

# ONE HUNDRED AND FOURTEENTH REPORT

## PUBLIC ACCOUNTS COMMITTEE (1982-83)

(SEVENTH LOK SABHA)

RE-OPENED, SET ASIDE AND CANCELLED  
ASSESSMENTS, WEALTH ESCAPING ASSESS-  
MENT; AND INCORRECT COMPUTATION  
OF BUSINESS INCOME

MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)

[Action taken on 38th Report (7th Lok Sabha)]



सत्यमेव जयते

Presented in Lok Sabha on 11.7.1983

Laid in Rajya Sabha on 11.7.1983

LOK SABHA SECRETARIAT  
NEW DELHI

June, 1982/Jyāistha, 1904 (S)

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CORRIGENDA TO 114TH REPORT OF THE PUBLIC ACCOUNTS  
COMMITTEE (SEVENTH LOK SABHA).

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# **PUBLIC ACCOUNTS COMMITTEE**

**(1982-83)**

## **CHAIRMAN**

**Shri Satish Agarwal**

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1. **Shri H. G. Paranjpe—Joint Secretary**
2. **Shri D. C. Pande—Chief Financial Committee Officer**
3. **Shri K. C. Rastogi—Senior Financial Committee Officer**

## INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee do present on their behalf this 114th Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 38th Report (7th Lok Sabha) on Re-opened, set-aside and cancelled Assessments, Wealth escaping assessment and incorrect computation of Business income.

2. In the 38th Report, the Committee had commented on the delay in completion of assessments of a private company (M/s. Hindustan Tractors Ltd.) for the years 1959-60 and 1961-62 set aside in August, 1965 and July 1968 till as late as December, 1979. The plea of human failure taken by the Ministry is in the Committee's view "rather too simplistic". The Committee have attributed the failure to the non-observance of the prescribed procedures at all levels and general laxity of supervision and control on the part of supervisory officers. The Committee have therefore desired that the causes of failure at different levels in a few cases should be analysed in depth and brought home to the officers concerned.

3. The Committee had also drawn attention in the 38th Report to the persistent increase in the pendency of set-aside/cancelled assessments over the last few years. In view of the miserable failure of the Board to secure compliance with the instructions issued repeatedly, the Committee have called upon the Government to take very serious note of such utter lack of concern and defiance of the orders of the Board in the interest of better administration of tax laws.

4. The Report was considered and adopted by the Public Accounts Committee at their sitting held on 11 June, 1982.

5. For reference facility and convenience, the recommendations and conclusions of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in the Appendix to the Report.

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

NEW DELHI;

June 18, 1982

Jaistha 28, 1904 (S)

SATISH AGARWAL

Chairman,

Public Accounts Committee

## CHAPTER I

### REPORT

1.1 This Report of the Committee deals with the action taken by Government on the Committee's recommendations and/or observations contained in their 38th Report (Seventh Lok Sabha) on paragraphs 32(ii) 58, 7(ix) and 63(i) of the Report of the Comptroller and Auditor General of India for the year 1978-79 and paragraphs 22(i) (a) of the Report for the year 1977-78, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes relating to Re-opened, Set-aside and Cancelled Assessments, Wealth escaping assessments, and Incorrect computation of business income.

1.2 The Committee's 38th Report was presented to the Lok Sabha on 30 April, 1981 and contained 41 recommendations and observations. According to the time schedule, the notes indicating the action taken by Government in pursuance of the recommendations and observations contained in 38th Report duly vetted by Audit were required to be furnished to the Committee latest by 30 October, 1981. However, as on 6 May, 1982 Ministry of Finance (Department of Revenue) has furnished action taken notes in respect of 39 recommendations only.

1.3 The action taken notes received from Government have been broadly categorised as under:

- (i) Recommendations and observations which have been accepted by Government:

Sl. Nos. 9—11, 14, 30—34 and 37—41.

- (ii) Recommendations and observations which the Committee do not desire to pursue in view of replies received from Government:

Sl. No. 15.

- (iii) Recommendations and observations replies to which have not been accepted by the Committee and which require reiteration:

Sl. Nos. 1—6 and 16—23.

- (iv) Recommendations and observations in respect of which Government have furnished interim replies/no replies:

Sl. Nos. 7, 8, 12, 13, 24—29, 35, 36.

**1.4 The Committee desire that replies showing conclusive action taken on the above recommendations should be processed expeditiously and the requisite notes submitted to the Committee after getting them vetted by Audit.**

**1.5 The Committee will now deal with the action taken by Government on some of their recommendations and observations.**

*Mistakes in assessment which giving effect to appellate orders—*  
S. Nos. 1—6 (Paras 1.23 to 1.28):—

**1.6 Commenting on the mistakes in assessment while giving effect to appellate order in the case of M/s. Hindustan Tractors Ltd.—a private limited company (which was subsequently taken over by the State Government), the Committee had, in paragraphs 1.23 to 1.28 of their 38th Report (Seventh Lok Sabha) observed as under:**

**“The audit paragraph highlights the delay in completion of assessments of a private company (M/s. Hindustan Tractors Ltd.) for the years 1959-60 and 1961-82 set-aside in August, 1965 and July 1968 till December, 1979 and absence of communication at the time of transfer of files to the effect that reassessments for the two years were pending. The Committee note that the records of the case were received by ITO Baroda from ITO Bombay on 12-6-1970. The then ITO Baroda noticing that in the forwarding transfer memo there was no mention of any assessments which had been set-aside and were to be made again, wrote to ITO Bombay on 23-6-1970, but there was no response. The pendency of these assessments was then lost sight of by ITO Baroda. The pendency came to the notice of the successor ITO as late on as on 7-6-1977 when the Commissioner of Income-tax, Gujarat directed physical verification of pendency and submission of phased programme for disposal of set-aside assessments.**

**The Committee have been informed that transfer memo is prepared with reference to the pendency that is recorded in the ITO's control Register and also with reference to physical verification of files when the files are sent from one CIT charge to another CIT charge, which according to the Department also acts as a check in ensuring that**



the pendency is not lost sight of. In the instant case, the transfer Memo did not indicate the pendency of the reopened/set-aside assessments. The Committee understand that the ITO concerned has been asked (December 1980) to furnish explanation for the lapse. It is apparent that both at the level of the IAC as well as the CIT, the requisite check was not exercised and the files were transferred in a routine fashion. This is regrettable. The Committee would like to be apprised of the action taken for prevention against recurrence of such cases.

The Committee find that even though the above two assessments had been set-aside in August, 1965 and July, 1968, the ITO did not complete the re-assessment proceedings before transfer of the records of the case to Baroda. The reasons why the ITO did not complete the re-assessments even in 5 years in one case and 2 years in another require explanation.

The Committee would also recommend that the responsibility of the Cs.I.T. to whom a copy of the set-aside order is sent by the AAC under the provisions of Section 250(7) of the I.T. Act is also enforced by the Board.

The Committee consider that the facts of the case underline the need for effectively implementing the system for keeping track of pending assessments at the time of transfer of records from one charge to another. The Committee, therefore, recommend that apart from intensifying internal audit as also of supervision of by Inspecting Assistant Commissioners regorous checks should be prescribed and followed to avoid such failures in future.

Yet another fact which has come to light as a result of detailed examination of the case, is that there was no progress in these assessments between 1970—1977 for the reason that the pendency was not in the knowledge of Income-tax Officer, Baroda. It was only in pursuance of a circular issued on 7-6-1977 calling upon IACs to prepare a planned programme for disposal of set-aside assessments that the pendency came to the notice of the successor ITO. The case again highlights complete lack of supervision at the level of the IAC in verifying through regular checks and inspection the pendency of assessment inspite of the fact that repeated instructions have been issued by the Board from May 1974 onwards directing the IACs to associate

themselves in reviewing all pending set-aside assessments and draw up a time-bound programme for disposal thereof. The Committee are greatly concerned with the inordinate delay in the completion of set-aside assessments in this case before the files were transferred which coupled with further delays subsequent to transfer had resulted in non-realisation of revenue of Rs. 15.07 lakhs. The Committee are surprised that the pendency of these assessments was lost sight of after June 1970. The Committee consider that it was the duty of the ITO to have checked all pendencies by going through the assessments files which were received on transfer."

1.7 In their Action taken note dated 3 April, 1982 the Ministry of Finance (Department of Revenue) have stated:

"The observations of the PAC in the above paragraphs have since been noted. As stated earlier in replies to the questionnaire, the omissions regarding the pending assessments occurred due to human failure and not due to any defect in the system and checks devised by the Department. Instructions have already been issued to the Commissioners of Income-tax to watch and monitor the progress of set aside assessments right from the stage when a copy of the set aside order is received by them from the AAC/CIT (Appeals) under the provisions of section 250(7) of the Income-tax Act, 1961. A copy of the Instructions No. 1451 dated 3-2-1982 (F. No. 228/32/81/ITA-II) issued in this respect is enclosed.

The Department has been monitoring *inter-alia*, the disposal of set-aside assessments through Action Plans. Further more, the pendency and disposal of set-aside assessments in respect of assessments years 1970-71 and earlier years to which the time limit prescribed u/s 153(2A) of the Income-tax Act does not apply, are watched through another monthly statement known as CAP-II Statement introduced by the Board, *vide* its F No. 228/12/80/ITA-II dated the 26th September, 1980 (copy enclosed). Other instructions/letters issued by the Board from time to time regarding the disposal of set aside assessments are as under and a copy each of these is attached:

1. F. No. 201/151/80/ITA-II dated 4-8-1981.
2. F. No. 201/6/81/ITA-II dated 14-8-1981.
3. F. No. 201/151/80/ITA-II dated 30-1-1982.

