account were withdrawn. It was suggested to the Committee that these facilities need to be continued for at least those projects which were formulated taking into account the tax concessions available in the previous years in regard to the investment allowance and are in various stages of implementation as withdrawal of these benefits all of a sudden would adversely effect the financial viability of such projects. The Committee are apprised in this regard by the Ministry that since withdrawal of investment allowance and investment deposit have been accompanied by corresponding reduction in the rates of corporate tax besides abolishing minimum tax on corporate book profits, there is no justification for these concessions. However, the Secretary, Revenue during his evidence before the Committee stated that no cogent argument could be given to justify these changes which were perhaps brought in the light of considerations that prevailed at that particular point of time. While the Committee do not wish to go into the de-merits of withdrawing these concessions or the compensatory merits of corresponding reduction of corporate tax rates they cannot preclude the possibility of at least some companies getting adversely and unfairly affected by these changes. In this

regard the Committee wish to underline the importance of maintaining consistency in the structure of tax rates, incentives and concessions in order to help entrepreneurial class to plan their business activities with a degree of certainty.

2.40 The Committee are apprised that the tax realisation expected on account of withdrawal of investment allowance during the assessment year 1990-91 was perhaps based on the assumption which did not take into account the fact that the benefits of such a measures would accrue not immediately but in subsequent financial years whereas the loss of revenue due to reduction in the corporate tax rates would be felt in the immediate financial year. Taking into account the implication of such a faulty assumption, the Committee apprehend that the main objective of the Government in reducing the budget deficit to the extent indicated in the Budget speech of the Finance Minister may not have been achieved. The Committee regret to note that the Ministry have not been able to throw any light on this aspect and have vaguely stated that this was done 'after taking into consideration all the relevant factors.' The Committee are not at all satisfied by the reply furnished by the Ministry.

2.41 It was pointed out to the Committee that Section 64(1) (ii) of the Income Tax Act, 1961 discriminated against women to the extent it ignores the contribution of wife to the business of her husband even while she may not be holding any technical or managerial qualification. The Committee are informed that objective of this Section of Income Tax Act, introduced on the basis of a recommendation of Wanchoo Committee and providing for clubbing of the income of their spouses is to check the diversion of income to the spouse under the guise of employment and that these provisions are not discriminatory against women, because they apply equally to the husband as well as wife. It is further provided that where the spouse possesses technical or professional qualifications and the income is attributable to the application of his or her technical or professional knowledge and experience, the clubbing provisions will not apply. They are further informed that the use of the expressions "technical or professional knowledge and experience" has been interpreted and accepted to include knowledge gained through experience and not just through academic qualifications and hence in genuine cases no hardship is faced. The Committee however feel that even though the provisions of Income Tax Act in this regard are equally applicable to both husband and wife, in reality it does operate in a manner as will put a question mark against the contribution of a wife in the business activities of her husband. Moreover these provisions were introduced when women were mostly confined to the homes and had not joined the work force in a big way is the case now.

2.42 The Committee are apprised that the law relating to Advance Tax Provisions has been made mandatory and interest is leviable on a defaulter assessee even when this default is caused by circumstances beyond his control particularly in regard to some avocations or business activities or

charitable institutions or trusts as the flow of their income is unpredictable. They are further informed that the Income Tax Law requires an assessee to pay advance tax even in respect of periods when he has not even started earning income. The Committee are, however, apprised by the Ministry that the system of depositing advance tax takes care of the variations in the current income in the later part of the financial year. Further, in cases of genuine hardship, the Board is empowered under section 119 of the Income Tax Act, 1961 to relax in suitable cases under the provisions of section 234B regarding charging of interest for defaults in payment of advance tax. The Committee are of the view that by concentrating the powers of relaxing the provisions of the law in regard to payments of income tax in the Central Board of Direct Taxes, undue hardship is being caused to the assessee.

2.43 The Committee note that similar difficulties as are mentioned in the previous para have been expressed by the assessee in regard to late submission of returns due to circumstances beyond their control as powers to relax the provisions of law for charging penal interest in such cases are given vesting in the Board.

2.44 The Committee are informed that no time limit has been fixed for payment of refunds to the income tax payers though at present refund are issued promptly after processing of returns because the acknowledgement slip of the return itself considered as the completion of assessment. However, during their Study tours and through memoranda submitted to them by various non-official bodies the Committee came across, repeatedly, complaints regarding delayed issue of refund orders. They also note that the issued of refund orders are not monitored at a level higher than that of the Deputy Commissioner. The Committee find lack of monitoring of this important aspect of departments work at the Board level disconcerting. They wish to impress upon the Government that this casual attitude towards issue of refund orders puts across to the tax-paying public the image of an organization which is insensitive to the difficulties the public and damages its credibility to a considerable extent. In the opinion of the Committee in absence of adequately monitoring this aspect, the assertion of the Department that refunds are being made promptly, is nothing but an inanity.

2.45 The Committee are further informed that refunds are normally paid through the Reserve Bank of India. However, these are also paid through the State Bank of India if the amount is below Rs.1,000. In the opinion of the Committee there are cities/towns where the branches of State Bank are not available. In these cases the tax-payer are put to undue hardship.

2.46 During their study tours and through memoranda submitted to the Committee it has been pointed out that whenever Income Tax Law and Rules thereunder are amended, the amended forms are not easily available to the assesses. Such a situation creates immense problems for the tax-payers. They are, however, informed by the Ministry that it is quite likely

that in certain mofussil offices, some shortage of specific forms may be there at a particular point of time and that such situations are always remedied by suitable administrative action. The Committee are unable to accept the explanation given by the Ministry.

Recommendations

2.47 The Committee recommend as follows:—

- (i) In order to impart simplicity and effectiveness to tax law and procedure the Government should make a shift in its approach towards direct taxation and focus it on generation of revenue through better compliance rather than talking of a large number of socio-economic objectives which tend to make tax compliance as well as tax administration cumbersome and complex.
- (ii) The proposed comprehensive study of reforms carried out so far should focus on rationalisation of the manpower utilization so as to re-deploy it on more productive activities such as survey operation and reduction in the number of pending assessments. The department should strive to achieve a balance between the assessments related effort and that aimed at widening the tax base.
- (iii) The work of drafting and adopting direct tax code may be completed within a fixed time frame.
- (iv) Whenever major changes in the Tax law like withdrawal of investment allowance are contemplated Government should give due notice to business managements so that they are able to readjust their financial projections and production plans.
- (v) The actual impact of the withdrawal of investment allowance during the assessment year 1990-91 on the overall realization of Corporate Tax may be studied and Committee apprised of the results.
- (vi) The scope of the provision under section 64(1) (ii) of the Income Tax Act and their actual operation in the field should be studied again and suitable amendments in the law made to recognize a team of husband and wife who are engaged in running a small business enterprise for the purpose of assessment of income of each spouse in such cases separately. This will not only help raise women's status but also give due encouragement to such family enterprises leading to the well being of the individual families as also the society at large.
- (vii) Powers under Section 119 of the Income Tax Act, 1961 to relax in suitable cases under the provisions of Section 234B regarding charging of interest for defaults in payment of advance tax as also for late submission of returns may be delegated to the Chief Commissioners/Commissioners of Income Tax.

- (viii) Not only should be the position of refunds be monitored at the level of Board for each of the Chief Commissioners/Commissioners of Income Tax but it should be considered an important criterion for assessing their performance.
- (ix) The Ministry should review the procedure for refunds and facilitate payment of refunds also through nationalised banks other than State Bank of India particularly in places where Branches of State Bank of India do not exist.
- (x) More effective measures should be taken to ensure that the new Income Tax return forms are available to the tax-payers as soon as the amendments are carried out in the Act/Rules. These forms should be made available to the public, particularly in metropolitan towns like Delhi, Bombay, Madras and Calcutta at a number of places simultaneously preferably through Banks and Post Offices.

CHAPTER III

DIRECT TAXES ORGANISATIONAL AND ADMINISTRATIVE ASPECTS

A. Central Board of Direct Taxes

3.1 The Central Board of Direct Taxes was constituted with effect from 1.1.1964 by the bifurcation of the then Central Board of Revenue. This was done under section 3 of the Central Board of Revenue Act, 1963. The Central Board of Revenue itself was constituted under the Central Board of Revenue Act, 1924. The Central Board of Revenue administered both the direct and indirect taxes.

3.2 By an amendment of the Central Board of Revenue Act, 1963, in 1978 the maximum permissible strength of the Board was raised from five to seven members (including the Chairman).

3.3 The Board exercises legal, statutory and such other functions as are assigned to it by the Central Government, to achieve the objective of efficient and effective administration of the following Direct Tax enactments for mobilising resources for the Central Revenues:

Income-tax Act, 1961
Wealth-tax Act, 1957
Gift tax Act, 1958
Expenditure Tax Act, 1987

The Board also assists the Central Government in the formulation of policies and procedures relating to administration of Direct Tax laws. It has been delegated appropriate powers for administration of Direct Tax laws and personnel and infrastructure facilities.

B. Organisation

3.4 The organisational chart of the Board and each of its Members and Chairman is given in Appendix-II. The Board is assisted in its work by the following attached offices.

Director General of Income-Tax (Admn.) Delhi.

3.5 Supervises the work of Director of Income-Tax (II) Director of Income-Tax (Audit) and Director of Income-Tax (Recovery).

Directorate of Income-Tax (IT)

3.6 This Directorate was originally set up in 1940 as part of Board's office with a view to exercising efficient control and supervision over the work of the Deputy Commissioners as it was felt

that regular inspection and supervision on behalf of the Board was the best method of toning up the whole administration.

Directorate of Income-tax (Recovery)

3.7 The Directorate of Income-tax (Recovery) was created in December, 1978 with the purpose of monitoring and reviewing on behalf of the Board, quarterly dossiers of cases involving outstanding demand of over Rs. 10 lakhs. Collection of information in respect of cases of film artists involving outstanding demand of over Rs. 1 lakh was subsequently added.

Directorate General of Income-tax (Management Systems), Delhi.

3.8 The DGIT (Management Systems) supervises the work of Director of Income-tax (Research, Statistics, Publication and Public Relations), Director of Income-Tax (Organisation & Management Services) and Director of Income-tax (Systems*). This Directorate General was created in September, 1989 by bifurcating it from the then Director General of Income tax (Admn.)

3.9 This Directorate General has been created for a limited period of three years mainly with a view to design, develop and implement computerisation of tax administrative work.

Directorate of Income-tax (System)

3.10 Coordinated and controls all activities relating to the introduction and implementation of computerised systems. The Directorate works in close collaboration with the Department of Electronics and National Information.

Director General of Income-tax (Training)

3.11 The Director General of Income-tax (Training) is the head of the National Academy of Direct Taxes. The Academy at Nagpur is the apex body. It has four Regional Training Institutes at Bangalore, Bombay, Calcutta and Lucknow. In addition, there are 19 Ministerial Staff Training Units at various places all over the country. The entire set up is headed by a Director General of Income-tax at Nagpur.

3.12 The National Academy of Direct Taxes also conducts training programmes for tax administrators from developing countries as part of Technical cooperation between developing countries. Some of these training programmes have been sponsored by International bodies such as Commonwealth secretariat & SAARC Secretariat.

3.13 The NADT is also one of the two institutions apart from Lal Bahadur Shastri National Academy of Administration, Mussoorie which conducts the Foundational course for Civil Services probationers from different All India & Central Services.

*Subsequently, the DIT (Systems) has been placed directly under the Board.

Directorate of Income-tax (Vigilance)

3.14 The functions of this Directorate include examination of information/complaints regarding corruption, misuse of authority, etc, initiation of disciplinary proceedings in appropriate cases. The Directorate also conducts review of cases of Gazetted Officers who have completed 50 years of age/30 years of service and recommends pre-mature retirement whenever necessary. The work of identification of officers of doubtful integrity has also been assigned to this Directorate.

3.15 The Directorate is also the chief Vigilance Officer of the Department and functions in close collaboration with the Central Vigilance Commission.

Subordinate Offices

Chief Commissioners

3.16 The subordinate offices consist of 25 chief Commissioner of Income tax regions. The regions comprise charges of administrative commissioner, commissioner (Appeals) and Appropriate Authorities. commissioners and Deputy Commissioners of Income-tax are top and middle level supervisory managers in the organisational set up of the Income-tax Department.

3.17 The role of subordinate office is to administer the direct tax laws. The subordinate office have a hierarchical structure of the powers which devolve as per the Direct Tax Laws. The target for disposal of returns of income and other taxes/assessment and collection are fixed at the level of Chief Commissioners of Income-tax, Commissioners of Income-tax Deputy Commissioners of Income-tax. Assistant Commissioners of Income-tax and Income-tax Officers.

Directorate Generals of Income-tax (Investigation)

3.18 In addition, 5 Directors General of Income-tax (Inv.) (one each stationed at Delhi, Calcutta, Madras, Bombay and Ahmedabad) are incharge of surveys and searches. There are 10 Directors of Income-tax (Inv.) under them stationed in different parts of the country. Besides, there is also a Director of Income-tax (Spl.Inv.) at Delhi. Deputy Director and Assistant Directors of Income-tax assist the Directors of Income-tax.

3.19 The Government is continuously striving to check tax evasion and accumulation of unaccounted wealth. In pursuance of this objective, systematic survey operations, search and seizure operations in appropriate cases, verification of information by Central Information Branches in a planned manner and indepth investigation in a manageable number of selected error prone cases, continue to be undertaken.

3.20 To maintain a high level of deterrence, increasing emphasis is being laid on prosecutions against offenders of tax laws.

3.21 With a view to expediting disposal of prosecution cases, efforts continue to be made for persuading the State Government to set-up special courts for trying economic offences.

3.22 The Directorate of Income-tax (Spl.Inv.) oversees investigation and assessments relating to direct taxes in selected cases of large industrial houses, assigned to it from time to time. It also conducts studies on technique adopted by large industrial houses for avoidance and evasion of direct tax liabilities.

Personnel (Staff strength)

3.23 The Board controls one of the largest work force of the Government of India. The total staff strength including the cadre of Group 'A' is 54,627. The break-up of staff strength is as under:

Group 'A' posts	2992
Group 'B' posts	2697
Group 'C' posts	40382
Group 'D' posts	8556

3.24 In addition, the Income-tax Department has field offices in 332 Districts all over the country. These are organised under Chief Commissioners, Commissioners of Income-tax.

3.25 The rationale behind this organisational structure is based partly on historical factors and partly on post independence developments. The Board and its attached offices constitute the Headquarters establishment of the Income-tax Department while the field offices are organised on the basis of revenue districts and commissionerates. The organisational structure of the field offices has kept pace with post independence developments—its size and organisation has varied upon number of tax payers/revenue resources generated and the geographical spread of the States.

C. Status of Chairman and Members of C.B.D.T.

3.26 The Ministry have informed the Committee that the CBDT is the secretariat for Direct Taxes division of The Department of Revenue, Ministry of Finance. The Members of the CBDT have been given the ex-officio status of Additional Secretary to the Government of India although the pay scales of members were raised in 1986 to a grade higher than that of Additional Secretaries to the Government of India. This appears to be anomalous as the members of the CBDT supervise the work of Chief Commissioners who are equated in pay, rank status with those of additional Secretary to the Government of India. The Chairman has been given the ex-officio status of Special Secretary to the Government of India but he gets a pay equal to that of a Secretary to the Government of India (Rs. 8,000 fixed).

The Central Board of Direct Taxes has made the following submission to the Committee:

"The disparities of the nature mentioned here in before regarding the status of the Chairman and Members of the CBDT need to be removed to make the CBDT and the officers of the CBDT feel that

its Chairman and Members are being treated at par with other senior officers of the Government of India in the Secretariat set up.”

3.27 In a memorandum furnished to the Committee by the Indian Revenue Service Association (All India Body), it has been stated:—

“The Morale of the Indian Revenue Service is at its lowest ebb. The members of the IRS which is comprised by 2800 officers feel aggrieved that there is not a single officer of the rank of Secretary in this largest Group. This is in sharp contrast to the Heads of services of small Central Services (like Indian Postal, Indian Audit & Accounts Service, Indian Telecom Service, Indian Defence Accounts Service, Indian Railways Accounts Service and Indian Railway Traffic Service, to mention a few with cadre strengths below 900) having the ex-officio status of Secretary to the Government of India. The Secretary (R) to whom the Chairman, CBDT at present reports has a very heavy charge. Apart from the CBDT, the Secretary has under him Customs and Excise Board, Settlement Commission with four Benches, Economic Intelligence Bureau, DIR and several other officers. Separation of CBDT (from the Department of Revenue) would, therefore, only reduce his burden.

The Association also suggested that the Chairman CBDT be made Ex-officio Secretary to the Government of India and made head of the Department of Direct Taxes in the Ministry of Finance as he is already getting the salary equivalent to that of Secretary of Government of India, and since the CBDT has a full Secretariat of its own. No financial implications to the proposal. It was also pointed out to the Committee that the career prospects of I.R.S. are now poorer than their sister service Indian Customs and Excise Service where officers of 1959 batch have already been appointed as Member of the Board.”

3.28 The Committee desired the Ministry to furnish information on the above points. The Ministry in their reply furnished in March, 1991 stated:—

“The Central Board of Direct Taxes and Central Board of Excise and Customs are integral parts of the Department of Revenue in the Ministry of Finance and have no separate offices from the Department. The Chairman of the Boards have also been recently designated as ex-officio Special Secretaries to the Government and the Members of the Board are ex-officio Additional Secretaries in the Department of Revenue. The Department functions under the overall administrative control of the Secretary (Revenue) in the Ministry of Finance.

CBDT and CBEC are statutory Boards set up under the Central Board of Revenue Act, 1963. The said Act makes it clear that these two Boards shall function, under the control of the Central

Government and exercise such powers, and perform such duties as may be entrusted to them by the Central Government which may make rules for the purpose of regulating the transaction of business by each Board. The Revenue Boards have accordingly been assigned a number of functions relating to the collection of Central Revenues, both by way of direct as well as indirect taxes. These Boards have all along functioned as field/executive wing of the Department of Revenue responsible for executing the policies/orders laid down by the Central Government in the matter of levy and collection of direct and indirect taxes. However, they have no independent existence from the Department of Revenue, in the Ministry of Finance in as much as they do not have any separate offices from the Department.

3. The Boards have also been functioning as advisory boards to the Central Government in the Department of Revenue in the matter of formulation of policies having a bearing on the levy and collection of Central taxes. The Central Government in the Department of Revenue is allocated the overall responsibility in all matters pertaining to levy and collection of Central taxes and this is provided in the Government of India Allocation of Business rules. The Secretary, Department of Revenue as the head of this Department accordingly assists the Finance Minister in deciding all matters pertaining to the levy and collection of Central taxes. In that capacity, he also coordinates the advice forthcoming from the two Revenue Boards and analyses the same from the stand point of the overall economic policy of the Central Government. He is thus in a position to take a coordinated view regarding matters pertaining to both direct and indirect taxes. The merit of this arrangement lies in the fact that the proposals of the Revenue Boards which are processed by specialists primarily from revenue and tax angles are subjected to an unbiased examination from a wider perspective before being submitted to the Finance Minister for a final decision.

4. It is neither practically feasible nor desirable to split the Department of Revenue into separate Departments of Direct Taxation and Indirect Taxation, as suggested by the IRS Officers Association. Taxation policy has to be viewed as a whole and there are important inter linkages between Direct and Indirect Taxes. Some commonality of approach and harmony in service conditions etc., between the two wings of the Revenue Service has also to be maintained.

5. The question of conferring Secretary status on the Chairman, CBDT/Chairman, CBEC has been considered very carefully by the Government of India recently and it has been decided that there is no question of splitting the Department of Revenue in two separate Departments as demanded by the IRS Association. It has, however, been decided to confer the ex-officio, status of Special Secretary to the Government of India on the Chairman of the two Revenue

Boards. Orders to this effect have accordingly been issued on 31.1.1991. The Members of the two Revenue Boards are ex-officio Additional Secretaries to the Government of India. In view of this, there is no difficulty in the matter of discharging the functions and responsibilities by the Members/Chairman of the two Revenue Boards; nor does it in any way affect the promotional prospects of the officers of the two Revenue services which compare favourably with most of the other recognised Group 'A' service.

6. In support of the suggestion for creating separate Departments of Direct Taxation and Indirect Taxation, each headed by a Secretary drawn from the two Revenue services, the example of the Departments of Posts, Telecommunications and Ministry of Railways have been cited, where the specialist officers function as Secretary and report directly to the Minister. The major difference in the Department of Revenue is that the impact of taxation policy and its administration is all pervasive on the economy and the citizens at large and, therefore, there is a case to distinguish the Department of Revenue from the other Departments mentioned above, which are responsible only for running some essential services on behalf of the Government and not for evolving and administering policies having very wide ramifications.

3.29\ When asked during evidence as to why the members of CBDT have been given the status of Additional Secretary even though they are getting a grade higher than that of Additional Secretaries to the Government of India, the Secretary, Department of Revenue explained:—

“The fact is that after implementation of the recommendations of the Fourth Pay Commission, the Members of the CBDT have been given a pay-scale of Rs. 7,300-8,000. It is a scale lower than Secretaries to the Government, which is Rs. 8,000. The pay-scale of the Additional Secretary to the Government of India is Rs. 7,300-7,600. The Members of the CBDT have been given a scale beginning at the same scale of Additional Secretary but going upto a higher level. But, at the same time, it is not correct to say, that the members have been given a status, a rank which is higher than Additional Secretary. It is only the pay which is higher than that of Additional Secretary but lower than that of Secretaries to the Government of India. The Chairman has the same pay which is equivalent to the Secretary to the Government of India. But, once again, the Office of the Chairman is not equivalent as compared to the Secretary to the Government of India. He is not ex-officio Secretary to the Government.”

3.30 The Secretary of the Department of Revenue further stated:—

“Members have for a long time been declared as ex-officio Additional Secretaries and they continue to be so. For administrative

reasons the Chairman as such does not have a Secretary's status. So, in respect of pay only he is equivalent to Secretary to the Government of India. So, I think the present position does not need any change."

3.31 The Yardi Committee also recommended in this regard as under:—

"The time is now ripe for constituting the two Boards as autonomous and independent bodies free from their secretarial moorings. The Government should scrupulously respect their autonomy and independence, although it should be open to the Government to issue directions of a general nature in writing to the Boards.

The Chairman of the two Boards should have the same status and draw the same emoluments as a Secretary to the Government of India.

Government should make a full review of the position regarding the powers and duties of the two Boards including the position under the different laws and assign to the Boards as many duties as possible so that the direct governmental share of activity will remain confined largely to fiscal policy and planning budget, framing of legislation and exemption notifications."

3.31A The comments of the Group on the recommendations of the Yardi Committee are as follows:—

"The point regarding independence of the two Boards and their relationship with the Government has been a subject matter of various committees including the Estimates Committee of the Parliament. There are certain inherent benefits in giving dual status to the two Boards and perhaps there may not be a case for disturbing the present status. However, the Group of Officers feel that the time has now come to generally upgrade the status of the two Boards into separate department viz. Department of Direct Taxes and Department of Indirect Taxes in the Ministry of Finance. If this is done, the recommendations would automatically get implemented. If the two Boards are made into separate departments, there would be greater accountability of these two Boards to the Parliament. The recommendations merit careful consideration by Government. However, the two Boards should not lose their secretarial moorings. The Government may examine the pattern followed by the Railway Board in this regard."

D. Manpower

3.32 The Ministry have informed the Committee that the volume of work in the Income-tax Department is directly related to the number of tax payers on the Department's records. This covers returns filed (or not filed and therefore to be pursued as non-filers by issue of notices), *prima-facie* adjustments made under section 143(1)(a), regular assessments made,

rectifications or appeals filed and decided, a large number of miscellaneous proceedings (u/s 154, 271 etc.) initiated and decided, and collection of taxes.

3.33 Returns may be filed for the current year or earlier years by the taxpayers on their own or on notice from the Department such as where the earlier years' assessment are reopened.

3.34 Collection function covers monitoring of payment of Advance Tax instalment, payment of tax deduction at source, and payment of self assessment and regular assessment tax.

3.35 The Ministry further stated that the volume of work has been increasing from year to year with the increase in the number of taxpayers. The following table gives the increase in the number of taxpayers, and tax collection for the last 5 years:

Financial year	No. of taxpayers IT (in 000)	Increase %age w.r.t. 1985-86	Collection IT (Corporation and others)	Increase %age w.r.t. 1985-86	(Rs. in Crores)
1989-90	7027	28%	9631.05	79%	
1988-89	7131	30%	8607.57	60%	
1987-88	6525	18%	6644.00	23%	
1986-87	6261	14%	6028.37	12%	
1985-86	5486		5379.23		

Targets

3.36 After the introduction of the New Assessment Procedure with effect from 1st April 1989 and some computerisation in assessment and collection work, the units and method of quantifying work including the criteria for working out manpower and material resources required is still to be determined. The Directorate General of Income-tax (MS) and Directorate of O&M Services are working on preparing these on scientific lines.

3.37 Units and method of quantifying work however exists for appellate work. Presently, there are two different levels of Appellate decision making.

3.38 The Deputy Commissioner of Income-tax (Appeals) deal with appeals where assessed income of the taxpayer is less than Rupee one lakh. They are expected to dispose of 150 units of work per month.

3.39 The Commissioner of Income-tax (Appeals) deals with appeals in bigger and more complex cases. In their case, the present norms are 90 units of work. These are under revision as the norms have been found to be very high and affecting the quality of decision making to the detriment

of revenue. (The earlier norms were 60 units per month which were revised two years ago).

3.40 The unit for quantification of work is based on the income, status (company or non-company) and complexity of the appeal.

3.41 For the assessing officers, in the absence of units for quantification of work at present targets of work have been fixed. These targets are based on the status (corporate or non-corporate taxpayers), income returned, and complexity of cases etc.

3.42 Under the New Assessment procedure, 97% of tax return are examined for making only *prima facie* adjustments u/s 143(1)(a): No targets have been fixed in respect of the number of cases which should be disposed of under Section 143(1)(a) partly because dates for filing of returns are staggered to four dates in a year (30th June, 31st August, 31st October & 31st December). The balance 3% of returns filed are taken up for detailed scrutiny and assessment. In these cases also, however, first a *prima facie* adjustment under section 143(1)(a) have been considered necessary before taking up the scrutiny of the return. The work involved in these cases is, therefore, substantial.

3.43 The returns of large industrial houses and other involving complex legal and accounting issues are assigned to specially constituted Central Investigation circles for facility of detailed investigations, enquiry and examination. No specific targets have been fixed in respect of such cases partly because the assessments in these cases are closely monitored by senior officers and upto the level of Commissioners of Income-tax.

3.44 It must be added that the targets fixed have a built in element of challenge and that assessment includes determination of taxable income, and all other processes and proceedings such as rectifications, appeal effects, levy of penalty and interest, collection of taxes, etc.

3.45 The Ministry in a subsequent note informed the Committee that the sanctioned strength of Income-tax Department is 54,627 while the actual strength is 48,725. As on 1.7.1990, the sanctioned and actual strength of IRS officers and Computer Manager/System Analysts/Programmers was as under:—

Post	Sanctioned strength	Actual strength
1	2	3
Chief Commissioners/Directors General	34	34
Commissioner/Directors	287	266
Dy. Commissioners/Dy. Directors	793	786

1	2	3
Asstt. Commissioner		
Senior Scale	1096	616
Junior Scale	590	678
	2800	2380
Computers Managers	5	2
System Analysts	19	5
Programmers	52	34

3.46 The Ministry further informed the Committee that the shortage of the above magnitude in regard to CITs/DGITs are a normal feature and occur due to retirements/promotions/deputations to other Departments etc. However, the Department is taking necessary steps to fill up the aforesaid vacancies both in the Grades of Commissioner of Income-tax and Deputy Commissioner of Income-tax.

E. Training

3.47 A statement showing the training courses organised for officers by the National Academy of Direct Taxes and its Regional Training Institutes during the last 3 years of 1987-88 & 1989 is enclosed *vide* Appendix-III. The details of some of the important courses organised by the NADT and its Regional Training Institutes for Group-A officers of the Income-tax Department is as in Appendix-IV.

3.48 During the year 1987, 16 officers from Commonwealth countries were given training under Commonwealth Association of Tax Administrators and one officer was given training from Ghana. During the year 1989, two officers from Ghana underwent training in National Academy of Direct Taxes. There is no reciprocal arrangement for sending officers from India to other developing countries during the last 3 years. However, 67 officers were sent for training to developed countries of U.K., U.S.A., France, Japan, under various Training Programmes under Colombo Plan, RIPA, UNDP, USAID, Indo-French Cultural Exchange Programme etc., including 3 officers sent to Singapore, Tanzania.