4. F. No. 201/151/80/ITA-II dated 3-3-1982.
5. F. No. 201/151/80/ITA-II dated 15-1-1982.
6. F. No. 201/108/81/ITA-II dated 28-1-1982.
7. F.No. 201/151/80/ITA-III dated 22-1-1982.

3. There does not appear to be any special reasons for delay in the completion of the assessments before the transfer of files to Baroda charge except that it is a case of human failure which might have happened due to the reasons that there was no time prescribed for the completion of such set aside assessments."

**N.1.8..Commenting on the delay in completion of assessments of a private company (M/s. Hindustan Tractors Ltd.) for the years 1959-60 and 1961-62 set aside in August 1965 and July 1968 till as late as December 1979, the Committee had pointed out that the ITO did not complete the reassessment proceedings before transfer of the records of the case. The Committee had desired to be furnished with the reasons why the ITO did not complete the reassessments even in 5 years in one case and 2 years in another. The Committee had also commented on the defaults at the levels of the IAC and the Commissioner of Income-tax to whom a copy of the set aside order is required to be sent by the AAC under the provisions of Section 250(7) of the Income-tax Act.**

According to the Ministry, "there do not appear to be any special reasons for delay in the completion of the assessments before the transfer of files to Baroda charge except that it is a case of human failure which might have happened due to the reason that there was no time prescribed for the completion of such set aside assessments." The Ministry have further contended that the delay in this case is not attributable to any defect in the system and checks devised by the Department. Considering that the case reflected failures occurring not only at the level of ITO but also at the other senior levels of IAC and CIT the plea of 'human failure' is rather too simplistic. The Committee feel that in spite of the plethora of instructions issued by the Board and various forms and registers prescribed for maintenance of details of pending cases, mistakes of the nature pointed out by audit in the aforesaid case continue to occur. It is obvious that the prescribed procedures are not being followed at all levels and there is general laxity of supervision and control on the part of supervisory officers in the department. The Committee consider that the causes of failure at different

levels in a few cases should be analysed in depth and brought home to the officers of all levels as concrete examples, to bring home to them that the prescribed procedures are indeed required to be observed.

*Pendency of set aside/cancelled assessments (S. Nos. 16-23,  
Paras 3.43 to 3.50*

1.9 The Committee had in the 38th Report drawn attention to the persistent increase in the pendency of set aside/cancelled assessments during the last few years and had pointed out that over 47 per cent of pending set aside/cancelled assessments of 1970-71 and earlier years were more than 5 years old and 23 per cent were between 2 to 5 years old. Taking note of the assurance given by the representative of the Ministry that highest priority would be accorded to these assessments and that most of these cases would be completed by 1981-82, the Committee had urged the Board to keep a close watch on the disposal of such assessments. The Committee had observed:

“The pendency of set-aside/cancelled assessments has shown a persistent increase during the last few years for which data was called for by the Committee. The number of such cases increased from 21,451 in 1976-77 to 22,656 in 1977-78, 23,445 in 1978-79 and 23,565 in 1979-80.

Section 153 of the Income-tax Act sets out a time limit of two years for completion of re-assessment proceedings in respect of assessments pertaining to the year 1971-72 and onwards. No such limit has however been prescribed in the Act for 1970-71 and earlier years. However, the Department issued instructions in October, 1968 laying down an administrative time limit of two years for completion of these assessments. The Action Plans for the years 1978-79 and 1979-80 laid down a target of 80% for disposal of such cases. From the figures of pendency furnished by the Ministry, it is noticed that with reference to the opening balance on 1st April, 1978 additions during 1978-79 and disposals during 1978-79 the number of cases pending as on 31-3-1979 works out to 19,981, whereas it has been shown by the Ministry as 23,445. This itself is indicative of the fact that these figures do not represent the correct position of pendency and that the alleged “excess” disposal of cases with

reference to Action Plan targets was illusory. The Committee would therefore urge that a suitable machinery to receive reliable statistics of pending cases be devised and also action taken to reduce the number of pending set aside assessments and the Committee informed of the precise progress made.

The Committee find that as a result of severe strictures passed by the Supreme Court in the case of Ram Narayan Bhajnegarwala Vs. ITO 'A' Ward, Calcutta (Civil Appeal No. 318 of 1971), the Board issued a Circular letter in October, 1975 emphasising the necessity for completing all pending set aside assessments with utmost expedition. The Cs IT were also asked to find out whether (a) there was any statistical record of assessments prior to assessments year 1971-72 set aside pending disposal, (b) if so, the type of record that was being maintained and the control that was being exercised (c) the details of and reasons for the pendency of these assessments as on date and (d) what further time they expected to take in getting assessments completed.

The Committee find that the position over the last six years since these instructions were issued, has if anything, only deteriorated. Apart from the fact that the pendency of such assessments has been going up as shown above, even the correctness of the number of such pending cases is a matter of doubt.

The Ministry have in their circular letter to Cs IT dated 8 October, 1980 pointed out that "the pendency has not been correctly recorded. The pendency shown under Section 146 has come up in the year ending 31-3-1979 from 1800 to 2164. Similarly, the pendency under Section 263 has gone up from 169 to 335 in the year ending 31-3-1978. This is a clear indication that no care has been taken to report the figures correctly, as normally, the pendency should not go up. As compared to these figures the pendency of such assessments as per the Review of Central Action Plan Performance for the quarter ended 31 March, 1980, was 23,426. This is totally out of tune with the other set of figures and needs a

careful checking up. The Chairman, Central Board of Direct Taxes admitted in evidence that "all these statistics are wrong."

The Committee desire that the Commissioners of Income Tax should be asked not only to ensure that the relevant registers are completed in all respect by a target date, but they should also get them checked and up dated periodically say, at least once in three months so that the disposal of such assessments could be carefully monitored.

Government had stated in an earlier reply that as on 30 November, 1980 out of a total number of 6804 pending reopened and set aside assessments relating to assessment year 1970-71 and earlier years, 2632 were pending for less than two years, 231 were pending for between two to five years and 4150 were pending for over five years.

The Committee thus find that over 47% of the pending set aside/cancelled assessments of 1971-72 and earlier years were more than five years old and 23 per cent were between two to five years old which clearly establishes that the administrative time limit of two years has remained largely on paper. The Committee have been assured that highest priority will now be accorded to these assessments and that most of these cases would be completed by 1981-82. The Committee would expect the Board to keep close watch on the disposal of these assessments etc. with a view to ensuring that the backlog is cleared by the revised target date. Periodical review meetings should be held to assess the progress made.

In this connection, the Committee would also like to point out that the Board are surprisingly enough not in a position to indicate how many reopened and set aside assessments have become time-barred. The Committee require that this information should be gathered without delay and furnished to them. It should also be ensured that priorities are drawn up in such a manner that cases about to get time barred are disposed of well in time so that the interests of revenue do not suffer."



1.10 In their action taken note dated 24 November, 1981 the Ministry of Finance (Deptt. of Revenue), have stated:

"The Central Board of Direct Taxes has been accorded highest priority to the completion of reopened and set aside assessments relating to the assessment year 1970-71 and earlier years, as also those which relate to the period later to the assessment year 1970-71. Instructions have been issued from time to time for ascertaining the correct pendency of such assessments and also to liquidate the same at the earliest. The latest steps taken by the Board are as under:

- (i) A d.o. letter No. 201/151/80-IIAII dated 8-10-80 was addressed to all Commissioners, by the Member (II) wherein it was desired that the Commissioners should get personally involved, and have a constant watch over the matter; a review should be made every month at the time of sending the Monthly Telegraphic CAP-II Report to the Board and the progress should be so arranged, as to achieve well in time the target of 75% laid down in the 1980-81 Action Plan.
- (ii) A d.o. letter F. No. 201/151/80-IIAII dated 22-1-1981 was issued by the then Chairman (C.B.D.T.) wherein it was pointed out that the pendency of such set aside assessments should be liquidated by 31st March, 1982 and time bound programme for the disposal of these assessments by 31-12-1981 should be drawn up by each Commissioner and sent to the Chairman. The Commissioners were requested to devote their personal attention to this work so that the time bound programme of disposal of these assessments by 31-3-1982 could be achieved (Annexure A).
- (iii) Columns to the telegraphic CAP-II Report have been added for reporting the pendency and disposal of set aside and reopened assessments.
- (iv) The Commissioners of Income-tax have been requested to ascertain the correct pendency of such assessments and to report as to how many of the assessments had become time barred by 31-3-81. A copy of the letter

addressed to the Commissioners of Income-tax is also enclosed (Annexure B). After the receipt of their replies, further follow up action will be considered.

2. The Board hope that with those measures, the pendency of reopened and set aside assessments would be reduced considerably."

1.11 In the 38th Report (7th Lok Sabha) the Committee had drawn attention to the persistent increase in the pendency of set aside/cancelled assessments over the last few years. The number of such cases had increased from 21451 as on 31 March, 1977 to 23565 as on 31 March, 1980. The Committee had further pointed out that over 47 per cent of the pending set aside/cancelled assessments pertaining to the assessment year 1970-71 and earlier years were more than five years old and 23 per cent were between 2 to 5 years old. This clearly showed that the administrative time limit of two years for disposal of such cases had remained largely on paper. During evidence, the Committee were assured that highest priority would be accorded to these assessments and that most of them would be completed by 31 March, 1982. The information now furnished to the Committee reveals that out of a total pendency of 8269 cases, only 2122 had been disposed of till January, 1982 which works out to hardly 24 per cent. Drawing attention to the poor performance, the Board had in its letter of 28 January, 1982 addressed to the Commissioners of Income-tax stated inter alia that "inspite of repeated instructions this area of work continues to be neglected by the Income-tax Officers. This attitude on the part of ITOs appears to be not on account of the difficult nature of cases but probably, because of lack of necessary drive and initiative on the part of ITO and proper supervision and control by the concerned supervisory authorities. If necessary, Commissioners should take up individual case, discuss them with the ITOs, suggest suitable solutions and ensure that 100 per cent cases are disposed of by 31 March, 1982 positively because a commitment to this effect has been given by the Chairman (CBDT) to the Public Accounts Committee."