3.49 Assessment of the impact of the various training programmes has not so far been made.

F. Rewards and Incentives

3.50 The Ministry have informed the Committee as follows:—

The rules governing the payment of reward for search and seizure work to officials of the Income-tax Department, have been set out in para 2(c) of the Reward Scheme of 1985. The relevant extracts are as under:

"2(c) Reward for search and seizure work"

3.51 The heads of the Department may, having regard to the value of the seizure effected and magnitude of evasion detected and special efforts

or ingenuity displayed by the officer concerned, sanction the grant of suitable reward to the officers/staff of the Investigation Wing and the members of the search party in cases where seizure involving assets of at least Rs. 10 lakhs (Rs. 25 lakhs in metropolitan towns) have been effected.

3.52 Where valuables have been seized, the officials entitled for reward would be:

- (a) all members of the particular search party who have detected and seized the valuables;
- (b) the Dy. Director of Income-tax/Assistant Director of Income-tax and the Inspectors concerned.

3.53 The ratio of disbursement of the reward in such cases shall be at the rate of 40% of the final amount sanctioned to (a) above and balance 60% to (b) above.

3.54 Para 3(b) of the Reward Rules provides for payment of reward to the officials concerned at the maximum rate of 5% of additional income brought to tax in cases where informers have supplied the information about tax evasion and 10% in those cases where the information was gathered without the help of any informer. As provided in para 6 of the Rules, the reward sanctioning committees are headed by officers not below the rank of Head of Department, who examine the reward proposal and grant the reward and decide upon the manner of its distribution amongst the eligible officers and staff. The decision of the Committee is final.

3.55 The details of rewards given during the last three years are as under:

Financial Year		No. of cases	Amount of rewards sanctioned	No. of officers rewarded	No. of staff members rewarded
1		2	3	4	5
			Rs.		
1987-88	(a) For searches conducted	13	12,432,405	355	608
	(b) Others	6	1,36,402	8	48
	Total:	19	13,79,807	343	656
1988-89	(a) For searches conducted	7	3,99,276	163	319
	(b) Others	7	3,28,173	9	57
	Total:	14	7,27,449	172	476

	1	2	3	4	5
1989-90 (a) For searches conducted		—	—	—	—
(b) Others		—	—	—	—
Total:		—	—	—	—
Grand Total:		33	21,07,256	515	1132

3.56 During evidence when asked whether the officers ought to be rewarded for performing their duties in respect of search and seizure work, the representative of the Ministry explained in this regard:

"I would submit that this system is working well only up to a certain level. In Customs Department certainly we know that it has resulted in great incentive and resulted in much collection of revenues and even in the field of Direct Taxes, it is confined to a level. It does not go beyond the Dy. Commissioner. However, I would say that we should measure Rewards in terms of returns we are getting. This thing is under constant review. But, I feel it is working well and it had led to increase in revenues and it gives young people some more incentive to work with dedication and devotion. However, it is also true that it is a part of their duty."

3.57 When asked whether the reward does not lead to some heart-burning among other officers, the representative of Ministry explained:

"The award is given only for outstanding work relating to a particular case. It is not an award to an officer for any other purpose during the year. The reward relates to the particular case which he handles. For instance, if they go for a search, we do not give them the reward just because they catch some cash or jewellery. It depends upon what actually comes out of that search. There is an eligibility limit for their getting the reward. In Metropolitan cities it is Rs. 25 lakhs. The basis is the revenue gain arising out of the search, not the search *per se*. That means, it is related to the result and not to the action that is taken. Secondly, even for assessment, we have said that certain amount of addition has to be made. It has to be sustained in appeal and prosecution has to be launched in that case for tax evasion. The terms are quite stringent as far as assessment is concerned, for any officer to claim any reward."

3.58 When enquired whether the visiting team misuses its powers to conduct searches, the representative of Ministry explained:

"We also come across this complaint that they want to seize cash or jewellery only to come within this eligibility limit. So, this reward

scheme has been reviewed by the Board. We are going to the Government for clearance where this possible misuse is eliminated in our new scheme, that is, you will not be compelled to seize anything to claim any reward."

G. Vigilance

3.59 The Ministry in a note to the Committee informed that the Income-tax Department has about 5000 officers and about 45,000 members of staff. The Directorate of Income-tax (Vigilance) is a wing of the CBDT, involved in processing of vigilance cases of gazetted officers of the Income-tax Department. The Directorate comprises of a Chief Vigilance Officer of the rank of Director of Income-tax, appointed in consultation with the C.V.C. He is assisted by 7 Dy. Directors of Income-tax at the Headquarters, having, broadly, territorial distribution of work and 5 regional Dy. Directors stationed at Delhi, Bombay, Calcutta, Madras and Ahmedabad.

3.60 A majority of the vigilance cases relate to irregularities in assessment, search and seizure and other areas of technical functions with a view to showing undue favours to the assesseees. These cases are investigated departmentally. Cases of disproportionate assets, demand and acceptance of bribes, and forgery/interpolation etc. are generally referred to the C.B.I.

3.61 The Disciplinary authority in respect of Group 'A' officers is the President. In their cases, the decision to initiate disciplinary proceedings or prosecution, is initially taken by the Board with the approval of the C.V.C., and then the matter is placed before the Finance Minister for final decision. In the cases of Group 'B' officers, the Chief Commissioners and the Commissioners of Income-tax are the disciplinary authorities. In their cases, final decisions are taken by the Chief Commissioners/ Commissioners with the approval of the C.V.C. In all these cases, the Directorate of Income-tax (Vigilance) obtains the investigation reports from the Chief Commissioners, process them and refers the same to the C.V.C. with its recommendations. The C.V.C.'s advice is then placed before the concerned disciplinary authorities for final decisions.

3.62 In the case of non-gazetted officials, the Chief Commissioners of Income-tax or their subordinate authorities are the disciplinary authorities. The investigations of complaints of corruption and initiation of disciplinary proceedings are carried out by them. The CVC's advice is not required in cases of non-gazetted officials except where they are involved together with gazetted officers.

Statistical information relating to number of complaints of corruption

S.No.	Particular	1987	1988	1989
1	2	3	4	5
1.	Total number of complaints of corruption received against Gazetted officers of I.T. Deptt.	1103	1056	1124
2.	No. of complaints taken up for investigation out of (1) above	281	130	116
3.	No. of cases out of (2) above where allegations were not found substantiated	118	82	35
4.	No. of cases out of (2) above where non-formal action e.g. warning etc. has been taken till date	7	2	—
5.	No. of cases out of (2) above where references have been made to CBI for investigation	6	10	1
6.	No. of cases out of (2) above where penalty proceedings have been initiated till date	1987-3 1988-23 1989-5 1990-4	1988-9 1989-10 1990-5	
	Total:	35	24	
7.	No. of cases out of (2) above where action for premature retirement was taken	2	—	—
8.	No. of cases out of (2) above, where investigations are still in progress (These include cases referred to CBI as shown in at S.No. 5)	119	22	81
9.	Total No. of cases where penalty proceedings were initiated against Gazetted officers	23	80	37
10.	Total No. of cases where penalty was imposed on gazetted officers	11	9	3
11.	Total No. of gazetted officers retired prematurely	16	3	—

1	2	3	4	5
12.	Total No. of gazetted officers in whose cases prosecution was sanctioned	4	—	6

3.63 The Ministry explained that the correlation of number of complaints received in a given year with the number of disciplinary proceedings initiated in that year will not give an accurate picture. An overwhelming majority of the complaints received are anonymous or pseudonymous of which a sizeable proportion is of repetitive nature and mainly copies of earlier complaints. Thus the effective number of complaints is much less than the total number of complaints received. Further, as per Govt. of India decision anonymous/pseudonymous complaints are generally not taken up for investigation. However, where such complaints are against senior officers, i.e. officers of the rank of Commissioners and above, a preliminary verification of the specific allegations is made and results are placed before the CBDT for a decision whether to initiate regular investigations.

3.64 Usually it takes much more than a year from the date of receipt of complaint, to reach the stage of initiation of penalty proceedings. This is mainly because of the nature of the procedure required to be followed. On receipt of complaints, a preliminary verification is made, after which the same is referred to field authorities or the CBI for investigation. On receipt of investigation reports, show-cause memos are issued to the officers concerned, their explanations are obtained/examined, decision of the concerned disciplinary authorities and advice of C.V.C. are obtained, and thereafter charge-sheets are issued.

3.65 There is an elaborate system of verification of complaints. All signed complaints are investigated either departmentally or through the CBI. The departmental investigation is carried out through Chief Commissioners and Commissioners of Income-tax. Besides, 5 Dy. Directors (Vigilance) who function under the direct control of the Directorate of Income Tax (Vigilance) conduct investigations into all important/serious complaints against senior officers in addition to the preventive vigilance inspections carried out by them. The progress of investigations is monitored by the Directorate of Income-Tax (Vigilance). An annual Vigilance Action Plan is drawn by CBDT for the Directorate as well as the field formations and the performance is monitored through quarterly reports. Besides, DOP&T lays down its own Action Plan which is for all depts. including the CBDT.

3.66 The Ministry has furnished the following statement with regard to complaint cases as also the cases in which disciplinary proceedings are pending:

	Complaint cases	Disciplinary proceedings cases
No. pending as on 1-4-87	326	81
Addition from 1-4-87 to 30-6-90	610	162
Disposal from 1-4-87 to 30-6-90	459	44
No. pending as on 30-6-90	477	199

3.67 Information regarding non-gazetted officials is not readily available. If necessary, it will have to be collected from various disciplinary authorities all over the country. This will be a very time consuming process. However, the vigilance machinery is equally active regarding vigilance cases pertaining to non-gazetted officials also.

3.68 Commenting about the effectiveness of the vigilance machinery in the Department, the Secretary (Revenue) stated:—

“I would not like to make a personal judgement on this because my familiarity dates back to the last six days only. But from what I am given to understand, the machinery is working well enough.”

H. Buildings

3.69 The Ministry have informed the Committee that the number of buildings hired by the CBDT, is 647. The total amount of annual rent on these buildings is Rs. 10,17,58,870/-.

3.70 The Committee desired the Ministry to furnish the details of the amount on rent for the last 5 years. The Ministry in their reply stated that the offices of the Income-tax Department are located in 500 different cities and mofussil areas throughout the country. These offices are at present located in 114 Government owned buildings and more than 550 hired buildings. The number of hired buildings changes from time to time, consequent upon the de-hiring of office buildings upon construction of Government buildings. The hiring of office buildings is done depending upon the requirements of office accommodation, which is calculated with reference to the norms laid down by the Ministry of Urban Development. The rent of the buildings to be hired is fixed in accordance with the guidelines issued by the Ministry of Urban Development. The CPWD/Hiring Committees (in respect of Metropolitan towns) are asked to determine the rent based on standard method of valuation, and also to indicate the market rent prevailing in the city/town where the building is proposed to be hired. The rent to be paid to the landlord is decided by the Department of Revenue, between the range of fair rent and market rent, based on its requirements and the availability of buildings in the city/town concerned. The rent of the hired buildings is revised quinquennially.

3.71 The year-wise details of amount spent on rent during the last five years from 1985-86 to 1989-90, as intimated by the various field offices of the Income-tax Department, is given below:

Year	Total Rent Paid
1985-86	Rs. 7.45 cr.
1986-87	Rs. 7.64 cr.
1987-88	Rs. 8.08 cr.
1988-89	Rs. 8.78 cr.
1989-90	Rs. 9.36 cr.

3.72 There are at present 114 Government owned office buildings in occupation by the Income Tax Department at different stations. The Department has taken up a programme for purchase of land and construction of office and residential buildings thereon for the offices of the Income Tax Department.

3.73 During the year 1990, expenditure sanctioned for purchase of land and construction of office buildings have been issued at a total estimated cost of Rs. 5.22 crore at the following stations:

(1) Hyderabad, (2) Kanpur, (3) Muzaffarnagar, (4) Keonjhar, (5) Neemuch, (6) Viradhunagar, (7) Pudukottai, (8) Betul, (9) Jalna, (10) Nowgong, (11) Bhopal, (12) Trichy, (13) Dewas, (14) Lucknow, (15) Durgapur, (16) Port Blair, (17) Pune, (18) Nady, (19) Nagpur, (20) Behrampur, (21) Khargone, (22) Karimganj, (23) Calcutta, (24) Jalpaiguri, (25) Surat, (26) Vijayawada, (27) Khandwa, (28) Dehradun, (29) Meerut, (30) Kumbakonam, (31) Ichalkaranji, (32) Shivpuri, (33) Bhatinda, (34) Kurnool, (35) Shillong, (36) Kolhapur and (37) Ahmednagar.

3.74 The purchase of land and construction of office buildings at the following stations have been planned in the year 1991-92:

(1) Jaipur, (2) Indore, (3) Dhar, (4) Sagar, (5) Chittorgarh, (6) Etawah, (7) Jammu, (8) Rohtak, (9) Almore, (10) Hissar, (11) Phagwara, (12) Jodhpur, (13) Rishikesh, (14) Hanumangarh, (15) Rampur, (16) Udaipur, (17) Delhi, (18) Dhule, (19) Akola, (20) Jamnagar, (21) Dibrugarh, (22) Dhanbad, (23) Paradeep, (24) Dimapur, (25) Madras, (26) Trichur, (27) Nagapattinam, (28) Hyderabad, (29) Vijayawada, (30) Gulbarga, (31) Nellore, (32) Alwaye, (33) Shimoga, (34) Ooty, (35) Thanjavur.

3.75 The Department is already taking necessary action to build its own office buildings wherever land is available. It will be possible to de-hire the rented buildings when construction of the Government owned office buildings is completed, which would result in the reduction in annual expenditure on rent. It is cost effective to build Government owned office buildings as compared to hiring of buildings, especially in cities and big

towns where the rents are very high and are increasing every year. However, where the buildings were taken on low rent regulated by Rent Control Act, it is in some cases for the time being more economical to continue with the hiring arrangements.

3.76 Explaining the position further the Secretary of the Department of Revenue stated during evidence:

“When we think of acquiring or purchasing a building, we have to see the capital cost involved in that. . . . In fact, in many cases in places like Bombay, Calcutta or Delhi, we have hired buildings as say Rs. 4-5 per sq. ft. whereas the present prevalent rate is Rs. 50 to Rs. 60 per sq. ft. So, we will like to live with that situation instead of acquiring these buildings. I am told that we are reviewing the position every fifth year and then we take a view whether we should go in for purchase or continue to hire a particular building. So, this matter is under review from time to time.”

Conclusions

3.77 The Committee note that the existence of Central Board of Direct Taxes as an independent statutory body dates back to 1964 when Central Board of Revenue Act, 1963 was enacted. The Board is responsible for administration of various direct tax laws and rules framed thereunder, and for assisting Government in formulation of fiscal policies and legislative proposals relating to direct taxes. They further find that apart from the field offices of the Income Tax Department, a number of attached offices also function directly under the Board and assist it in discharging its responsibilities. At present the Board comprises of 7 members one of whom is nominated as its Chairman. However, the Committee are surprised to note that the Government have not yet accorded appropriate rank and status to the Chairman and members of the Board. The Committee through a memorandum submitted by the Indian Revenue Service Association are apprised that the members of Indian Revenue Service comprising of 2800 Class-I Officers feel aggrieved that, with the present rank and status of the Chairman and the members of the Board of Direct Taxes, not a single officer of this large service could reach the rank of a Secretary to Government of India. They were further informed that this situation sharply contrasted with the position in respect of other Group 'A' services of the Central Government. The Committee are further informed that consequent to the implementation of the recommendations of the Fourth Pay Commission the members of the CBDT have been given a pay scale of Rs. 7300-8000 which is lower than that of Secretary to Government of India and higher than that of Additional Secretary in the Government of India who has been given the pay scale or Rs. 7300-7600. However, while the Chairman CBDT gets a fixed salary of Rs. 8000/-p.m. which is equivalent to that of the Secretary to Government of India, he does not enjoy the status of a Secretary. The Committee are informed that the Government have now designated Chairman, CBDT as ex-officio Special Secretary to Government of India

and members of the CBDT as ex-officio Additional Secretary to Government of India. The Committee are unable to appreciate this arrangement which at its very face is anomalous as Chief Commissioners of Income Tax who are subordinate to the Board, also are equated in pay with those of Additional Secretary to Government of India. They are also not convinced with the argument that this is so because there is no rank between the Additional Secretary and the Secretary to Government of India. The Committee wonder why the Chairman of the Board cannot be given the rank and status of Secretary to Government of India. The contention of the Ministry that there ought to be a Secretary, Department of Revenue to coordinate the affairs of the two Boards viz CBDT and CBEC is unacceptable to the Committee as in their opinion the two areas of Central revenues dealt with by the two Boards are fairly distinct from each other and do not require more coordination than that is necessary between the Ministries of Commerce and Finance, which are headed by independent Secretaries reporting to different Ministers. The Committee feel that at the Secretariat level whatever coordination is necessary can best be achieved through inter-ministerial or inter-departmental Committees and consultations. The Committee are amused at the contradictory stand taken by the Ministry in deeming the two departments viz. Income Tax and Customs and Central Excise to be more important than the Railway Board and simultaneously expressing themselves against conferring upon the head of these organisations the rank and status of a Secretary to Government of India particularly when the Chairman, Railway Board holds the rank of a Principal Secretary to Government of India. The Committee find no reason why similar status cannot as well be given to the Chairman of the Central Board of Direct Taxes and the Central Board of Excise and Customs.

3.78 While dealing with this question the Committee also sought the views of the Department of Personnel and Public Grievances and Administrative Reforms. They, however, regret that the Department did not furnish their comments in the matter.

3.79 The Committee note that the volume of work and hence the requirement of manpower in the Income Tax Department is directly related to the number of tax-payers on the Department's records. They further find that the number of tax-payers has registered an increase owing to the success of policy of promoting voluntary compliance under the New Assessing Scheme. Such increases in the number of income tax payers notwithstanding, it is quite obvious to the Committee that the over all number of tax-payers has not grown to a satisfactory extent even though during the period under review i.e. 1985-1990 the economy has grown on an average rate of 5.5 per cent. On the other hand with the introduction of New Assessment Scheme under which the returns of 97% assesses are not required to be subjected to any detailed scrutiny the work load ought to

have decreased appreciably. In the opinion of the Committee, therefore, the number of tax-payers cannot be considered a meaningful basis for determining the workload of the Department.

3.80 The Committee are surprised to note that maximum shortages of staff exist at the level of Assistant Commissioners who constitute the cutting edge of the Income Tax Department. The Committee urge the Ministry to take immediate steps to identify the factors responsible for this situation and take remedial measures to rectify the same.

3.81 The Committee finds that the units and methods of quantifying work including the criteria for working out manpower and material resources for the Department are still to be determined on the assessment sides whilst these have been prescribed for the appellate work. They also find that the norms fixed at the levels of Commissioners, Income Tax (Appeals) have been found to be very high and have adversely affected the quality of decision making. The Committee understand that in absence of work norms target for assessment side are being fixed on an ad-hoc basis.

3.82 The Committee find that the Department is organising a number of training courses including some exclusively for the officers of foreign Governments. However, from the information furnished to the Committee it is not clear whether the various training programmes being run by the Department in different training institutions have been appropriately structured and integrated to provide for the required professional and managerial development of the personnel. The Committee are surprised to note that no assessment of the impact of various training programmes has so far been made.

3.83 The Committee are informed that the rules as defined in para 2 (c) of the Reward Scheme of 1985 provide for payment of reward to officials for search and seizure of assets leading to realization of additional taxes. According to the provisions of these rules, the heads of the Department may, having regard to the value of the seizure effected and magnitude of evasion detected and special efforts or ingenuity displayed by the officers concerned sanction the grant of suitable reward to the Members of the search party where seizure involving assets of at least Rs. 10 lakhs (Rs. 25 lakhs in metropolitan towns) have been effected. Such rewards are admissible upto the level of Deputy Commissioner Income Tax.

3.84 The Committee have, however, received allegations that under the temptation to secure a reward, the members of search parties of the Investigation Wing, while visiting private premises for the purpose of searches and seizures of assets, over step their powers and harass the citizens. They are also apprised that the reward scheme is stated to have been reviewed by the Board and that clearance of the Government to a revised scheme, under which use of coercion by visiting search teams will be eliminated is awaited.

3.85 The Committee are of the view that granting rewards to public servants for better performance of their duties is bad in principle. Moreover, the possibility of receiving a reward for performance of duty weakens the defence of public servant against malafide use of powers as he can no longer deem to be acting purely in public interest.

3.86 The Committee are of the view that the aspect of vigilance in the functioning of Income Tax Department is very important for not only gaining the confidence of the taxpayers but also for development of a healthy and cooperative relationship between taxpayers and the Department. From the statistics about the complaints of corruption received against the Gazetted Officers of the Department and further action taken on such complaints the Committee find that the number of cases actually investigated is only a fraction of the complaints received. While the Committee appreciate that certain complaints may be frivolous, without basis and repetitive in nature, they are not convinced that all of the complaints could be without any basis whatsoever. The Committee would expect the higher echelons of the Department to appreciate that a citizen would ordinarily feel chary of revealing his/her identity in such cases on account of apprehension of subsequent harassment by the officer against whom a complaint has been made.

3.87 The Committee do not appreciate the fact that the Board could not furnish any information regarding vigilance cases against non-gazetted officials and as no such details were stated to be available. In their opinion this is clearly indicative of insensitivity of the higher authorities towards cases of corruption and harassment which though petty in nature are perceived to be widely prevalent at the lower levels of the Income Tax Department.

3.88 The Committee are informed that the offices of the Income Tax Department are located in 500 different cities and mofussil areas throughout the country. These offices are at present located in 114 Government owned buildings and more than 550 hired buildings. The Committee have been informed that CBDT is spending nearly Rs. 10 crores every year as rent on hiring of buildings, for the Income Tax offices all over the country. The rent to be paid to the land-lords is decided by the Department of Revenue and ranges from fair rent assessed by the Central Public Works Department to market rent. The rent of the hired buildings is revised quinquennially.

3.89 The Committee find that the Department is already taking necessary action to build its own office buildings wherever land is available and that the hired buildings are de-hired as and when the construction of Government buildings is completed.

3.90 The Committee are informed by the Ministry that where the buildings were taken on low rent and are regulated by Rent Control Act, it is more economical to continue in the rented buildings as compared to constructing of Government buildings. They, however, feel that keeping in view the totality of the attitude on the part of the Ministry not only is unfair

towards the owners of the buildings but also affects adversely the image of the Department besides making it complacent in regard to planning construction of suitable and modern office accommodation for the Income Tax Department.

Recommendations

3.91 The Committee makes the following recommendations:—

(i) The status of the posts of the Chairmen of Central Board of Direct Taxes and Central Board of Excise and Customs should be raised to the level of the Secretary to the Government of India. As a corollary to this the members of the two Boards should be given the status of Special Secretary. This will not only streamline the functioning of the two organisations but also raise the morale of the two premier revenue services of the country.

(ii) The Department of Personnel, Public Grievances and Administrative Reforms should explain why they failed to furnish to the Committee their comments on the representation made by Indian Revenue Services (DT) Association within the stipulated time.

(iii) Greater emphasis is required to be given to activities which can bring in more people within the tax net leading to an upswing in the collections of direct taxes. The Department should re-assess its workload and project its requirement of manpower keeping in view the effort required for widening the tax base manifold. This, the Committee feel, is achievable in a country of India's size given the necessary will and deployment of resources.

(iv) The work norm targets should be fixed expeditiously in such a way that while providing necessary challenge to the officers of the Department these should not result in undue harassment of the tax-payers.

(v) The efficacy of the various training facilities provided by the Board should be got examined by an independent organisation, to effect necessary improvement and make the same more result-oriented. The various training programmes being run by the Department should be structured and integrated to provide the requisite professional and managerial development of personnel at all levels.

(vi) The Department should substitute the existing reward scheme by instituting awards for outstanding and meritorious performance in realisation of higher revenues for the Government. Quantum of such awards can be increased to make these sufficiently rewarding.

(vii) Income Tax Department should show greater sensitivity in regard to complaints of corruption received against the Gazetted Officers of the Department and ensure that anonymous or synonymous complaints pointing out definite cases of corruption ought not to be filed without due investigation by the senior officials.

(viii) The Central Board of Direct Taxes should monitor in quantitative terms the extent to which the complaints are received against officials at the lower rungs and action taken thereupon, within the jurisdiction of each Commissioner of Income Tax. This should be considered to be an important criterion for evaluating the performance of the Commissioners of Income Tax, as prevalence of corrupt practices and harassment of taxpayers at lower levels clearly reflect upon style of functioning of higher authorities.

(ix) CBDT should construct more buildings for its field offices in a phased manner giving priority to offices in medium size towns where land and construction costs are cheaper. In smaller towns and mofussils, however hired buildings should be taken on a long term basis. Plan for acquiring office space in metropolitan cities should be drawn and implemented without further delay. While planning such buildings, adequate provision should be made for waiting rooms for assesseees who have to wait for long hours whenever they are called by the assessing officers or have to visit Income Tax offices for official work.

CHAPTER IV
ADMINISTRATION OF DIRECT TAXES

A. Survey Operation

4.1 The Ministry have informed the Committee that Survey operations are conducted by the Income-tax authorities under the provisions of Sec. 133A and 133B of the Income-tax Act.

4.2 Under Section 133A, an Income-tax authority is empowered to enter any premises where business or profession is carried on for inspecting books of account, verifying cash, stock or any other valuable article or thing found therein and collecting such information as may be required for any proceedings under the Income-tax Act. Under this type of survey, the premises can be entered only during the hours at which such place is open for the conduct of business or profession. The Income-tax authority can place marks of identification on the books of account or other documents inspected during survey, take extracts or copies therefrom, make inventory of any cash, stock or other valuable article or thing verified by him and record the statement of any person during the course of survey. However, the Income-tax authority is debarred from removing any books of account or other documents or any cash, stock or other valuable article or thing during such survey. This type of survey is generally conducted in the case of existing assesseees for detecting tax evasion.

4.3 Sub-section 5 of Sec. 133A, of the Income-tax Act empowers the Income-tax authority to collect information regarding the nature and scale of expenditure incurred by an assessee in connection with any function, ceremony or event. This type of survey is useful for collecting information regarding expenditure incurred on marriages and other social functions.

4.4 Survey under the provision of Sec. 133B of the Income-tax Act is conducted for the purposes of identifying and locating new assesseees. In this type of survey, information in the prescribed form (form No. 45D) is collected from all persons carrying on business or profession by the survey parties by moving from one commercial / business premises to another.

4.5 The Ministry further informed that Central Information Branches functioning in the Investigation Wing of the Department, carry out an important function of collection of information from various internal and external sources, for example, the Chief Controller of Imports and Exports, Registrar of Properties, Department of Industries, Sales Tax Department, Travel Agencies, Hotels, Banks, Registrar of Co-operative Societies, Vehicle Manufacturers and RTOs., Municipal Corporation etc. For the purposes of collecting information, 96 sources have been

identified. Information from these sources is collected and verified by the Central Information Branches and is passed on to the assessing officers through the Commissioners of Income-tax for taking appropriate action in the hands of the concerned persons. A detailed procedure for collection, collation verification and dissemination of information had been laid down by the Central Board of Direct Taxes. Collection and verification of information by the Central Information Branches helped in locating new tax payers and also detecting tax evasion in the cases of existing assessees.

4.6 The Ministry have furnished the following figures relating to the number of premises surveyed and the number of assessees added during the last four years:—

Year	No. of Premises surveyed	No. of New Assessees added
1986-87	230410	655563
1987-88	619032	523376
1988-89	729459	498176
1989-90	817803	467711

4.7 When pointed out as to how the people like professionals etc. who have huge incomes and are escaping the tax net, can be brought into the tax net, the Secretary of the Ministry during evidence stated:—

“There are many such people not only in the rural areas but also in the urban areas as well. For example, take the case of Panwalas. They are having good income but are not disclosing it. We will take action, if we could lay our hands on them. There is adequate provision in the law for this. The Department will carry out surveys. They have the power to carry out surveys. They have the power to visit the business establishment get the records and examine them. They can determine whether the person who is not an assessee should be drawn into the tax net or not. That provision is there. It is only a question of implementation. Further, the machinery at our disposal is very limited. Enough force is not being created.”

B. Searches and Seizures

4.8 In order to detect tax evasing, Searches and Seizures are conducted by the CBDT, the Ministry have informed the Committee that any person in charge of a place authorised to be searched should allow free ingress to the officers authorised and afford all reasonable opportunity for the conduct of search therein. If ingress into such building or place cannot be so obtained, it would be lawful for him to take the assistance of the Police and enter such building or place of search therein, and/or to break-open any outer or inner door if a notification of the authority of the authorised officer and purpose and demand of admittance duly made.