In another communication dated 30 January, 1982 the Secretary, Central Board of Direct Taxes again drew attention of the Commissioners of Income-tax to the DO letter of December, 1981 issued by the Member, Income-tax asking every Commissioner to make a review and report on the reasons in respect of each case pending on 1 January, 1982 and the efforts being made to liquidate pendency. The communication pointed out that "it is highly regrettable that

an important communication like this has been lost sight of by the Commissions and a majority of them have not responded to the present DO letter addressed by the Member. The Chairman and Members of the Board take a very serious view of the matter and would like your comments as to why you could not send the report to the Board as required by 10 January, 1982."

In yet another letter dated 3 March, 1982, the Chairman, CBDT reiterated the serious concern of the Board on the slow progress in the disposal of set aside and re-opened assessments relating to assessment year 1970-71 and earlier years. He stated inter alia "It is regrettable that even Member (Income-tax's) D.O. letter has not spurred you to take action. The Board takes a very serious view of the matter and has therefore, necessarily to consider steps as to how the galloping indifference to instructions and follow up action to be taken in core and committed areas can be secured through appropriate resort to the Central Services Conduct Rules".

The above re-countal indicates a very sorry state of affairs in the Income-tax Department. Apparently, the Board have miserably failed to secure compliance with the instructions issued repeatedly. Holding out assurances to the Committee and administering homilies to the field officers without being able to secure compliance seems to have become the accepted norm of working for the CBDT. The Committee take a very serious view of this state of affairs. The Committee would strongly urge that Government should take very serious note of such utter lack of concern and defiance of the orders of the Board in the interest of better administration of tax laws. The Committee would like to be apprised of the precise progress made in completion of pending set aside/cancelled assessments as on 31 March, 1982 and the concrete steps devised by the Board to clear the arrears without further loss of time.

The Committee also desire that suitable disciplinary action should be taken against the defaulting officials for their failure to fulfil the tasks laid down for them. The Committee consider that it is imperative for the Department to tone up the efficiency of the machinery

in the field by devising a suitable scheme of providing incentives to meritorious officers and punishing those who are not upto the mark and fail to deliver the goods consistently over a period of time.

It is unfortunate that the Ministry's reply does not indicate the number of cases which had become time-barred by 31 March, 1981 as required by the Committee. The Committee would like to be apprised of the position without delay and the steps taken to ensure that such cases are not allowed to get time barred to the detriment of revenue.

## **CHAPTER II**

### **CONCLUSIONS OR RECOMMENDATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT**

#### **Recommendation**

The assessment of a Hindu undivided family (Meghji Girdhari Lal) for the assessment year 1950-51 completed on 31 March, 1955 was cancelled on 22 February 1956. The reassessment proceedings were completed as late as on 13 October, 1980 i.e. after 24 years and 8 months and would probably have lingered on, had the case not been reported by Audit. The inordinate delay in completion of the cancelled assessment in this case has been stated to be on account of non-cooperation on the part of the assessee. The Committee find that after the re-assessment proceedings were re-opened, the hearing had to be adjourned as many as 15 times as the assessee did not comply or complied only partially. It is also seen that the assessee's contention was that he had been in possession of the assets prior to 1 April, 1949 the date on which the State of Madhya Bharat merged with the rest of India and the Income Tax laws were extended to it.

The Committee find that it was only at the time of finalising the wealth tax assessments for the year 1957-58 in March, 1979 that the Wealth Tax Officer on the basis of "voluminous evidence" produced by the assessee, held that the entire silver (9466 kg.) which had been seized by the Central Excise authorities during raids in 1965 had been acquired by the assessee prior to 1940.

[S. No. 9 & 10 (Paras 2.19 & 2.20) of Appendix VII of the 38th Report of the PAC (1980-81) (Seventh Lok Sabha)]

#### **Action taken**

The observations of the Honourable Committee have been noted.

[Ministry of Finance (Department of Revenue) O.M. No. 241/8/81-A & PAC-II dated 2-4-1982]

### **..Recommendation of the Committee**

The Committee find it strange that the case was allowed to linger on for such an inordinately long time on account of non-cooperation on the part of the assessee. The Committee see no reason why the assessee should have been allowed as many as 15 adjournments and why ex-parte assessment could not be made. The Committee consider that it was only on account of the inexplicably soft attitude of the Income-tax authorities that the case lingered on for years, and the assessee continued to avoid this tax liability. The Committee recommend that in the light of this case suitable guidelines should be laid down for observance by the assessing officers in the matter of granting adjournments.

[S. No. 11 (Para 2.21) of the Appendix VII of the 38th Report of the PAC (Seventh Lok Sabha) (1980-81).

### **Action taken by the Ministry**

Necessary instructions have already been issued for the avoidance of mechanical issue of notices under section 143(2) of the I.T. Act, 1961 and the format of the assessment order has been changed to indicate the dates of hearing in it. A copy of each of Instruction No. 1367 (F. No. 201/25/80-ITA-II) dated 18-11-1980 and Instruction No. 1395 (F. No. 201/28/81-ITA-II) dated 15-5-1981, is enclosed.

[Ministry of Finance (Department of Revenue) O.M. No. 241/8/81-A & PAC-II dated 24-11-1982]  
Instruction No. 1367

F. No. 201/25/80/ITA-II

Govt. of India

Central Board of Direct Taxes

New Delhi, the 18th November, 1980.

To.

All Commissioners of Income-tax,

Sir,

*Subject:*—Hearing fixed by the Income-tax Officers for completion of the assessments—Instruction regarding—

It has been time and again brought to the notice of the Board that the Income-tax Officers are issuing notices u/s 143(2) indiscriminately and mechanically without acquainting themselves in advance as to what is their requirement. This has been a source



of harassment to the tax payers and also delaying the completion of assessment proceedings, more particularly so in Salary Circles.

2. In the Action Plan for 1980-81, also the Chairman has desired that before fixing up the cases, the files should be studied and requirements specified for the purpose of scrutiny. In cases, which would normally fall under the Summary Assessment Scheme, only a deficiency letter may be issued as required by Board's Instructions No. 1072 dated 1-1-1977 or u/s 139(9) of Income-tax Act, 1961.

3. Where the case is to be fixed for hearing, it will be advisable to either issue notice u/s 142(1) which requires production of certain documents or books or notice u/s 143(8) specifying the point on which the clarification is needed. Issue of notices u/s 143(2) which requires the assessee to produce evidence in support of the return should not be done mechanically and the Income-tax Officer should be well aware of the points on which he desires the assessee to produce evidence issue of such notice.

4. The Commissioners and the Inspecting Asstt. Commissioners should make it a point to see during the course of surprise or regular inspections as to whether the notices have been issued mechanically or not. In case some Officers are in the habit of issuing notices mechanically, they may be suitably pulled up.

5. The Board desire that the contents of the above instructions may be brought to the notice of all the Officers working in your Charge.

Yours faithfully,

Sd/-

(M. K. PANDEY)

Secretary, Central Board of Direct Taxes, New Delhi.

Copy forwarded to:—

1. Director of Inspection (Investigation) 2 copies.
2. Director of Inspection (Income-tax & Audit) 15 copies.
3. Director of Inspection (Research & Statistics), New Delhi.
4. Director of Inspection (Publication & Public Relations).
5. Deputy Director of Inspection (Bulletin) 3 copies.
6. Comptroller & Auditor General of India (25 copies).

7. All Officers and Sections of Central Board of Direct Taxes, New Delhi.
8. Joint Secretary, & Legal Adviser, Ministry of Law & Justice, New Delhi.
9. Director of O&M Services (Income-tax), 1st Floor, Aiwani Galib, Mata Sundri Lane, New Delhi.
10. Officers on Special Duty, Competent Authority, SAFE-POMA, New Delhi/Bombay/Madras/Calcutta.

Sd/-

(M. K. PANDEY)

Secretary, Central Board of Direct Taxes.

Instruction No. 1395

F. No. 201/28/81-ITA-II

Govt. of India

Central Board of Direct Taxes

*New Delhi, the 15th May, 1981.*

To

All Commissioners of Income-tax.

Sir,

**Subject:**—Proforma of assessment order—dates of personal hearings—Frequent adjournments Avoidance thereof—Instructions regarding—

Complaints continue to come to the Board from various quarters of inconvenience to the assesseees by the ITOs not adhering to the schedule of hearings fixed by them and not informing them whenever possible, in advance, of the adjournments which are effected due to sudden pre-occupation of the ITO with other urgent work.

2. The Estimates Committee have also taken note of this fact and it has been decided by the Board that the format of the assessment order should include a column for noting the dates of hearings as in the case of appellate orders. This will enable the supervisory officers to keep a check on the number of occasions on which the assesseees were called upon to appear before the ITOs. It has also been decided that if the ITO due to any unavoidable circumstances cannot adhere to the schedule of hearing, the assesseees should be informed in advance either through a letter or through

telephone, wherever possible. The information about cancellation or adjournment of hearings should also be displayed on the notice-board outside the office of the ITO concerned and also on the general notice-board of the department for the benefit of the assesseees who may come to the department unaware of the cancellation of the hearing.