4.9 Before making a search, the authorised officer is required to call upon two or more inhabitants of the locality as witnesses. The search should be made in the presence of the witnesses and a list of all things seized in the course of such search and all the places in which they were respectively found, should be prepared by the authorised officer and signed by the witnesses.

4.10 During the course of the search, the authorised officer may examine any person on oath who is found to be in possession or control of any books of accounts, document, money, bullion, jewellery or other valuables, articles or thing. Any statement made by such person during such examination may, thereafter, be used as evidence in any proceedings under the Income-tax Act.

4.11 At the end of the search, a panchnama is prepared indicating the developments from the time of entering of the search party into the premises searched till the close of the search operations. This is required to be signed by the witnesses authenticating its veracity. A copy of the panchnama, duly signed by the authorised officer and the witnesses, is given to the person searched immediately after the close of the search operations.

4.12 The Committee desired the Ministry to furnish details of searches conducted during the last 3 years. The Ministry in their reply have stated that the details of searches conducted in the current financial year upto 31.12.1990 and the past three financial years are given below:

Financial Year	No. of searches conducted	Value of assets seized (Rs. in crores)
1990-91 (up to 31.12.1990)	3838	152.45
1989-90	3984	128.02
1988-89	7505	152.71
1987-88	8464	145.02

4.13 It was further stated that in the course of a search, if cash, jewellery and other valuables are seized the assessing officer is to pass an order under section 132(5) of the Income-tax Act within 120 days of the search and retain only such cash, jewellery and other valuables seized which are sufficient to satisfy the amount of tax on the estimated undisclosed income, the amount of interest payable and the penalty imposable and the amount required to satisfy any existing tax liabilities. The balance assets are required to be released immediately.

4.14 Section 153 of the Income-tax Act provides time limitation for completion of assessments. The search assessments are no different from

other assessments and their completion is governed by the same time limits. In some cases, after the assessments are completed, the orders are set aside by the Deputy Commissioner of Income (Appeals)/Commissioner of Income-tax (Appeals) or Income-tax Appellate Tribunal and restored to the assessing officers for making the assessments afresh. As per the provisions of the Income-tax Act all assessments including search assessments are to be completed within two years of the end of the relevant assessment year or two years from the end of the financial year in which the assessments are set aside.

4.15 A few thousand searches are conducted by the Income-tax Department every year. These searches pertain to different assesseees who are assessed by various assessing officers all over the country. For identifying 10 search cases which are pending finalisation for the longest period, assessment records of all the search cases would have to be seen not only in such cases where assessments are pending but also where the assessments have been set aside and restored to the assessing officers by the appellate authorities. Thus, thousands of files scattered with assessing officers all over the country in respect of searches conducted over the past few years will have to be examined. As the assessments are to be completed within the time prescribed in the Act the long time taken in some cases for the assessments to become final is due to the setting aside of the assessment orders in appeal. The time consuming exercise in examining thousands of files for the purpose of finding the assessments which have not become final may not serve the purpose of finding out the reasons for delay.

C. Staff Security during Searches

4.16 The Ministry informed the Committee that:

(a) The present policy of the Government is to carry out searches only in cases involving substantial tax evasion. It should be noted that a search can be authorised only by a very senior officer of the Department of rank of a Chief Commissioner of Income-tax/Director General of Income-tax (Inv.) or Commissioner of Income-tax or Director of Income-tax (Inv.). He can issue authorisation only when in consequences of information in his possession he has reason to believe that conditions specified under section 132(1) are fulfilled.

(b) The main difficulties faced in carrying out searches arise out of organised opposition (and at time of violence) against Survey and Search parties by groups of traders and businessmen with the help of anti-social elements. In some States, the situation is very serious. The Department has not been able to get proper protection to its officials participating in the searches due to the reason that the State Governments are, many times due to their own constraints, unable to provide the required security personnel to protect the officials. In fact due to a few incidents, where the I.T. officials participating in the search were assaulted, the searches all

over the country had to be suspended for a period of about 4½ months in the year 1989-90. Besides this major difficulty the other difficulties are as follows:

- (1) Grossly inadequate resources-human, financial and material;
- (2) Insecurity;
- (3) Growing violence and organised opposition against raid and survey often with the support of anti-social elements enjoying political patronage.--Some Trade Associations have also started in a big way to oppose departmental actions by way of search and seizure operations.

(c) There have been complaints about the searches carried out by the Department. They generally relate to the following areas:

- i) The allegation of coercion while recording statements in the course of the search.
- ii) The long hours taken for the completion of search.
- iii) High handed approach of search party.
- iv) Indiscriminate seizure.

4.17 During evidence the Committee expressed the view that usually there is resistance during searches and seizures. Asked whether reasons for such resistance had been analysed and measures taken to remove misgiving from the public mind, the Secretary of the Ministry stated:

“As far as authorisation of searches and seizures is concerned, it is done at a high level. Only Commissioners and above are authorised to get searches instituted. Precaution is taken that action does not emanate from lower levels. You referred to Ghaziabad. I understand that in Muzzaffarnagar and Bijnor, there were two incidents in October-November, 1989. For four or five months after that there were no searches and seizures because of the resistance of the departmental officers who did not feel secure. Work has started on that again. One precaution to avoid vexatious or frivolous action is that we are making sure that only when there is very solid ground to proceed, search is undertaken with the authorisation from high levels. We undertake searches and Seizures with introspection.”

4.18 When pointed out that during searches and seizures officers who go on such missions behave in an over bearing manner. Explaining the position in this regard, the Secretary of the Ministry stated:

“What you say is the perception of the citizen and the public, perhaps. But, I find that there is a feeling in the Department that militancy has grown and when they are carrying out perfectly legitimate searches and seizures, those who are subjected to that, organise resistance in a manner that the genuine work undertaken is frustrated and, in fact, sometimes they are belaboured and put to harassment and lot of complaints are made against them which would create an impression that it is an attempt at victimisation. This aspect has also to be looked into and we have to come to a balanced view on this.”

4.19 When asked whether there was need to provide institutional safeguards to officers of Income Tax Department while they conduct searches, the Secretary of the Ministry stated during evidence that:

“The question whether we can recommend any institutional safeguard is something which is difficult to react off-the-cuff. If I recall for instance the Police Commission had recommended that the entire police organisation of a State should be controlled by a Board which would be directly answerable to the Chief Minister but that was not accepted. I cannot foresee even if we do make any recommendation it will be acceptable..... One matter which should be considered is that the key personnel engaged in this work, who are going good work should have a fixed tenure. In their case, the transfer should be effected only on administrative grounds.”

A representative of the Ministry added:—

“Speaking frankly, even if you assure me a fixed tenure, that will not be a safeguard. While we are working, the Department has to come under some sort of supervision by the political authority. So, as long as that remains. I don't think any safeguard will ever work. I am not looking forward to the next day but I am looking forward to subsequent years. So, the insulation of two or three years is not going to make me totally independent as not to listen to the commands which I am getting from above. Therefore, no recommendation as such can totally insulate this operating unit for all time to come from preceding independently. At one level, we do want to exercise supervision to see whether they are doing it correctly or not. So many complaints are being received of improper functioning and abuse of power. Therefore, it can only be achieved with right people doing right things rather than having any institutional safeguard. It will work.”

D. Promoting Voluntary Compliance

4.20 The Ministry in a note furnished to the Committee stated that the result of the department's policy of promoting voluntary compliance is directly reflected in the increasing collection of income-tax during the last few years. The figures of collection from 1985-86 to 1989-90 are given below:—

Year	Corporation Tax	Income-tax	Total	Percentage increase over previous year
1985-86	2865.08	2511.30	5376.38	19.91
1986-87	3159.96	2878.97	6038.93	12.32
1987-88	3432.92	3192.43	6625.35	9.71
1988-89	4407.21	4241.25	8648.46	30.53
1989-90 (Provisional)	4768.65	4937.98	9706.63	12.26

4.21 It may be seen that the collections have been increasing year after year. The increase is particularly remarkable in 1988-89 and 1989-90. In 1988-89, the collections increased by as much as 30.53% over the collections of 1987-88. Partly this increase was on account of the amendment of law regarding uniform previous year, as a result of which many assesseees had to pay tax for more than 12 months. However, the department's thrust on voluntary compliance has also played a considerable role in increasing the collections. This is further confirmed by the fact that even in 1989-90 the collections have increased by over 12% against the collections of 1988-89, even though the tax payers were required to pay tax for a normal previous year of 12 months only.

4.22 It may also be mentioned that the increase in personal income-tax has generally been higher than the increase in corporation tax. This is so because the impact of the department's policy of promoting voluntary compliance is generally greater in the field of personal income-tax.

4.23 When asked during evidence about the growth rate of taxes, the Secretary of the Ministry explained:

"In the last three-four years there has been a growth rate of 10-12 per cent per year; it has been maintained. So, it may not be quite in order to say that there is no growth; there is a growth. It will remain bright. If our developmental plans succeed, then more and more people will get into the tax net and more and more direct taxes will be collected. In 1985-86 the total collections were Rs. 4,497 crores; in 1988-89, the total collections were Rs. 9,936 crores, which is more than the double."

E. Tax Arrears

4.24 The Committee desired the Ministry to furnish category-wise details of arrears of Income Tax for the last two years. The Ministry in their reply have furnished the following statement:—

		(Rupees in Crores)	
		1988 —	1989-90
1	2	3	4
A. Total arrears outstanding at the end of financial year.		5291.66	6560.71
B-1. Amount not fallen due		2071.92	1867.05
2. Amount claimed to have been paid but pending verification/adjustment.		12.63	100.89

1	2	3	4
3	Amount stayed/kept in abeyance by courts, Settlement Commissions, Tribunal, Income Tax authorities due to appeals and other reasons.	1163.11	1607.25
4	Amounts for which instalments have been granted.	78.29	92.01
5	Total of B1+2+3+4	3325.95	3667.20
C Balance		1965.71	2893.51

4.25 The entire outstanding demand, as of a particular date is however not legally recoverable. For example, the following demands are not recoverable demands:—

- (a) Demands not fallen due i.e. the normal period of 30 days allowed by the law for payment of the demand has not expired.
- (b) Demand stayed or kept in abeyance by Courts, Tribunal, I.T. authorities etc.
- (c) Demands for which instalments have been granted.

4.26 In considering the question of tax arrears, the following expressions are relevant:—

- (i) Current demand
- (ii) Arrear demand
- (iii) Total outstanding demand

'Current demand' represents that portion of the total demand, raised during a financial year, which has remained uncollected as of a particular date. 'Arrear demand' represents the uncollected demand brought forward from earlier years. The current demand as of 31st March of a financial year becomes the arrear demand on the 1st of April of the succeeding financial year.

'Total outstanding demand', as of a particular date is the sum of the uncollected demand brought forward from earlier years and the uncollected current demand raised during the year.

4.27 The following statement shows the demand raised during 1988-89 and 1989-90, the amounts recovered in the respective years and the total amount recovered:

		(Rupees in Crores)	
		1988-89	1989-90
1	2	3	4
1.	Cross demand raised during the year.	9448.58	12482.06
2.	Amount recovered during the year (By collection/reduction and adjustment of prepaid taxes).	6610.30	8588.98
3.	Percentage of 2 Viz-a-viz 1	69.96%	68.81%
4.	Total demand for realisation during the year (Arrear+Current).	13543.06	17895.05
5.	Amount recovered against 4 above.	8251.40	11334.24
6.	Percentage of 5 viz-a-viz 4	60.92%	63.34%

4.28 The cases with demand of highest amount are given at Appendix-V. The Ministry stated that all possible actions as per law are taken by the field authorities of the Income Tax Department to collect these arrears. This includes issue of notices to defaulters, charging penal interest, levy of penalty, attachment and sale of assesses movable and immovable properties etc. The CBDT sets every year targets for collection/reduction of arrears in the Central Action Plan. The Chief Commissioner-wise performance is monitored by the Board every month. Member(R&A) C.B.D.T. writes to the Chief Commissioners from time to time to impress upon the importance of the arrear reduction work and also to suggest special steps for the improving performance in this regard.

4.29 It was suggested to Committee that many public trusts are known to have invested small or nominal funds in debentures of certain well-known public limited companies in response to advertisements issued by those companies that the debentures issued by them constitute prescribed investment under the Public Trust Act. These investments were made without realising that the debentures were not prescribed under section 11(5) of the Income-Tax Act. As a result of this, many Public Trusts have been denied tax exemption in respect of their income in entirety. High demands have been raised despite the fact that the debenture investment constituted a very small percentage of the total investment in almost all cases. In the interest of justice such unfair results ought to be avoided in honest and bonafide cases by vesting authority in the Commissioner to condone inadvertant defaults. Alternatively by a suitable amendment, the trust may be called upon to pay tax only in respect of the income earned from debentures.

The Ministry in their reply has stated as follows:—

“The relevant provision in law was made in 1983 and there can be no doubt that it was meant to be followed strictly and without exception. There can therefore, be no question of any authority being given power to relax this condition. Even otherwise, any discretionary power to the Commissioner or the assessing officer to condon the default would lead to considerable litigation, since in each case the concerned authority has to satisfy himself about the intention behind the default. In fact even in the case of other provisions like waiver of interest etc. such powers with the tax authorities have been withdrawn”.

4.30 The Ministry in a subsequent note regarding position of ‘arrears’ of tax and their categorization with appropriate break-up, has stated as follows:

In the revenue department, the phenomenon of tax arrears is a continuing one. Even though the tax demand outstanding at the beginning of a financial year is collected/reduced to a sizeable extent by the year end, the arrears again go up mainly because a part of the fresh tax demand raised during the course of the year (on completion of assessments) is not fully collected by the end of the year, and therefore, becomes fresh arrears at the end of the year.

Under the Income tax Act, a tax payer is ordinarily allowed 30 days time to make the payment of tax demand. Therefore, the tax demand raised during the month of March, and also some demand raised during the month of February necessarily remains in arrears at the end of a financial year. Further, the assessments made by the Assessing Officers are often disputed in appeals and the disputed tax generally remains unpaid, till the appeals are decided. Quite often, the disputed demand is also stayed by courts and appellate authorities etc. In suitable cases, the tax payers are also allowed instalments for paying the tax. There are some other reasons also.

It may be stated that the ‘Balance’ demand is also not fully realisable because it also includes those which are disputed, but which may not have been formally stayed by any authority. No separate categorization is done in the Income-tax Department for such demands.

It may also be stated that in a number of cases, the recovery of demand is very difficult or doubtful. Such cases include the following:—

- (i) Companies in liquidation
- (ii) Cases in which insolvency proceedings are taking place.
- (iii) Assesseees who have left India and who have no known assets.

- (iv) Undertakings which have been nationalised or taken over by Government where the erstwhile owners do not have enough assets to pay the tax.
- (v) Cases of smugglers where assets have been confiscated.
- (vi) Companies which have become sick.
- (vii) Cases of name lenders.
- (viii) Cases where assets are outside India.
- (ix) Cases where demands cannot be realised for various reasons of genuine hardship.

F. Cases in Litigation

4.31 The Ministry have informed the Committee that the pendency of cases lying in litigation as on 1-4-1990 is roughly as under:

Deputy Commissioner (Appeals)	2,01,000
Commissioner (Appeals)	1,47,000
Income Tax Appellate Tribunal	60,000
High Courts	46,000
Supreme Court	56,000

About 20% of the cases pending in the High Courts and Supreme Court have been pending for over 5 years and the remaining for varying periods below 5 years.

4.32 Classifying the difference between "Demand" and "arrear", the Secretary of the Ministry stated during evidence:—

"The current demand is the demand that is accruing within a financial year. What remains uncollected as on the last date, i.e., 31st March, becomes an 'arrear'. But so long as it is a demand that arose or it was made within that financial year, it is current demand. If it is not collected by 31st March, but it gets added on to the arrears. A demand which is not collected in the current financial year up to the last day thereby becomes an arrear and gets added on to the previous arrears."

4.33 When asked whether disputed demand is treated as arrear, the witness added:

"Yes, even if it is in litigation. And if there is a stay order, even then it is an 'arrear'."

4.34 When asked whether the Ministry would like to stick to this definition or modify it, the Secretary explained:

"We would not like to modify it in the sense that if the court decided that it is not payable, then it will cease to be an arrear. So, long as it is a disputed amount it would remain as 'arrear'."

G. Appellate Machinery

4.35 The appellate machinery is provided in the Direct Taxes Acts. Whenever an assessee is aggrieved by an order of the Assessing Officer he

can file an appeal before the Deputy Commissioner (Appeals) or the Commissioner (Appeals) depending on the quantum of the income. Against the order of the Deputy Commissioner (Appeals)/Commissioner (Appeals), the assessee can appeal to the Income tax Appellate Tribunal. Thereafter, on points of law, a reference lies to High Court and Supreme Court. For speedy disposal of cases the Department is considering setting up of a National Tribunal of Direct Taxes. The assessee can approach the (administrative) Commissioner of Income-tax also for revision.

4.36 The Committee asked the Ministry to furnish their comments regarding the existing vacancies in Income Tax Appellate Tribunal. The Ministry in their comments stated as follows:—

“Income Tax Appellate Tribunal being under the administrative control of the Ministry of Law and Justice, Unstarred Question No. 3817 dated 31.8.1990 was addressed to them and they have indicated the reasons for not filling up the 15 vacancies as under:

At present there are 16 vacancies of Members in the Income-tax Appellate Tribunal (Accountant Members-10, Judicial Members-6). A proposal for filling up five posts of Judicial Members (unreserved) and 8 posts of Accountant Members (5 posts unreserved, 2 posts of S.T. and 1 post of S.C.) has been sent to the Appointments Committee of the Cabinet on 17th January, 1991 for approval. The remaining vacancies are reserved for Scheduled Castes, for which the Selection Board could not find any suitable candidates. These posts are being re-advertised shortly.”

4.37 The Ministry in a note have further informed the Committee that the National Tribunal of Direct Taxes is proposed to have jurisdiction to entertain appeals on questions of law against the decisions of the Income Tax Appellate Tribunal. All references presently pending with the High Courts Under Sections 256(1) and 256(2) of the Income-tax Act as also writ petitions relating to direct tax matters filed under Article 226 of the Constitution are proposed to be transferred to National Tribunal of Direct Taxes.

4.38 The Ministry further informed the Committee that the matter regarding establishment of National Tribunal of Direct Taxes (NTDT) is at advanced stage of consideration in consultation with the concerned Ministries. NTDT will start functioning once a final decision about its establishment is taken.

H. Prosecution of Tax-law offenders

4.39 The Ministry informed the Committee that the number of prosecutions against the offenders of tax laws launched, the number of

cases decided and number of conviction orders received during the last 4 years are as under:

Year	No. of prosecutions launched	No. of cases decided	No. of conviction orders received/cases compounded
1986-87	5259	396	142
1987-88	7361	433	244
1988-89	7428	781	574
1989-90	8929	638	404

4.40 The disposal of prosecutions cases depends upon the number of courts available for trying economic offences. With a view to expediting disposal of prosecution cases, efforts continue to be made for persuading the State Governments to set adequate number of special courts for trying economic offences.

4.41 The Committee found that in 35,35,73 and 63 percent of cases conviction orders were received/cases were compounded during the years 1986-87, 1987-88, and 1989-90 respectively. Asked as to in how many cases have the courts dismissed cases, and whether any analysis has been made of the failure of departmental cases, the Ministry in their reply stated:—

“The year-wise figures of acquittals in prosecution proceedings is given below:—

<i>Year</i>	<i>Acquittals</i>
1986-87	63
1987-88	189
1988-89	207
1989-90	234

4.42 Based on past experience it has since been decided that prosecution should be launched only in cases where adequate proof is available to show that serious offences under the Direct Tax Laws or other related enactments have been committed, and to pursue those limited number of cases vigorously so as to ensure conviction.”

4.43 The Ministry was asked to furnish details of expenditure incurred through litigation, by the Department, for various cases, during the last 3 years.

4.44 The Ministry in their reply stated that no details of expenditure incurred through litigation by the Department for various cases are separately maintained. Information is maintained under the head

“Payment for professional and special services” which include the expenses on Police guards. The figures under this head for the last three years are as follows:—

(In thousands of rupees)	
1986-87	52,59
1987-88	60,54
1988-89	90,70

4.45 During evidence the Secretary of the Ministry was asked to indicate the comparative position of conviction and acquittals. The Secretary stated:

“The conviction figure in 1986-87 is 66 against 63 acquittals. In 1987-88, it is 53 against 189 acquittals, in 1988-89 it is 130 against 207 acquittals, 1989-90 it is 181, and in the current year up to November, it is 65.”

I. Settlement Commission

4.46 The Ministry have informed the Committee that the Settlement Commission was set up in 1976 on the bases of the recommendations of the Wanchoo Committee. The Wanchoo Committee had recommended the creation of a machinery for settlement of tax cases for the following reasons:—

- (i) there has to be room for compromise and settlement in the administration of fiscal laws, whose primary objective is to raise revenue;
- (ii) a rigid attitude would unnecessarily strain the investigational resources of the tax Department in cases of doubtful benefits to revenue;
- (iii) Such attitude would also needlessly proliferate litigation and hold up collections; and
- (iv) such attitude would also inhibit a one-time tax-evader or an unintending defaulter from making a clear breast of his affairs.

4.47 The Principal Bench of the Settlement Commission functioning at New Delhi was accordingly created in 1976. Later on, additional benches were created in Bombay in 1987, Calcutta in 1988 and Madras in 1989.

4.48 Under the provisions of Chapter XIXA of the Incometax Act, 1961, an assessee may file an application for settlement of his tax case before the Settlement Commission if the incometax payable on the income disclosed in the settlement application exceeds Rs. 50,000/-. On receipt of such an application, the settlement Commission first considers whether the application is allowed to be proceeded with or not. Once an application is admitted, the Commission passes the order of settlement after giving an opportunity of being heard to the Income-tax Department

and the assessee. The following table would give a clear idea about the achievements of the Settlement Commission during the last three years (1.4.87 to 31.3.1990):—

- | | |
|---|------|
| (i) Application under section 245D(1) of the Income-tax Act or 22D(1) of the Wealth-tax Act for considering if a case is to be allowed to be proceeded with by the Commission or not: | |
| (a) Total applications for consideration | 1653 |
| (b) Application disposed of | 937 |
| (c) Cases pending as on 1.4.1990 | 716 |
| (ii) Applications under section 245D(4) of the Income-tax Act or under Section 22D(4) of the Wealth-tax Act for Settlement of cases: | |
| (a) Total applications for consideration | 2210 |
| (b) Cases in which settlement was done | 842 |
| (c) Cases pending as on 1.4.1990 | 1368 |

4.49 During the financial years 1987-88, 1988-89 and 1989-90, the amounts of additional tax collected/collectible on the basis of the applications admitted by the Settlement Commission was Rs. 151 lakhs, Rs. 126 lakhs and Rs. 177 lakhs as against the expenditure of Rs. 26.11 lakhs, Rs. 30.12 lakhs and Rs. 41 lakhs, respectively. The benefit/cost ratio of the Principal Bench thus varied from 4:1 to 6:1. The average benefit/cost ratio was thus 5:1 approximately, which would be considered to be fairly high by any standard.

4.50 The Settlement Commission has, thus, been making substantial contribution to the speedy finalisation of large and complicated cases while safeguarding the interest of Revenue as well.

4.51 The Ministry have further stated that an assessee may file settlement application at any stage of a case relating to him in the prescribed manner containing a full and true disclosure of his income which has not been disclosed before the Assessing Officer, the manner in which such income has been derived and the additional amount of tax payable on such income. However, no such application can be made unless:

- (a) the assessee has furnished the return of income which he is or was required to furnish under any of the provisions of the Act; and
- (b) the additional amount of income-tax payable on the income disclosed in the application exceed Rs. 50,000 /-.

4.52 On receipt of such an application, the Commission calls for a report from the Commissioner and on the basis of the materials contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Commission may allow the application to be proceeded with or refuse to do so. However, an application shall not be rejected unless an opportunity of being heard has been given to the applicant. An application shall not be proceeded with if the Commissioner objects to the application on the ground that the concealment of particulars of income on the part of the

Commission, to resolve important issues on which conflicting judgements may be made by the different benches.

- (b) The Directors/Deputy Directors working with the Settlement Commission may be vested with statutory powers to make enquiries and investigations.
- (c) The rules may provide for making it obligatory for the filing of paper books by the assesses and the Department well in advance before the date of hearing so that the Commission is well prepared to decide a case.
- (d) The Chairman may be allowed to sit as a member in any of the Benches in addition to the Principal Bench."

4.57 Asked whether the Ministry had placed any kind of limitation for cases going to settlement commission, the Secretary stated:

"Earlier there was no limitation and so they were having a plethora of cases. The volume of work has now got restricted and it has become manageable. This has led to a substantial improvement in the disposal of cases."

4.58 When asked whether there is no fixed time for the disposal of cases. The representative of the Ministry further added that:

"We have explained the procedure in our note which is contained in the Act and the Rules. When a person goes to the Settlement Commission, then the application is given to the Commissioner to state whether he has any objection for the settlement commission to proceed with the case. If the Commissioner objects, then the Settlement Commission has to give a hearing. They can admit if he does not object."

J. Grievance Redressal Machinery

4.59 Referring to the Grievance Redressal Machinery and Appellate Machinery, the Ministry stated as follows:—

1. *Grievance Redressal Machinery* : The Department has a three-tier Grievance Redressal Machinery as under:
 - (a) (i) Central Grievance Cell under the Chairman (CBDT) directly under the control of an officer of the rank of a Director to the Government of India designated as Director of Grievances.
 - (ii) A Regional Grievance Cell under each Chief Commissioner and Director General of Income Tax. In multi Chief Commissioner Charges, the Chief Commissioner—II is in-charge of the Regional Grievance Cell catering to the need of all Chief Commissioners stationed there. The officer in charge of the Regional Grievance Cell is designated as Regional Grievance Officer.

- (iii) **Grievance Cell under outstation Commissioners/Directors of Income-tax.** Outstation means stations in which no Chief Commissioner or Director-General is posted. Officer in-charge of this Grievance Cell is called Grievance Officer.
- (b) **Whenever any grievance is received, it is acknowledged and a running number is allotted. The Grievance Cell pursues the matter until the grievance is redressed.**
- (c) **Apart from the Grievance Redressal Machinery outlined above, all officers of the Department have been directed to designate one day of a week as a meeting-less day. Three hours of that day are earmarked for receiving and hearing public grievances.**

4.60 The Department has a Public Relations set-up and every Income-tax Office has an officer designated as PRO whose primary function is to assist the taxpayers, give information and help in getting their problems resolved. In larger cities, a PRO is usually an officer of the rank of Deputy Commissioner of Income-tax.

4.61 The Ministry further stated that in Bombay, the assesseees are requested to approach the Regional Grievance Cell under Chief Commissioners—II Bombay. The procedure is that they should send their petitions in duplicate outlining their grievances in brief and clearly mentioning the Assessing Officer and the Commissioner under whose jurisdiction they fall. In case their grievances are not redressed within two months, they may send a petition in duplicate to the Central Grievance Cell under Chairman (CBDT).

K. Redressal of Staff Grievances

4.62 The Ministry have further stated that in addition, a mention is made regarding the redressal of staff grievances as under:

- (i) **The Grievance Cells of the Department entertain staff grievances also.**
- (ii) **Director of Grievances in the Board is available to hear staff grievances personally between 10 AM to 1 PM on the first working day of every week.**
- (iii) **The Regional Grievance Officers and Grievance Officers are available to hear staff grievances personally once a week at fixed timings.**
- (iv) **Chairman, CBDT is available, if in station, on the first working day of every month between 3 PM to 4 PM to meet the employees personally for redressal of their grievances.**
- (v) **Heads of office and Heads of Department are available once in a month at fixed timings to personally hear the employees about their grievances.**

regard the Ministry in their reply have stated that a proposal for filling up five posts of Judicial Members (Un-reserved) and 8 posts of Accountant Members (5 posts un-reserved, 2 posts of S.T. and 1 post of S.C) has been sent to the Appointments Committee of the Cabinet on 17th January, 1991 for approval. The remaining vacancies are reserved for Scheduled Castes, for which the Selection Board could not find any suitable candidate. The Committee deprecate the fact that such a large number of vacancies in the Appellate Tribunals have allowed to arise, which is, indeed, indicative of lack of advance action in the matter. They would like the Ministry to expedite the whole process and see that these vacancies are filled up without any further delay.