3. Necessary instructions may be issued to the officers working in your charge.

Yours faithfully,

Sd/-

M. K. PANDEY,

Secretary, Central Board of Direct Taxes, New Delhi.

Copy forwarded for information to:—

1. All Officers and Sections of Central Board of Direct Taxes.
2. All Directors of Inspections/Directorate of Organisation and Management Services, Aiwan-e-Ghalib, New Delhi.
3. Director, National Academy of Direct Taxes, P.O. Box. No. 40, Nagpur.
4. Bulletin Section of DI(RS&P), New Delhi (5 copies).
5. Comptroller and Auditor General of India (50 copies).
6. O.S.D. Competent Authority, SAFOPOMA, New Delhi/Madras/Bombay/Calcutta.
7. Inspection Division of the Board.
8. DI(RS&P), when the next batch of format of assessment order are printed, a separate column for recording dates of hearings should be provided.

Sd/—

((M. K. Pandey)

Secretary, Central Board of Direct Taxes

### **Recommendation**

The Committee find that appeal against the order of the CII (Appeals) passed on 14 March, 1980 in respect of all the wealth-tax assessments beginning from the year 1957-58 to 1974-75, is pending

with the Income Tax Appellate Tribunal. The Committee would like the Department to pursue the matter vigorously with the Tribunal so that the appeal is disposed of expeditiously.

[S. No. 14 (Para 2.24) of the Appendix VII of the 38th Report of the Public Accounts Committee (1980-81) (Seventh Lok Sabha)].

### **Action taken**

The appeal against the order of the CII (Appeals) has not yet been disposed of by the Tribunal. The Department has already requested the Tribunal to dispose of the appeal out of turn.

[Ministry of Finance (Department of Revenue) O.M. F. No. 236/229/79-A&P AC-II dated 13-4-82].

### **Recommendation of the Committee**

Commenting on the role of the Inspecting Assistant Commissioners, who undoubtedly form an important 'link in the transmission and implementation of the orders of the Board, the Committee had in paragraph 12.6 of their 176th Report (Fifth Lok Sabha) recommended that in the "Inspection Manual for IACs", one check should be to ensure that all instructions issued by the Board are in fact observed and certificate to that effect should ensue".

[S. No. 30 (Para 3.57) of the Appendix VII of the 38th Report of the PAC (Seventh Lok Sabha) (1980-81)].

### **Action taken by the Ministry**

Necessary instructions have been issued by the Directorate of Inspection (II&A) to all the Commissioners of Income-tax through its Circular No. 130 (F. No. 1-9/81/DIT.9875) dated the 3rd October, 1981, for strict compliance on the part of the IACs to ensure that the instructions of the Board are fully complied with by the ITOs during the course of their duties. A copy of the circular is enclosed.

[Ministry of Finance (Department of Revenue) O.M. F. No. 241/8/81-A&PAC-II dated 24-11-1981].

Circular No. 130

F. No. 1-9/81/DIT/9875  
 Directorate of Inspection (Income-tax)  
 Nirikshan Nideshalaya (Aayakar)

Grams: 'KARVIKSHA'

Mayur Bhavan (4th Floor)

Connaught Circus, New Delhi-110001

To

October 3, 1981.

The All Commissioners of Income-tax,

Subject:—Action taken on the recommendations contained in the 38th Report of the PAC (7th Lok Sabha) on Reopened, set aside assessments and cancelled Assessments, Wealth escaping assessments and incorrect computation of Business Income—

The attention of Cs. I.T. is invited to the Guidelines for inspection by IACs issued by this Directorate under F. No. 1-6/76/DIT (Vol. II) dated 7th January 1977. In paragraph 15 of the Guidelines, some specific points have been mentioned to be kept in mind by the IACs in the course of their inspection; sub para 7 of para 15, the IACs have been requested to make specific comments of the knowledge of the ITO about the Board's Instruction and case law.

It has been observed by the Public Accounts Committee that in certain instances, the instructions of the Board have not been followed by the Income-tax Officers. In this context, the PAC had observed in para 12.6 of their 176th Report (Fifth Lok Sabha) that in the course of their inspection work, the IAC should ensure that all instructions issued by the Board are in fact observed and a certificate to that effect recorded by the IAC. In their 38th Report (Seventh Lok Sabha), the PAC had reiterated the above recommendation.

The Board desire that a strict compliance on the part of the IACs should be ensured so that the instructions of the Board are fully complied with by the ITOs in the course of their duties. These instructions may be treated as a part of the Guidelines for Inspection by IACs who may be informed accordingly.

The receipt of this circular may kindly be acknowledged to Shri D. C. Taneja, DDI (I.T. & AUDIT).

Sd/ (J. C. LUTHER)  
 Director of Inspection (Income-tax & Audit).

Copy forwarded to:

1. Private Secretary to the Chairman, CBDT, New Delhi.
2. Private Secretary to Members of CBDT, New Delhi for information.
3. Director, PAC, CBDT, New Delhi for information.
4. Shri M. K. Pande, Secretary, CBDT, New Delhi for information with reference to Board's letter No. 228/34/81/II/A-II dated 9-9-1981.
5. Directors of Inspection (RS&PR)/(Inv.)/Special (Inv.)/(Vigilance)/(Recovery), New Delhi.
6. Director of O&M Services (Income-tax) New Delhi.

Sd/- (D.C. Taneja)

Deputy Director for Director of Inspection (I. T. & Audit)  
New Delhi.

#### **Recommendation of the Committee**

The discussion in the foregoing paragraphs and the illustrative cases of non-completion of set-aside and cancelled assessments pointed out by Audit, bring into sharp focus the need to strengthen internal control and supervisory system, particularly at middle management level, where the Inspection Assessment Commissioners concerned had not discharged their primary duty of inspection efficiently resulting in the occurrence of mistakes of the nature pointed out by Audit. The Committee would, therefore, recommend that suitable instructions for avoiding such lapses may be issued for the guidance of and observance by IACs.

[S. No. 31 (para 3.58) of Appendix VII of the 38th Report  
(Seventh Lok Sabha) (1980-81)].

#### **Action taken by the Ministry**

The above recommendation of the Hon'ble Committee has been noted. Necessary instructions have been issued to all the Commissioners of Income-tax through Circular No. 119 (F. No. 1-6/81/DIT/124) dated June 12, 1981. A copy of the circular is enclosed.

[Ministry of Finance (Department of Revenue) O.M. F. No. 241/  
8/81-A&PAC-II dated 24-11-1981].



F. No. 1-6/81/DIT/4324

## DIRECTORATE OF INSPECTION (INCOME-TAX)

Nirikshan Nideshalaya (Aayakar)

GRAMS: 'KARVIKSHA'

Mayur Bhawan (4th Fl)

Connaught Circus,

New Delhi-110001

June 12, 1981

To

All Commissioners of Income-tax (By name).

Sir,

Subject: 38th Report of PAC (1980-81) (7th Lok Sabha)—Para 3.58  
(Page 33)—Quick disposal of set aside/cancelled assessments—instruction regarding—

Kindly refer to Chairman, CBDT's D.O. letter Nos. 201/151/80/ITA II, dated 8-10-80 and No. 201/151/80-ITA.II dated 22-1-81 on the above subject.

2. In this connection, an extract from para 3.58 of the aforesaid PAC's Report (presented to Lok Sabha/Rajya Sabha on 30-4-81) is reproduced below:

"The discussion in the foregoing paragraphs and the illustrative cases of non-completion of set-aside and cancelled assessments, pointed out by Audit, bring into sharp focus the need to strengthen internal control and supervisory system particularly at middle-management level, where the Inspecting Asstt. Commissioners concerned had not discharged their primary duty of inspection efficiently resulting in the occurrence of mistakes of the nature pointed out by Audit. The Committee would, therefore, recommend that suitable instructions for avoiding such lapses may be issued for the guidance of and observance by IACs".

3. In their earlier instructions, the Board had asked the Commissioners to look into the reasons for pendency and to plan, control and watch their progress and to take action against those who were not following these instructions. The Board had also issued instructions from time to time for expeditious disposal of

these assessments but the compliance to these instructions has not been satisfactory with the result that the number of such pending assessments remains very large. It may be seen from the Chairman's D.O. letter dated 22nd January, 1981 that he has promised to the PAC that all such assessments would be disposed of by the 31st March, 1982, and the Commissioners have been requested to devote their personal attention to this work and draw up time-bound programme for their disposal by the scheduled date.

4. In this context, the Commissioners are further requested to issue suitable instructions to the IACs to exercise effective supervisory control in this regard and check up as a routine measure and particularly at the time of their inspections, whether proper source records are being maintained and due priority is being given to the disposal of such assessments to ensure that the target date for their disposal indicated to the PAC is rigidly adhered to.

5. It is requested that a copy of the instructions issued by the Cs. I.T. to the IACs may be endorsed to this Directorate. The receipt of this Circular may kindly be acknowledged to Shri D. C. Taneja, D.D.I.

Yours faithfully,

Sd/- (J. C. Luther)

*Director of Inspection  
(Income-tax & Audit)*

Copy forwarded to:

1. Private Secretary to the Chairman, CBDT with reference to his No. 241/8/81/A&PAC-II dated 22-5-81.

2. Private Secretary to Members of CBDT for information.

3. Shri S. M. Chickermane, Director (PAC), CBDT, New Delhi for information and necessary action with reference to Chairman's D.O. dated 22-5-81.

4. Shri M. K. Pandey, Secretary, CBDT, New Delhi for information and necessary action with reference to Chairman's d.o. dated 22-5-1981.