4.72 The Committee are alarmed to find that in prosecution cases launched by the Department, the acquittals outnumber the convictions. In 1987-88 against 53 cases of conviction there were 189 acquittals. In 1988-89 against 103 convictions there were 207 acquittals and during 1989-90 there have been 181 acquittals against 65 convictions. These figures indicate that the prosecutions launched by the Department lack adequate evidence or proof or that cases are not pursued seriously. The Ministry have, however, stated that based on past experience it has been decided that prosecution should be launched only in cases where adequate proof is available to show that serious offence under the Direct Tax laws or other related enactments have been committed and to pursue those cases vigorously so as to ensure conviction. The Committee feel that it is rather a belated realisation on the part of the Department. The Committee would like the Department to make amends and see that the exercise with regard to prosecutions does not more often end in futility and that wasteful expenditure on account of unwarranted prosecutions are avoided.

4.73 The Committee are informed that a Settlement Commission was set up by the Government in 1976 on the basis of the recommendations of the Wanchoo Committee for settlement of Tax assessment cases beyond Rs.50,000 and to reduce the incidence of litigation between the Department and the assesseees. As on 31st March, 1990, 2083 applications were pending for settlement with the Commission. Taking into account the present pace of disposal of about 372 cases per year, the Commission is likely to take more than 5 years, to clear the existing arrears, with the fresh intake of 234 to 383 applications every year the position would be worse. What is really shocking is that it takes the Commission 6 to 8 years to dispose of a case out of which 2 to 3 years are taken to decide the admissibility or rejection of application.

4.74 The Committee regret to note that right from 1976 the Commission's capacity to dispose of cases has been only a fraction of the actual intake of cases. The Ministry have apparently taken no tangible action to strengthen the Commission even after a lapse of 15 years.

4.75 The Committee are apprised that a well-defined machinery for redressal of public grievances exists in the Income Tax Department. However, keeping in view the magnitude of the Department's interaction with the general income tax assesseees maintaining strict watch over the effectiveness of the machinery for redressal of grievances is essential. From their interaction with certain sections of tax-payers during their Study Tours the Committee have gained an impression that the desired level of satisfaction amongst the tax-payers is missing.

Recommendations

4.76 The Committee recommends as follows:—

- (i)** The Department should concentrate the survey efforts on the category of professionals like doctors, lawyers, small contractors, property dealers and also petty businessmen who have substantial income but usually escape the tax net. These surveys should also cover small towns, mofussils and rural areas so as to assess the incomes of money-lenders, transporters, contractors, middlemen, etc. Provision of sufficient work force for conducting surveys need to be reviewed seriously and adequate machinery, including provision of sufficient number of vehicles for conducting smooth survey works, created to widen the tax base.
- (ii)** The Ministry of Finance (Department of Revenue) may review the provisions of the Income Tax Act in regard to processing and completion of assessments on the basis of results of searches and seizures and bring about changes leading to simplification of the assessment procedures so that such cases are not allowed to linger on for years. The assessing officer should take every care to function strictly within the ambit of the law so that at the stage of appeals such cases are not reverted to the assessing officers for re-assessment on technical grounds.
- (iii)** The Income Tax Department should evolve a procedure whereunder the operations to be undertaken by the search parties are kept strictly confidential and an active and healthy liaison is maintained with the top police authorities of the area to ensure adequate security to the search parties during the course of actual search operation. The key personnel engaged in survey/search should have a fixed tenure unless there are charges of corruption or inefficiency against them. In their cases the transfers should be effected only on administrative grounds and not on extraneous considerations/complaints or any political pressure.
- (iv)** Much greater effort requires to be made to achieve a consistent growth of income tax collections to a really appreciable degree.

- (v) **The Income Tax Department should maintain relentless pressure on all fronts to show better results in collection of current demands and reducing arrears.**
- (vi) **Whenever figures of income-tax arrears are communicated on the floor of Parliament the amounts against which actual demands have been raised should be specifically mentioned.**
- (vii) **The decision with regard to setting up of National Tribunal of Direct Taxes should be taken without further delay.**
- (viii) **Vacancies in the Appellate Tribunals should be filled up without any further delay. Advance planning should be done and action initiated for filling up the vacancies they actually arise.**
- (ix) **The Income Tax Department should concentrate and prosecute only worthwhile cases and eschew the temptation to launch prosecution as an option to a compromise guided by enlightened self-interest. Simultaneously the Department should defend the worthwhile cases by engaging competent and reputed lawyers. The Income Tax Department should also be given powers to engage lawyers of its choice if the amount under litigation is substantial.**
- (x) **The suggestions for increasing the strength and Benches of the Settlement Commission and for vesting of more powers in the Commissioners of Income Tax to settle cases without reference to the Settlement Commission, pending for consideration before the Government should be taken seriously and necessary steps taken without further delay to enable the Commission to cope up with its work. Suitable norms for the functioning of the Settlement Commission should be fixed so as to clear the pendency of the backlog within the next four years. The structural and procedural re-organisation of the Commission should also be brought about without any delay. The reasons for unduly long time of 6 to 8 years being taken for disposal of cases should be gone into and remedial measures taken to reduce the same by streamlining the procedures.**
- (xi) **There is urgent need to bring about necessary attitudinal changes amongst the officials responsible for redressal of public grievances.**

NEW DELHI;
March 4, 1992

Phalgun 14, 1913 (Saka)

MANORANJAN BHAKTA
Chairman,

Estimates Committee.

APPENDIX I
(Vide Para 8 of Introduction)
ESTIMATES COMMITTEE
(1990-91)

CHAIRMAN

Shri Jaswant Singh

MEMBERS

2. Shri J.P. Agarwal
3. Shri Anbarasu Era
4. Shri Kamal Chaudhry
5. Shri Anantrao Deshmukh
6. Prof. Prem Kumar Dhumal
7. Shri Balwant Manvar
8. Shri Hannan Mollah
9. Shri Arvind Netam
10. Dr. Debi Prosad Pal
11. Shri Rupchand Pal
12. Shri Harin Pathak
13. Shri Bhausahab Pundlik Phundkar
14. Shri Vijaya Kumara Raju
15. Shri Mullappally Ramachandran
16. Shri Y. Ramakrishna
17. Shri Rameshwar Prasad
18. Shri J. Chokka Rao
19. Shri Chiranji Lal Sharma
20. Shri Yamuna Prasad Shastri
21. Shri Dhanaraj Singh
22. Shri Subedar Prasad Singh
23. Shri Sukhendra Singh
24. Shri Tej Narain Singh
25. Shri Taslimuddin
26. Dr. Thambi Durai
27. Shri Nandu Thapa
28. Shri P.K. Thungon
- *29. Shri K.C. Tyagi
30. Shri Kailash Nath Singh Yadav

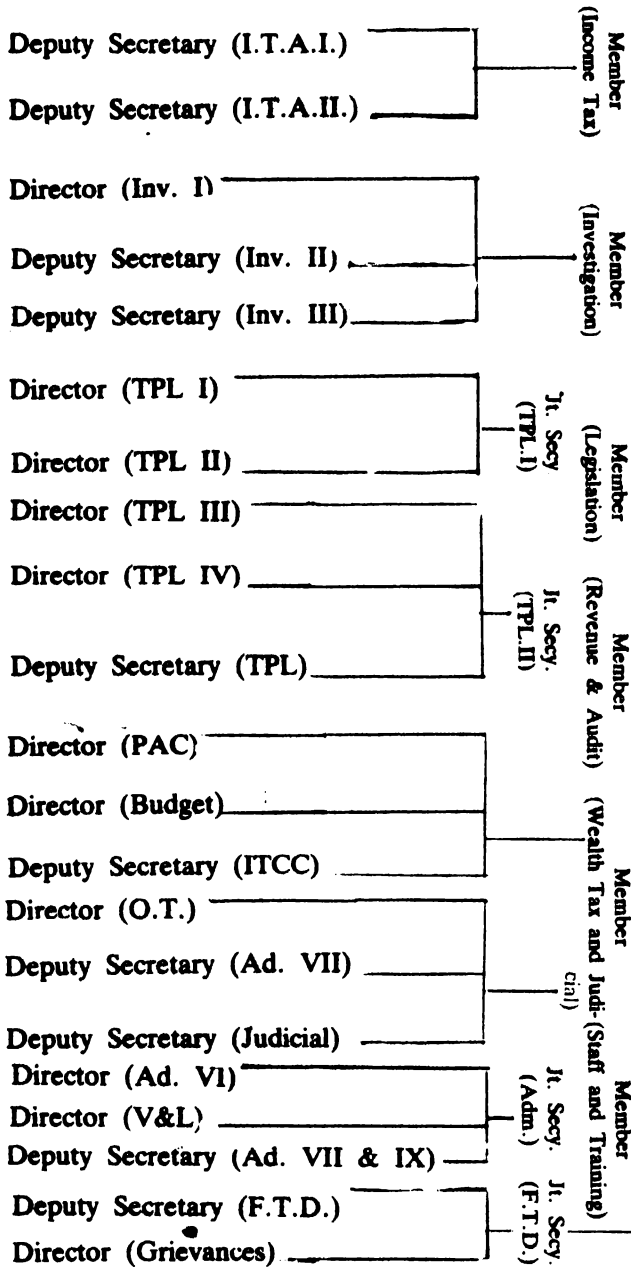
SECRETARIAT

1. Shri G.L. Batra—*Joint Secretary*
2. Shri B.B. Pandit—*Deputy Secretary*

(Vide para 3.4 of the Report)

Organisation Chart of Central Board of Direct Taxes

Chairman



APPENDIX IV
(Vide para 3.47 of the Report)

1	2	3	4
Name of the course	Duration & Venue	Level of Participants	Objectives
1. Induction Course of IRS Probationers (43rd Batch)	17 Months NADT	IRS Probationers	To motivate the officers towards developing right and basic social, professional, administrative human values and to equip them with the technical knowledge and skills necessary for making them competent tax administrators.
2. 2nd Foundational course for Civil Services Probationers	16 weeks NADT	Civil Services Probationers	To impart basic understanding of the constitutional, political, social, legal, historical, cultural and administrative framework within which the services function.
3. Refresher Course on Investigation & Prosecution for IRS Officers	2 weeks RTIs: Bangalore Lucknow Calcutta Bombay	IRS Officers belonging to 38th, 39th, 40th & 41st Batches.	To impart necessary skills to the participants to enable them to plan and manage investigation & prosecution work.
4. Vigilance Course	1 week NADT	Officers dealing with vigilance matters	To impart knowledge of the relevant provisions of the Constitution of India. Conduct Rules, CCA Rules & anti-corruption laws to identify the need for vigilance and drive against corruption and to equip with the necessary skills to process disciplinary cases so as to come to quick decisions.
5. Course of Formulation & Management of Taxation Systems	3 weeks NADT	IRS Officers in the service range of 17-20 years	To introduce the participants to the various aspects of fiscal policy formulation & develop expertise as modern administrators.
6. Senior Management Seminar	1 week NADT	Commissioners of Income-tax	To provide an opportunity to the participants to share their rich experience of the administration and to discuss objectively the current problems in the administration.
7. Management & Investigation Course for IRS Officers.	4 weeks RTIs: Bombay Bangalore Lucknow Calcutta	IRS Officers in the service range of 8-12 years	To impart advanced knowledge of theories & practices in modern management with special reference to human resource development and behavioural skills & to develop expertise in planning & management of investigation work.

APPENDIX V

(Vide para 4.28 of the Report)

Tax arrears cases with demand of highest amount

The cases with demand of highest amount may vary from year to year. As on 30-6-1990, top ten cases in order of amount of demand outstanding and in which payment of the demand had been allowed in instalments, were as under:—

Sl. No.	Name of the assessee	Assessment years to which the demand relates	Gross demand outstanding as on 30.6.90 (Rs. in lakhs)	Details of instalments
(1)	(2)	(3)	(4)	(5)
1.	M/s. J.K. Synthetic Ltd.	77-78 78-79 79-80 85-86 86-87	449.38	The assessee has been allowed to pay a demand of Rs. 297.96 lakhs in instalments @ Rs. 5 lakhs per month from June, 90 to Sept., 90 and @ Rs. 20 lakhs per month from October, 90 onwards. Balance demand has been stayed till 31.3.91 or decision of first appeal which ever is earlier.
2.	M/s. Balaji Distilleries Ltd.	86-87 87-88	1053.31	The undisputed demand of Rs. 53.03 lakhs for the A.Y. 87-88 has been allowed to be paid @ Rs. 5 lakhs per month in 10 instalments and the balance of Rs. 3.03 lakhs in the 11th instalment.
3.	M/s. Escorts Tractor Ltd.	83-84 87-88	1305.02	The demand of Rs. 239.87 lakhs for the A.Y. 87-88 has been allowed to be paid in instalments of Rs. 2 lakhs per month.
4.	M/s. Goetze (I) Ltd.	84-85 to 87-88	920.34	The demand for the A.Ys. 84-85 to 86-87 has been allowed to be paid in instalment of Rs. 2 lakhs per month.

(1)	(2)	(3)	(4)	(5)
5.	M/s. Tata Oil Mills Co. Ltd.	84-85 to 87-88	559.15	For the demand of Rs. 353.77 lakhs for A.Y. 87-88, the assessee has been allowed to pay 50% of the disputed demand in four monthly instalments. The balance was to be kept in abeyance.
6.	M/s. Deepak Roadlines	80-81 to 86-87	539.82	The demand of Rs. 22.41 lakhs for A.Y. 86-87 has been allowed to be paid in instalments of Rs. 2 lakhs per month.
7.	M/s. Sheikari Sabakari Sakhar Kharakhana Ltd.	84-85 to 89-90	359.10	The assessee was allowed to pay the demand in monthly instalments of Rs. 10 lakhs. A sum of Rs. 50 lakhs has been paid till June, 1990.
8.	M/s. V.G.P. Housing (P) Ltd.	82-83 83-84 85-86 86-87 87-88	282.99	For the demand of Rs. 165.00 lakhs for A.Y. 82-83, 83-84, 86-87, the assessee has been allowed to pay the demand in monthly instalments of Rs. 4 lakhs till the disposal of appeal by I.T.A.T.
9.	M/s. The Thanthi Trust	75-76 76-77 83-84 to 87-88	266.50	The demand of Rs. 44.72 lakhs for the A.Y.s 75-76 and 76-77 has been allowed by the Appellate Tribunal to be paid in monthly instalments of Rs. 0.50 lakhs.
10.	M/s. South India Corpn. (Agencies) Ltd.	84-85 to 87-88	264.86	Out of the total demand, Rs. 58.64 lakhs is covered by monthly instalments of Rs. 5 lakhs.