(D. C. Taneja)

*Deputy Director  
for Director of Inspection I.T. & Audit*

### **Recommendation of the Committee**

Section 144A and 144B inserted by the Taxation Law (Amendment) Act, 1975 w.e.f 1st January, 1976 conferring powers on IACs to issue directions or requiring reference to them in certain cases, were intended to enable IACs to ensure better and quicker disposal of work of the ITOs and to facilitate expeditious clearance of pending assessment. To make the system work towards the desired objective the Committee would like Government to impress upon the Inspecting Assistant Commissioners the imperative need to exercise these powers particularly in cases involving high incomes which are pending with ITOs.

[S. No. 32 (Para 3.59) of Appendix VII of the 38th Report (Seventh Lok Sabha) (1980-81)].

### **Action taken by the Ministry**

Section 144A of the I.T. Act lays down that any Inspecting Assistant Commissioner of Income-tax may, either on his motion, or on a reference by the ITO or an application by the assessee can call for and examine the record of any proceedings in which an assessment is pending and, if he considers appropriate, may issue such directions as he thinks fit for the guidance of ITO to enable him to complete the assessment and such directions shall be binding on the ITO. So, however, that direction prejudicial to the assessee shall not be issued without giving him an opportunity of being heard.

2. Under this section the Income-tax Officers can refer cases wherein any ticklish or complicated issue is involved to the IAC and have his guidance. Member (II) by his D.O. letter No. 201/101/75/ITAI dated 20th March, 1976 (Annexure) addressed to all Commissioners had invited their attention to the newly introduced provisions of section 144A and 144B of the I.T. Act w.e.f, 1-1-1976 under which the Income tax Officer is in a position to have day to day supervision and guidance of the IAC for expediting the completion of the reopened and set-aside assessments which might be pending due to any ticklish or complicated issues involved in them.

3. With a view to ensure that all the reopened and set-aside assessments relating to 1970-71 and earlier years are completed by

31st March, 1982, a separate monthly review of these cases is being done by the Commissioners under intimation to the Board.

[Ministry of Finance (Department of Revenue) O.M. F. No. 241/8/8  
A&P/AC-II dated 24-11-1981].

C.C. Ganapathy, Member.

ANNEXURE.

D.O. F. No. 201/101/75-IIA, II Government of India

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 20th March, 1976.

My dear

Subject:—Disposal of set aside assessment—December, 1975—  
Review thereof.

A perusal of the statement of disposal of set-aside assessments for the month of December, 1975 has revealed that 1475 cases were added during the month and only 1396 cases were disposed of thereby leaving an overall pendency of 17097 cases as on 1st January, 1976. This heavy pendency of set aside assessments is a matter of serious concern for the Board.

2. Apart from the statutory time limit laid down under section 153 of the Income-tax Act, 1961 for completion of set aside assessments, the Board have laid down administrative time limit for earlier years for completion of such assessments within two years. The Board have repeatedly impressed upon the Commissioners to devote personal attention to the disposal of set aside assessments which has been engaging the attention of the Public Accounts Committee, etc.

3. Recently I had addressed a Confidential D.O. letter F. No, 2101/101/74-ITA. II dated 1st October, 1975 impressing upon all the Commissioners to have a check over the disposal of these assessments by having proper records and personal supervision over the completion of these assessments.

4. With the introduction of sections 144A and 144B in the Income-tax Act, 1961 with effect from 1st January, 1976, day-to-day supervision of the Inspection Assistant Commissioner is now available to the Income-tax Officers who can consult them as and when the need arises and finalise the assessment in accordance with the instructions issued by the Inspecting Assistant Commissioner.

5. I would request you to have a time-bound programme laid down for disposal of all the set aside assessments pending as on 31st March, 1976 by 30th August, 1976.

With regards,

Yours sincerely,

Sd/- (C. C. Ganapathy)

Shri,

Commissioner of Income-tax.

### **Recommendation**

.. Over the years the Public Accounts Committee have been emphasising the need for proper correlation in the assessments made under various direct tax laws and coordination among the assessing authorities in the interest of revenue. Pursuant to these recommendations, Government have issued a series of instructions emphasising the need for (i) coordinated assessments under direct taxes in the same ward (ii) collaboration among various assessing officers and (iii) collection of data/information from State agencies such as registering offices, land requisitioning authorities, succession courts etc. The Committee observe that in spite of these repeated instructions, cases of the type mentioned in the Audit Paragraph continue to occur and the objectives have remained unfulfilled. According to the Ministry, the attenuating circumstances are pressure and rush of work, varying humane temperament and non-availability of records of one direct tax, when the assessment taken up in hand is under another direct tax, say wealth tax, because these may have been required by the AAC, ITAT, internal Audit, Receipt Audit etc. The Central Board of Direct Taxes have, however, reiterated the earlier instructions in December, 1980 and have called upon the Commissioners of Income-tax to ensure that the contents of the relevant instructions/circulars are strictly followed by the assessing officers. They have also been asked to instruct the range IAC to see at the time of inspection whether the relevant instructions are being followed or not.

[S. No. 33 (Para 4.22) of Appendix VII of the 38th Report of the Public Accounts Committee (1980-81) (Seventh Lok Sabha)].

### **Action taken**

The observations of the Hon'ble Committee have been noted.

[Ministry of Finance (Department of Revenue) O.M. No. 241/5/A&PAC-I Dated 25-3-1982].

### **Recommendation of the Committee**

The Committee find that the assessing officers under the charge of all the CsIT have not so far gathered information from the State agencies regarding transfers of property in respect of which details have to be obtained from the State registering offices etc.

In respect of a few charges from which information was received, it is seen that action is still to be initiated in many cases and revenue still to be collected. The Committee would urge that the Central Board of Direct Taxes should obtain the requisite information from all Commissioners of Income-tax and lay down a definite plan of action for completion of assessments and collection of revenue by a target date. The Committee are of the view that it is not enough for the Department to issue fresh instructions every time such failures come to notice. The Committee would urge the monitoring system should be strengthened so that suitable action can be taken against the defaulting officers and failures of this kind are prevented in time.

[S. No. 34 (Para 4.23) of Appendix VII of the 28th Report of the Public Accounts Committee (1980-81) (Seventh Lok Sabha)].

### **Action taken by the Government**

The recommendation has two parts:—

Reports from all the charges, excepting a very few have since been received on cases initiated as a result of information gathered from the State agencies/registration offices regarding transfers/disposition/settlement of properties. Instructions are being issued to the Commissioners to have all the assessments in which the proceedings were initiated as stated above, completed and demand recovered expeditiously and in any case before 31st December, 1982.

As regards strengthening of monitoring system, it is submitted that it is taken to be the duty of all the supervisory officials in the I.T. Department as well as of the C.B.D.T. to see that the Board's Instructions are followed by the field officers. It is one of the functions of the IACs to ensure this in the course of their inspection of the work of the ITOs. Similarly, the Cs. I.T. and Directors of Inspection as well as the Members of the C.B.D.T. during the course of their tours to the Income-

tax offices see whether the instructions issued by the C.B.D.T. are being implemented. The Internal Audit Parties also carry out this function while checking the assessment orders. There is an Inspection Division functioning directly under the CBTD which also look into this aspect. The valuable observations made by the Committee in this regard have been duly noted and are being kept in view.

[Ministry of Finance (Department of Revenue) O.M. No. 241/5/81-A&PAC-I Dated 12 April 1982].

### **Recommendation**

The Committee note that the Income-tax Officer, while completing the assessment of a public limited company for the assessment year 1973-74 on 18-2-1975, had disallowed a sum of Rs. 8,67,984 on the ground that this amount represented the provisions towards gratuity. However the amount was allowed in the assessment year 1974-75 on actual payment basis in the assessment completed on 22-2-1975. Subsequently, the assessee company complied with the provisions of Section 40A(7) of the Income-tax Act, 1961, and the Income-tax Commissioner granted approval to the fund retrospectively with the result that the provisions for gratuity which was disallowed earlier became allowable. Therefore, the assessments for assessment year 1973-74 and 1974-75 were rectified and necessary orders issued in February, 1977. While passing these orders, the Income-tax Officer did not rectify the assessment for the assessment year 1974-75 withdrawing the deduction of Rs. 8,67,984 allowed in that year on actual payment basis. Due to this failure on the part of Income-tax Officer the same amount stood deducted twice, one in assessment year 1973-74 on provision basis and again in assessment year 1974-75 on actual payment basis. The Ministry's contention is that the mistake occurred on account of human failure due to oversight.

[S. No. 37 (Para 5.14) of the Appendix VII of the 38th Report of the PAC (1980-81) (Seventh Lok Sabha)]

### **Action taken**

The observations of the PAC have been noted.

2. As already reported, the assessment in question has been revised and additional demand of Rs. 5,01,259/- has been raised and collected. The Board has also issued instruction No. 1358 dated



20-9-1980 emphasising the need for a very careful examination of the effect of such an adjustment which involves more than one assessment year. The internal audit parties have also been asked to keep aspect in view specifically while auditing such assessment/rectificatory orders.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 244/8/81-A&PAC-II dated 5-5-82].

### **Recommendation of Committee**

The Committee find that the case was not detected by Internal Audit at any stage and that it took a little over one year to issue the rectification order after accepting the audit objection.

[S. No. 38 (Para 5.15) of the Appendix VII of the 38th Report of the PAC (Seventh Lok Sabha) (1980-81)]

### **Action taken by the Ministry**

The above observation of the Hon'ble Committee has been noted by the Ministry.

[Ministry of Finance (Department of Revenue) O.M.F. No. 241/3/81-A&PAC-II dated 24-11-1981]

### **Recommendation of the Committee**

It is a matter of regret that audit objections are not being attended to expeditiously in spite of the fact that specific instructions have been issued by the Central Board of Direct Taxes from time to time whereby the Commissioners of Income tax have been made personally responsible for carefully examining and issuing necessary instructions to ITOs in cases where substantial revenue is involved. In a large number of cases remedial actions have been unduly delayed although the mistakes pointed out by audit were obvious. The Committee would like to emphasise that Audit objections should be given prompt attention.

The case mentioned in the audit paragraph provides yet another instance of the failure of the assessing officers to correlate the assessment of one year with that of another when there is an adjustment of figures which are connected with each other. That the matter escaped the notice of the internal audit also indicates the casual manner in which such audit is conducted. Had the mistake not been detected by the Receipt Audit the Exchequer would have been put to loss of revenue to the extent of



over Rs. 5 lakhs. The Committee consider that there is need for internal audit of the Department to be more vigilant in such cases.

The Committee consider that mere issuing of instructions by the Board would not be of much avail in improving the situation unless the assessing officers as well as the supervisory officers are made to realise that mistakes of this nature, if repeated, would be taken serious note of. The Committee would like to be apprised of the action taken by the Govt. in the light of the above observations.

[S. Nos. 39, 40 & 41 (Paras 5.16, 5.17 & 5.18) of Appendix VII of the 38th Report (Seventh Lok Sabha) (1980-81)]

#### **Action taken by the Ministry**

The above recommendations of the Hon'ble Committee have been noted. Necessary instructions have already been issued to all the Cs. I.T. and to all the IAC (Audit) *vide* circular No. 118 (F. No. RA-11/81/82/DIT/4044) dated 3-6-81 and Circular No. 123 (F. No. RA-11/81/82/DIT/6369) dated 20-7-81 respectively. A copy of each of these circulars is enclosed.

[Ministry of Finance (Department of Revenue) O.M.F. No. 241/8/81-A&PAC-II dated 24-11-1981]

**CIRCULAR NO. 118**

F. No. RA-11/81-82/DIT/4044

Directorate of Inspection (Income-tax)

Nirikshan Nideshalaya (Aayakar)

Grams 'KARVIKSHA'

Mayur Bhavan (4th Fl.)  
New Delhi-110001  
dated 3-6-1981

To

All Commissioners of Income-tax (By name).

**SUBJECT:—Inadequacies in the functioning of the Internal Audit Organisation—Remarks of the PAC para 5.18 of the Thirty eighth Report (1980-81)**

Chairman, C.B.D.T., has desired that the strong criticism made by the PAC in its report cited above should be brought to the personal notice of all the Commissioners of Income-tax.

2. Accordingly paras 5.16 to 5.18 of the said report of the PAC wherein the PAC have voiced their concern have been extracted and are annexed hereto.

3. The Commissioners are requested to keep in view the observations while they consider and dispose of the explanations submitted by the officers of the Department in regard to the mistakes detected by the IAP/SAP/RAP.

4. The receipt of this Circular may please be acknowledged.

Yours faithfully,

Sd/-

(C. Subba Rao)

Deputy Director,

Encl: As above

for Director of Inspection (Income-tax & Audit)  
New Delhi.

Copy to:—

1. Chairman, C.B.D.T., New Delhi with reference to his letter dated 22-5-81 (F. No. 241/8/81-A&PAC-II).
2. Member, C.B.D.T., New Delhi for information.
3. Director (PAC), C.B.D.T., New Delhi.

Sd/-

(C. Subba Rao)

Deputy Director of Inspection  
(Income-tax & Audit),  
New Delhi.

**ANNEXURE**

5.16 It is a matter of regret that audit objections are not being attended to expeditiously in spite of the fact that specific instructions have been issued by the Central Board of Direct Taxes from time to time whereby the Commissioners of Income Tax have been made personally responsible for carefully examining and issuing necessary instructions to ITOs in cases where substantial revenue is involved. On a large number of cases remedial actions have been unduly delayed although the mistakes pointed out by audit were obvious. The Committee would like to emphasise that Audit objections should be given prompt attention.

5.17 The case mentioned in the audit paragraph provides yet another instance of the failure of the assessing officers to correlate the assessment of one year with that of another when there is an adjustment of figures which are connected with each other. That the matter escaped the notice of the internal audit also indicates the casual manner in which such audit is conducted. Had the mistake not been detected by the Receipt Audit, the Exchange would have been put to loss of revenue to the extent of over Rs. 5 lakhs. The Committee consider that there is need for internal audit of the department to be more vigilant in such cases.

5.18 The Committee consider that mere issuing in instructions by the Board would not be of much avail in improving the situation unless the assessing officers as well as the supervisory officers are made to realise that mistakes of this nature if repeated, would be taken serious note of.

DI(ITRA) CIRCULAR NO. 123.

F. No. RA-11/81-82/DIT/6369

Directorate of Inspection (Income-tax)

Nirikshan Nideshalaya (Aayakar)

Grams 'KARVIKSHA'

Mayur Bhavan (4th Fl.)  
New Delhi-110001  
dated: 20-7-1981

To

All Inspecting Assistant Commissioners of  
Income-tax (Audit) (By name).

Sir,

**SUBJECT:—Inadequacies in the functioning of the Internal Audit Organisation—Remarks of the PAC para 5.18 of the Thirty eighth Report (1980-81)**

The Director, PAC, New Delhi has desired the strong criticism made by the PAC in its report cited above should be brought to the personal notices of all the Inspecting Assistant Commissioners of Income-tax (Audit), & all members of the audit set up in the charges.

Accordingly paras 5.17 and 5.18 of the said report of the PAC wherein the PAC have voiced their concern have been extracted and are annexed hereto.

The I.A.C. (Audit) are requested to keep in view these observations & impress upon all the members of the audit set up the need for greater vigilance on their part.

Yours faithfully,

Sd/-

(C. Subba Rao)

Deputy Director.

Encl: As above

for Director of Inspection (Income-tax & Audit)  
New Delhi.

Copy to Shri S. M. Chickemane, Director (A&PAC) with reference to his d.o. F. No. 241/8/81(A&PAC)II dated the 1st July, 1981.

Sd/-

(C. Subba Rao)

Deputy Director,

### **ANNEXURE**

5.7 The case mentioned in the audit paragraph provides yet another instance of the failure of the assessing officers to correlate the assessment of one year with that of another when there is an adjustment of figures which are connected with each other. That the matter escaped the notice of the internal audit also indicates the casual manner in which such audit is conducted. Had the mistake not been detected by the Receipt Audit, the Exchequer would have been put to loss of revenue to the extent of over Rs. 5 lakhs. The Committee consider that there is need for internal audit of the department to be more vigilant in such cases.

5.18 The Committee consider that mere issuing of instructions by the Board would not be of much avail in improving the situation unless the assessing officers as well as the supervisory officers are made to realise that mistakes of this nature, if repeated, would be taken serious note of.

## CHAPTER III

### CONCLUSIONS OR RECOMMENDATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES RECEIVED FROM GOVERNMENT.

#### Recommendation

The Committee would also urge that the assessee's wealth-tax assessments from the year 1975-76 onwards should be completed expeditiously in the interest of revenue.

[S. No. (Para 2.25) of the Appendix VII of the 38th Report of the Public Accounts Committee (1980-81) (Seventh Lok Sabha)]

#### Action taken

The assessments for the assessment years 1975-76 to 1977-78 have been completed on the dates mentioned below:—

1975-76	3-1-81 (revised u/s 23 on 31-3-81)
1976-77	7-3-81
1977-78	30-1-82

The return for assessment year 1978-79 filed on 21-1-80 is pending. Returns for the assessment years 1979-80 and 1980-81 have not yet been filed though notices u/s 14(2) and 17 of the Wealth-tax Act have been issued for these two years. The assessments for assessment years 1978-79 and onwards could not be finalised because their completion would result in raising of huge demands. The points involved are similar to those for earlier years pending before the Tribunal and it would be better to await the ITAT's decision.

[Ministry of Finance (Department of Revenue) O.M.F. No. 236/229/79/-A&PAC-II dated 13-4-82]

## CHAPTER IV

### CONCLUSIONS OR RECOMMENDATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

#### Recommendation

The audit paragraph highlights the delay in completion of assessments of a private company (M/s. Hindustan Tractors Ltd.) for the years 1959-60 and 1961-62 set-aside in August, 1965 and July 1968 till December, 1979 and absence of communication at the time of transfer of files to the effect that reassessments for the two years were pending. The Committee note that the records of the case were received by ITO Baroda from ITO Bombay on 12-6-70. The then ITO Baroda noticing that in the forwarding transfer memo there was no mention of any assessments which had been set-aside and were to be made again, wrote to ITO Bombay on 23-6-70, but there was no response. The pendency of these assessments was then lost sight of by ITO Baroda. The pendency came to the notice of successor ITO as late on as on 7-6-1977 when the Commissioner of Income-tax, Gujarat directed physical verification of pendency and submission of phased programme for disposal of set-aside assessments.

The Committee have been informed that transfer memo is prepared with reference to the pendency that is recorded in the ITO's control Register and also with reference to physical verification of files when the files are sent from one CIT charge to another CIT charge, which according to the Department also acts as a check in ensuring that the pendency is not lost sight of. In the instant case, the transfer Memo, did not indicate the pendency of the reopened set-aside assessments. The Committee understand that the ITO concerned has been asked (December 1980) to furnish explanation for the lapse. "It is apparent that both at the level of the ICA as well as the CIT, the requisite check was not exercised and the files were transferred in a routine fashion. This is regrettable. The Committee would like to be apprised of the action taken for prevention against recurrence of such cases.