@ The above information is based on quarterly dossier reports about tax arrears received from the Commissioners of Income-tax for the quarter ended 30-6-1990. Payment in instalments is allowed by the Department in view of disputed nature of the demand and/or financial condition of the assessee.

APPENDIX VI

(Vide para 4.54 of the Report)

Statement of Consolidated Receipt and Disposal of Applications by the Income Tax Settlement Commission

Financial Year	No. of cases pending at beginning of financial year i.e. on 1st April		Total	No. of applications received during the year		Total for disposal [2(c) + 3]
	Pending for admission	Admitted cases pending		2(c)	4	
1	2(a)	2(b)	2(c)	3	4	
1987-88	665	1545	2210	234	2444	
1988-89	572	1544	2116	371	2487	
1989-90	695	1452	2147	383	2530	
1990-91 (1.4.1990 to 30.9.1990)	716	1367	2083	119	2202	
Disposal during the year						
Cases admitted u/s 245D (1)/22D(1)	Cases rejected	Admitted cases disposed of	Total disposal [5(b) + 5(c)]	Balance pending at end of financial year		Total (4-6)
	5(b)	5(c)	6	Pending for admission	Admitted cases pending	
5(a)	5(b)	5(c)	6	7(a)	7(b)	7(c)
233	94	234	328	572	1544	2116
177	71	269	340	695	1452	2147
258	104	343	447	716	1367	2083
133	57	152	209	645	1348	1993
			7			
			+94			
			-31			
			+64			
			+90			

APPENDIX VII
Statement of Recommendations

S. No.	Para No.	Recommendations
1	2	3
1.	1.26	(i) Government should clearly spell out its philosophy governing Direct Tax laws and bring greater clarity in the objectives determining these laws and related procedures.
2.	1.26	(ii) Efforts to bring all affluent sections of people including those in rural areas and small towns may be stepped up so as to widen the tax base in a gradual but systematic manner.
3.	1.26	(iii) Pending an exercise to ascertain rational basis for determining minimum level of income for the purpose of personal taxation the government should at least review the minimum taxable income at the end of every financial year and adjust it upwards taking into account the rate of inflation and consequential increase in the cost of living.
4.	1.26	(iv) The Government should make an all out effort to combat the menace of black money and introduce a tax system which is simple, just and equitable.
5.	2.47	(i) In order to impart simplicity and effectiveness to tax law and procedure the Government should make a shift in its approach towards direct taxation and focus it on generation of revenue through better compliance rather than talking of a large number of socio-economic objectives which tend to make tax compliance as well as tax administration cumbersome and complex.
6.	2.47	(ii) The proposed comprehensive study of reforms carried out so far should focus on rationalisation of the manpower utilization so as to re-deploy it on more productive activities such as survey operation and reduction in the number of pending assessments. The Department should strive to achieve a balance between the assessments related effort and that aimed at widening the tax base.
7.	2.47	(iii) The work of drafting and adopting direct tax code may be completed within a fixed time frame.
8.	2.47	(iv) Whenever major changes in the Tax law like withdrawal of investment allowance are contemplated Government should give due notice to business managements so that they are able to readjust their financial projections and production plans.

1 2

3

9. 2.47 (v) The actual impact of the withdrawal of investment allowance during the assessment year 1990-91 on the overall realization of Corporate Tax may be studied and Committee apprised of the results.
10. 2.47 (vi) The scope of the provision under section 64(1) (ii) of the Income Tax Act and their actual operation in the field should be studied again and suitable amendments in the law made to recognise a team of husband and wife who are engaged in running a small business enterprise for the purpose of assessment of income of each spouse in such cases separately. This will not only help raise women's status but also give due encouragement to such family enterprises leading to the well being of the individual families as also the society at large.
11. 2.47 (vii) Powers under Section 119 of the Income Tax Act, 1961 to relax in suitable cases under the provisions of Section 234B regarding charges of interest for defaults in payment of advance tax as also for late submission of returns may be delegated to the Chief Commissioners/Commissioners of Income Tax.
12. 2.47 (viii) Not only should be position of refunds be monitored at the level of Board for each of the Chief Commissioners/Commissioners of Income Tax but it should be considered an important criterion for assessing their performance.
13. 2.47 (ix) The Ministry should review the procedure for refunds and facilitate payment of refunds also through nationalised banks other than State Bank of India particularly in places where Branches of State Bank of India do not exist.
14. 2.47 (x) More effective measures should be taken to ensure that the new Income Tax return forms are available to the taxpayers as soon as the amendments are carried out in the Act/Rules. These forms should be made available to the public, particularly in metropolitan towns like Delhi, Bombay, Madras and Calcutta, at a number of places simultaneously. Preferably through banks and Post Offices.
15. 3.91 (i) The status of the posts of the Chairmen of Central Board of Direct Taxes and Central Board of Excise and Customs should be raised to the level of the Secretary to the Government of India. As a corollary to this the members of the two boards should be given the status of Special Secretary. This will not only streamline the functioning of the two organisations but also raise the morale of the two premier revenue services of the country.
-

1	2	3
16.	3.91	(ii) The Department of Personnel, Public Grievances and Administrative Reforms should explain why they failed to furnish to the Committee their comments on the representation made by Indian Revenue Services (DT) Association within the stipulated time.
17.	3.91	(iii) Greater emphasis is required to be given to activities which can bring in more people within the tax net leading to an upswing in the collections of direct taxes. The Department should re-assess its workload and project its requirement of manpower keeping in view the effort required for widening the tax base manifold. This, the Committee feel, is achievable in a country of India's size given the necessary will and deployment of resources.
18.	3.91	(iv) The work norm targets should be fixed expeditiously in such a way that while providing necessary challenge to the officers of the Department these should not result in undue harassment of the tax-payers.
19.	3.91	(v) The efficacy of the various training facilities provided by the Board should be got examined by an independent organisation, to effect necessary improvement and make the same more result-oriented. The various training programmes being run by the Department should be structured and integrated to provide the requisite professional and managerial development of personnel at all levels.
20.	3.91	(vi) The Department should substitute the existing reward scheme by instituting awards for outstanding and meritorious performance in realisation of higher revenues for the Government. Quantum of such awards can be increased to make these sufficiently rewarding.
21.	3.91	(vii) Income Tax Department should show greater sensitivity in regard to complaints of corruption received against the Gazetted officers of the Department and ensure that anonymous or synonomous complaints pointing out definite cases of corruption ought not to be filed without due investigation by the senior officials.
22.	3.91	(viii) The Central Board of Direct Taxes should monitor in quantitative terms the extent to which the complaints are received against officials at the lower rungs and action taken hereupon, within the jurisdiction of each Commissioner of Income Tax. This should be considered to be an important criterion for evaluating the performance of the Commissioners of Income Tax, as prevalence of corrupt practices and harassment of taxpayers at lower levels clearly reflect upon style of functioning of higher authorities.

23. 3.91 (ix) CBDT should construct more buildings for its field offices in a phased manner giving priority to offices in medium size towns where land and construction costs are cheaper. In smaller towns and mofussils, however, hired buildings should be taken on a long term basis. Plan for acquiring office space in metropolitan cities should be drawn and implemented without further delay. While planning such buildings, adequate provision should be made for waiting rooms for assessees who have to wait for long hours whenever they are called by the assessing officers or have to visit Income Tax offices for official work.
24. 4.76 (i) The Department should concentrate the survey efforts on the category of professionals like doctors, lawyers, small contractors, property dealers and also petty businessmen who have substantial income but usually escape the tax net. These surveys should also cover small towns, mofussils and rural areas so as to assess the incomes of money-lenders, transporters, contractors, middlemen, etc. Provision of sufficient work force for conducting surveys need to be reviewed seriously and adequate machinery including provision of sufficient number of vehicles for conducting smooth survey works created to widen the tax base.
25. 4.76 (ii) The Ministry of Finance (Department of Revenue) may review the provisions of the Income Tax Act in regard to processing and completion of assessments on the basis of results of searches and seizures and bring about changes leading to simplification of the assessment procedures so that such cases are not allowed to linger on for years. The assessing officer should take every care to function strictly within the ambit of the law so that at the stage of appeals such cases are not reverted to the assessing officers for re-assessment on technical grounds.
26. 4.76 (iii) The Income Tax Department should evolve a procedure whereunder the operations to be undertaken by the search parties are kept strictly confidential and an active and healthy liaison is maintained with the top police authorities of the area to ensure adequate security to the search parties during the course of actual search operation. The Key personnel engaged in survey/search should have a fixed tenure unless there are charges of corruption or inefficiency against them. In their cases the transfers should be effected only on administrative grounds and not on extraneous considerations/ complaints or any political pressure.
-

-
27. 4.76 (iv) Much greater effort requires to be made to achieve a consistent growth of income tax collections to a really appreciable degree.
28. 4.76 (v) The Income Tax Department should maintain relentless pressure on all fronts to show better results in collection of current demands and reducing arrears.
29. 4.76 (vi) Whenever figures of income-tax arrears are communicated on the floor of Parliament the amounts against which actual demands have been raised should be specifically mentioned.
30. 4.76 (vii) The decision with regard to setting up of National Tribunal of Direct Taxes should be taken without further delay.
31. 4.76 (viii) Vacancies in the Appellate Tribunals should be filled up without any further delay. Advance planning should be done and action initiated for filling up the posts before they actually arise.
32. 4.76 (ix) The Income Tax Department should concentrate and prosecute only worthwhile cases and eschew the temptation to launch prosecution as an option to a compromise guided by enlightened self-interest. Simultaneously the Department should defend the worthwhile cases by engaging competent and reputed lawyers. The Income Tax Department should also be given powers to engage lawyers of its choice if the amount under litigation is substantial.
33. 4.76 (x) The suggestions for increasing the strength and Benches of the Settlement Commission and for vesting of more powers in the Commissioners of Income Tax to settle cases without reference to the Settlement Commission, pending for consideration before the Government should be taken seriously and necessary steps taken without further delay to enable the Commission to cope up with its work. Suitable norms for the functioning of the Settlement Commission should be fixed so as to clear the pendency of the backlog within the next four years. The structural and procedural re-organisation of the Commission should also be brought about without any delay. The reasons for unduly long time of 6 to 8 years being taken for disposal of cases should be gone into and remedial measures taken to reduce the same by streamlining the procedures.
34. 4.76 (xi) There is urgent need to bring about necessary attitudinal changes amongst the officials responsible for redressal of public grievances.
-

**LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA
SECRETARIAT PUBLICATIONS**

Sl. No.	Name of Agent	Sl. No.	Name of Agent
ANDHRA PRADESH		WEST BENGAL	
1.	M/s. Vijay Book Agency, 11-1-477, Mylargadda, Secunderabad-500361.	13.	M/s. Manimala, Buys & Sells, 123, Bow Bazar Street, Calcutta-1.
BIHAR		DELHI	
2.	M/s. Crown Book Depot, Upper Bazar, Ranchi (Bihar).	14.	M/s. Jain Book Agency, C-9, Connaught Place, New Delhi. (T. No. 351663 & 350806).
GUJARAT		15.	M/s. J. M. Jaina & Brothers, P. Box 1020, Mori Gate, Delhi- 110006. (T. No. 2915064 & 230936).
3.	The New Order Book Company, Ellis Bridge, Ahmedabad-380006. (T. No. 79065).	16.	M/s. Oxford Book & Stationery Co., Scindia House, Connaught Place, New Delhi-110001. (T. No. 3315308 & 45896).
MADHYA PRADESH		17.	M/s. Bookwell, 2/72, Sant Niran- kari Colony, Kingsway Camp, Delhi-110009. (T. No. 7112309).
4.	Modern Book House, Shiv Vilas Palace, Indore City. (T. No. 35289).	18.	M/s. Rajendra Book Agency IV-DR59, Lajpat Nagar, Old, Double Storey, New Delhi- 110024. (T. No. 6412362 & 6412131).
MAHARASHTRA		19.	M/s. Ashok Book Agency, BH-82, Poorvi Shalimar Bagh, Delhi-110033.
5.	M/s. Sunderdas Gian Chand, 601, Girgaum Road, Near Princes Street, Bombay-400002.	20.	M/s. Venus Enterprises, B-2/85, Phase-II, Ashok Vihar, Delhi.
6.	The International Book Service, Deccan Gymkhana, Poona-4.	21.	M/s. Central News Agency Pvt. Ltd., 23/90, Connaught Circus New Delhi-110001. (T. No. 344448, 322705, 344478 & 344508).
7.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-400001.	22.	M/s. Amrit Book Co. N-21, Connaught Circus, New Delhi.
8.	M/s. Usha Book Depot, 'Law Book Seller and Publishers' Agents Govt. Publications 585, Chira Bazar Khan House, Bombay-400002.	23.	M/s. Books India Corporation Publishers, Importers & Expor- ters, L-27, Shastri Nagar, Delhi-110052. (T. No. 269631 & 714465).
9.	M&J Services, Publishers, Repre- sentative Accounts & Law Book Sellers, Mohan Kunj, Ground Floor 68, Jyotiba Fuele Road, Nalgaum-Dadar, Bombay-400014.	24.	M/s. Sangam Book Depot, 4378/4B, Murari Lal Street, Ansari Road, Darya Ganj, New Delhi-110002.
10.	Subscribers Subscription Services India, 21, Raghunath Dadaji Street, 2nd Floor, Bombay-400001.		
TAMIL NADU			
11.	M/s. M. M. Subscription Agen- cies, 14th Murali Street, (1st floor) Mahalingapuram, Nungam- bakkam, Madras-600034. (T. No. 476558).		
UTTAR PRADESH			
12.	Law Publishers, Sardar Patel Marg, P. B. No. 77, Allahabad, U.P.		

Corregenda to the Tenth Report of Estimates Committee (Tenth Lok Sabha) on Ministry of Finance (Department of Revenue) - Central Board of Direct Taxes.

<u>Page</u>	<u>Para</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
9	L 4	11	Comperision	Comperison
10	L 24	22	enology	analogy
23	2. 36	from bottom 4	D lease	(.)
25	2. 41	from bottom 5	Add the word 'as' after the word 'way'	
26	2. 46	from bottom 2	assesses	assessees
48	3. 77	21	that	than
49	3. 81	9	finds	find
51	3. 91	5	makes	make
72	4. 65	from bottom 9	Add the word 'and' after the word '(Appeals)'.	
74	4. 72	22	ennsure	ensure
75	4. 76	9	re-commends	recommend
76	4. 76 (viii)	11	Add the word 'before' after the word vacancies.	
86	Appendix VII	from bottom 6	hereupon	thereupon