The Committee find that even though the above two assessments had been set-aside in August, 1965 and July, 1968, the ITO did not complete the re-assessment proceedings before transfer of the records of the case to Baroda. The reasons why the ITO did not complete the re-assessments even in 5 years in one case and 2 years in another require explanation.

The Committee would also recommend that the responsibility of the Cs.I.T. to whom a copy of the set-aside order is sent by the AAC under the provisions of Section 250(7) of the I.T. Act is also enforced by the Board.

The Committee consider that the facts of the case underline the need for effectively implementing the system for keeping track of pending assessments at the time of transfer of records from one charge to another. The Committee, therefore, recommend that apart from intensifying internal audit as also of supervision of by Inspecting Assistant Commissioners, rigorous checks should be prescribed and followed to avoid such failures in future.

Yet another fact which has come to light as a result of detailed examination of the case, is that there was no progress in these assessments between 1970—1977 for the reason that the pendency was not in the knowledge of Income-tax officer, Baroda. It was only in pursuance of a circular issued on 7-6-1977 calling upon IACs to prepare a planned programme for disposal of set-aside assessments that the pendency came to the notice of the successor ITO. The case again highlights complete lack of supervision at the level, of the IAC in verifying through regular checks and inspection the pendency of assessments in spite of the fact that repeated instructions have been issued by the Board from May 1974 onwards directing the IACs to associate themselves in reviewing all pending set-aside assessments and draw up a time-bound programme for disposal thereof. The Committee are greatly concerned with the inordinate delay in the completion of set-aside assessments in this case before the files were transferred which coupled with further delays subsequent to transfer had resulted in non-realisation of revenue of Rs. 15.07 lakhs. The Committee are surprised that the pendency of these assessments was lost sight of after June 1970. The Committee consider that it was the duty of the ITO to have checked all pendencies by going through the assessments files which were received on transfer.

[S. Nos. 1 to 6 (Paras 1.23 to 1.28) of Appendix VII of the 38th Report of the PAC (1980-81) (Seventh Lok Sabha)]

### Action taken

The observations of the PAC in the above paragraphs have since been noted. As stated earlier in replies to the questionnaire, the omissions regarding the pending assessments occurred due to human failure and not due to any defect in the system and checks devised by the Department. Instructions have already been issued to the Commissioners of Income-tax to watch and monitor the progress of set aside assessments right from the stage when a copy of the set aside order is received by them from the AAC/CIT (Appeals) under the provisions of section 250(7) of the Income-tax Act 1961. A copy of the Instructions No. 1451 dated 3-2-1982 (F. No. 228/32/81/ITA-II) issued in this respect is enclosed.

The Department has been monitoring *inter alia*, the disposal of set-aside assessments through Actions Plans. Further more, the pendency and disposal of set-aside assessments in respect of assessment years 1970-71 and earlier years to which the time limit prescribed u/s 153(2A) of the Income-tax Act does not apply, are watched through an other monthly statement known as CAP-II Statement introduced by the Board, vide its F. No. 228/12/80/ITA-II dated the 26th September, 1980 (copy enclosed). Other instructions/ letters issued by the Board from time to time regarding the disposal of set aside assessments are as under and a copy each of these is attached:—

1. F. No. 201/151/80/ITA-II dated 4-8-1981.
2. F. No. 201/6/81/ITA-II dated 14-8-1981.
3. F. No. 201/151/80/ITA-II dated 30-1-1982.
4. F. No. 201/151/80/ITA-II dated 3-3-1982.
5. F. No. 201/151/80/ITA-II dated 15-1-1982.
6. F. No. 201/108/81/ITA-II dated 28-1-1982.
7. F. No. 201/151/80/ITA-II dated 22-1-1982.

3. There does not appear to be any special reasons for delay in the completion of the assessments before the transfer of files to Baroda charge except that it is a case of human failure which might have happened due to the reasons that there was no time prescribed for the completion of such set aside assessments.

[Ministry of Finance (Department of Revenue) O.M. No. 241/  
8/81-A&PAC-II dated 3-4-1982]



INSTRUCTION NO. 1451

F. No. 228/32/81-ITA-II

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 3rd February, 1982.

To

All Commissioners of Income-tax.

Sir,

**SUBJECT:—Pendency of set aside assessments—watching of.**

In a case which had come up before the Public Accounts Committee, the facts were that the pendency of set aside assessment was lost sight of by the ITO and continued to remain unnoticed for about two years. It came to the notice of the successor ITO when the CIT directed the pendency to be ascertained by a physical verification of all records and the submission of a phased programme for the disposal of set aside assessments.

2. The PAC has taken a very serious view of this lapse. It has pointed out that both at the level of the IAC as well as the CIT, the requisite check was not exercised and the files were transferred in a routine manner. This state of affairs is thoroughly reprehensible.

3. The Board have been emphasising from time to time the need for showing greater awareness to house-keeping jobs. Had this work been attended to properly, such state of affairs might not have resulted. It is, therefore, requested that a separate register of set aside cases should be maintained and as soon as such an order is received by the ITO, an entry should be made in this Register. The IAC should, while making Inspections, particularly examine this Register. It is also requested that the CIT should keep a watch over the progress made in completion of set aside assessments and see that every case set aside by the appellate authorities is properly recorded in a Register to be

maintained in the Judicial Section of his office. The disposal should also be monitored and the entries rounded off once action is completed by making the set aside assessment.

4. Any lapse in the matter will be seriously viewed.

5. The above instructions may please be brought to the notice of the field officers.

Yours faithfully,

Sd/-

(P. SAXENA)

Secretary,

Central Board of Direct Taxes.

Copy forwarded for information to:—

1. P. S. to Chairman, M(IT), M(L)/M(R&A)/M(WT&J)|JS (FTD)/OSD(TPL).

2. The Director, Organization & Management Services, Aiwani Ghalib Building, Mata Sunderi Lane, New Delhi.

3. D.I. (Inv.)|XXX|P&PR|R&S|VIG|IT&A|SPL., Investigation/ Recovery.

4. Director, National Academy of Direct Taxes, P.B. No. 40, Nagpur.

5. Bulletin Section of D.I. (RS&P), New Delhi.

6. All Officers and Sections of Central Board of Direct Taxes.

7. Joint Secretary & Legal Advisor, Ministry of Law & Justice, New Delhi.

8. Comptroller and Auditor General of India (40 copies).

Sd/-

(P. SAXENA)

Secretary,

Central Board of Direct Taxes.

F. No. 201/151/80-ITA-II  
GOVERNMENT OF INDIA  
CENTRAL BOARD OF DIRECT TAXES

*New Delhi, the 4th August, 1981.*

All Commissioners of Income-tax.

(By name).

r,

**SUBJECT:—Review of disposal of reopened and set-aside assessments—June, 1981—Regarding.**

Enclosed please find a statement giving the position of progressive disposal upto June, 1981 of reopened and set-aside assessments relating to 70-71 and earlier years of all Commissioners charges. A perusal of the same indicates that sufficient attention has not been so far given to disposal of these old pending cases which has been a subject of criticism by the PAC time and again.

2. The Chairman had addressed a D.O. Letter to all the Commissioners on 22nd January, 1981 asking them to send a time-bound planned programme for disposal of these assessments and to send a monthly review of these assessments directly to the Chairman endorsing a copy to the Member (IT) as well as to the Zonal Member.

3. A perusal of the statements received shows that the following Commissioners have not yet sent their planned programme:

Agra, Allahabad, Asansol, Amritsar, Andhra Pradesh-I, Andhra Pradesh-II, Assam, Bihar-I, Bombay City-I, II, III, V, VI, VII, IX, X, XI, Bombay (C)-I, II, Coimbatore, Delhi-I, Delhi-II, Delhi-III, IV, V, Gujarat-II, Ahmedabad (Central), Jaipur, Jodhpur, Jullundur, Kanpur, (C), Karnataka-II, Kerala-II, Lucknow, Ludhiana (C), Madhya Pradesh-I, II, Meerut, Rajkot, Tamil Nadu-I, II, III, IV, Madras (C), West Bengal-I, II, IV, V, VII, XI and West Bengal-XIII.

4. It has also been seen that the following Commissioners have not sent the CAP-II statements for the month of June, 1981:

West Bengal-III, VII, Jaipur, Bombay City-VIII, Andhra Pradesh-I, Agra, Allahabad, Kanpur, Meerut, Delhi-I, Bombay (C)-I, II and Madras (C).

5. The promise given before the PAC is to be fulfilled by the due date. It is, therefore, imperative that all Commissioners take personal interest in watching disposal of these assessments ensuring maximum disposal by 31st December, 1981. Those Commissioners who have yet to send their planned programme may please do so by 10th of August positively and explain why the programme was not sent and to ensure that the same is adhered to and the reports for subsequent reach by due date.

Yours faithfully,

Sd/-

(G. D. TANDON)

MEMBER (IT).

Copy to Zonal Members. They may kindly obtain the explanations of the defaulting Commissioners and to see that proper attention is paid to this work. The position in West Bengal and Delhi charges is rather alarming & needs special attention so that the target is achieved.

Sd/-

(G. D. TANDON)

MEMBER (IT).

Position of disposal of re-opened and set-aside assessments relating to 1970-71 and earlier years as on 30th June, 1981:—

Sl. No.	Name of the CIT's Charge	Available for disposal.	Progressive disposal	Balance
1	2	3	4	5
<i>M(R &amp; A)</i>				
1	West Bengal-I . . . . .	66	Nil	63
2	West Bengal-II . . . . .	96	Nil	63
3	West Bengal-III . . . . .	150	Nil	150
4	West Bengal -IV . . . . .	375	14	361
5	West Bengal-V . . . . .	259	5	254
6	West Bengal -VI . . . . .	20	4	16
7	West Bengal-VII . . . . .	7	Nil	7
8	West Bengal-VIII . . . . .	159	7	152

1	2	3	4	5
9 West Bengal-IX	. . . . .	378	10	368
10 West Bengal-X	. . . . .	107	3	104
11 West Bengal -XI	. . . . .	488	11	477
12 West Bengal-XII	. . . . .	110	47	63
13 West Bengal-XIII	. . . . .	104	28	76
14 West Bengal -XIV	. . . . .	137	1	136
15 Assam	. . . . .	127	3	124
16 Orissa	. . . . .	60	Nil	60
		2,643	140	2,503

*M(IT)*

17 Gujarat-I	. . . . .	24	Nil	24
18 Gujarat-II	. . . . .	18	2	16
19 Gujarat-III	. . . . .	17	9	8
20 Rajkot	. . . . .	26	Nil	26
21 Baroda	. . . . .	45	Nil	45
22 Jaipur	. . . . .	108	4	104
23 Jodhpur	. . . . .	47	5	42
24 Patiala	. . . . .	68	7	61
25 Amritsar	. . . . .	143	Nil	143
26 Jullundur	. . . . .	92	3	89
27 Haryana	. . . . .	58	1	57
		646	31	615

*M(L)*

28 Bombay City-I	. . . . .	10	Nil	10
29 Bombay City-II	. . . . .	36	Nil	36
30 Bombay City -III	. . . . .	108	Nil	108
31 Bombay City -IV	. . . . .	79	Nil	79
32 Bombay City-V	. . . . .	119	9	110
33 Bombay City -VI	. . . . .	77	2	75
34 Bombay City-VII	. . . . .	100	Nil	100
35 Bombay City-VIII	. . . . .	92	3	89
36 Bombay City-IX	. . . . .	55	Nil	55

37	Bombay City-X . . . . .	54	Nil	54
38	Bombay City -XI . . . . .	1	Nil	1
39	Nasik . . . . .	14	Nil	14
40.	Pune . . . . .	4	Nil	4
41	Nagpur . . . . .	51	:	50
42	Kolhapur . . . . .	11	Nil	11

711	15	696
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## (MWT&amp;J)

43	Tamil Nadu-I . . . . .	33	Nil	33
44	Tamil Nadu-II . . . . .	70	1	69
45	Tamil Nadu-III . . . . .	98	18	80
46	Tamil Nadu -IV . . . . .	77	Nil	77
47	Madurai . . . . .	63	3	60
48	Combatore . . . . .	66	2	64
49	Cochin . . . . .	62	2	64
50	Trivandrum . . . . .	25	Nil	25
51	Karnataka-I . . . . .	67	Nil	67
52	Karnataka-II . . . . .	2	Nil	2
53	Andhra Pradesh-I . . . . .	12	Nil	12
54	Andhra Pradesh -II . . . . .	96	5	91
55	Visakhapatanam . . . . .	14	6	8

685	61	624
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## M (S&amp;T)

56	Agra . . . . .	133	Nil	133
57	Allahabad . . . . .	38	Nil	38
58	Kanpur] . . . . .	56	3	53
59	Meerut . . . . .	152	Nil	152
60	Patna . . . . .	221	8	213
61	Ranchi . . . . .	12	Nil	12
62	Bhopal . . . . .	271	10	261

53. Jabalpur	.	.	.	.	.	.	.	107	4	103
64. Delhi-I	.	.	.	.	.	.	.	260	17	243
65. Delhi-II	.	.	.	.	.	.	.	354	4	350
66. Delhi-III	.	.	.	.	.	.	.	261	20	241
67. Delhi-IV	.	.	.	.	.	.	.	158	Nil	158
68. Delhi-V	.	.	.	.	.	.	.	545	18	527
69. Delhi-VI	.	.	.	.	.	.	.	2	1	1
70. Lucknow	.	.	.	.	.	.	.	31	Nil	38
M(INV)								2,601	92	2,509
71. West Bengal—(C)-I	.	.	.	.	.	.	.	71	Nil	71
72. West Bengal—(C)-II	.	.	.	.	.	.	.	35	Nil	35
73. Gujarat(C)	.	.	.	.	.	.	.	69	Nil	69
74. Bombay City(C)-I	.	.	.	.	.	.	.	84	Nil	84
75. Bombay City (C)-II	.	.	.	.	.	.	.	110	Nil	110
76. Madras(C)	.	.	.	.	.	.	.	51	Nil	51
77. Karnataka(C)	.	.	.	.	.	.	.	46	3	43
78. Delhi(C)-I	.	.	.	.	.	.	.	34	Nil	34
79. Delhi (C)-II	.	.	.	.	.	.	.	96	15	81
80. Ludhiana(C)	.	.	.	.	.	.	.	10	Nil	10
81. KPR(C)	.	.	.	.	.	.	.	108	Nil	108
								714	18	696
GRAND TOTAL								7,998	357	7,441

F. No. 201/6/81-ITA-II

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 18th August, 1981.

To

All Commissioners of Income-tax. (By name).

Sir,

SUBJECT:—Review of progress of income-tax Assessments—June, 1981—Regarding.

During the financial year 1980-81 total disposal of income-tax assessments was 40.33 lakhs against 34.90 lakhs of 1979-80. Even

798 LS—4.

after having higher disposal in 1980-81 in comparison to. 1979-80 the pendency carried forward as at the end of March, 1981 was 23.63 lakhs assessments against 23.00 lakhs assessments as at the end of March, 1980. There is thus no scope for complacency and greater efforts will have to be put in for reducing the pendency.

2. A perusal of the CAP-II Statements (enclosed herewith) for the month of June, 1981 presents a dismal picture on various fronts and it appears that the officers have yet to settle themselves for the task that lies before them during this year.

3. Emphasis on disposal of scrutiny assessments has been continued in this year without sacrificing the disposal of summary assessments and there has been no restrictions on completion of summary assessments in the first quarter of the year unlike last year. The Action Plan for 1981-82 envisaged 10 per cent disposal in various key areas of the total work to be done, during the first quarter, in addition to the house keeping job. Against this background, the disposal of scrutiny assessments is only 5.66 per cent which is quite low and has to pick up.

4. Sample scrutiny assessments brought forward and those selected during the year for scrutiny are required to be disposed of into to during the year and are to be given highest priority. The disposal of such cases is only 2 per cent upto June, 1981, which is disquieting and causing grave concern to the Board particularly because many more assessments will be added in this category when selection of these cases is made during this month by the AICs.

5. Carrying out search operations is not an end in itself. The need for early completion of search and seizure assessments can hardly be emphasised and even in this area our progress is far below the target. We have disposed of only 209 assessments out of the pendency of 7182 assessments upto June, 1981.

6. As we are aware, bulk of the revenue comes from the company assessments and cases over Rs. 1 lakh. Here again, the disposal during the first quarter is below the target as only 3090 company assessments have been disposed of out of 56061 and only 2906 assessments over Rs. 1 lakh have been disposed of out of 56493. This comes to about 6 per cent against the target of 10 per cent for the quarter.

7. The position of disposal of summary and salary assessments can also not be regarded as satisfactory. As against the assess-



ments available for disposal at 20.35 lakhs, the disposal is of 1.46 lakhs which is 7% only and much below the target of 10 per cent disposal during the first quarter.

8. We have promised before the Public Accounts Committee that all re-opened and set-aside assessments relating to 1970-71 and earlier years will be disposed of during the current year but I find that the pendency as at the end of June, 1981 is of 7054 cases and it is particularly heavy in West Bengal and Delhi Charges. It is hoped that the Commissioners will plan the disposal of these cases in such a manner that the entire pendency is liquidated by 31st December, 1981. This aspect of work has been reviewed separately and it is hoped that the Commissioners are taking action as advised in that review.

9. It is also a matter of concern that CAP-II statements are not being received from most of the Commissioners in time and in certain cases, as indicated in the statement, it has not been received so far. The Commissioners including Commissioners in Central Charges will please ensure that these statements reach the Board by the due date and there is no need for any reminder from the side of the Board.

10. Chairman has desired that the Commissioners will take stock of the situation immediately and motivate the officers and the staff to give their best in the coming months. The performance of each C.I.T. charge is being watched very closely and it is hoped that there would be marked improvement in the next quarter.

Yours faithfully,

Sd/-

(G. D. TANDON)

MEMBER (INCOME-TAX)

*Central Board of Direct Taxes.*

F. No. 201/151/80-ITA-II

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

*New Delhi, the 30th January, 1982.*

To

The Commissioner of Income-tax.

Sir,

SUBJECT:—*Review of set-aside assessments.*

I have been directed by Member (IT) to write as under:

2. Several instructions have been issued from time to time for disposal of all the set-aside assessments relating to Assessment Years 1970-71 and earlier years upto December, 1981, AD. O. letter of even number dated 14-12-1981 was also issued by Member (IT) asking every Commissioner to make a review and report on the reasons in respect of each case which is pending on 1-1-1982 and the efforts being made to liquidate the pendency. This information was to reach the Board on 10-1-1982. It is highly regrettable that an important communication like this has been lost sight of by the Commissioners and a majority of them have not responded to the personal D.O. letter addressed by the Member. The Chairman and Members of the Board take a very serious view of the matter and would like your comments as to why you could not send the report to the Board as required by 10-1-1982.

3. They would also like you to immediately send your report showing the pendency, the reasons for the pendency and the action that is being taken by you to discharge Government's commitments to the P.A.C.

Yours faithfully,

Sd/-

(V. B. SRINIVASAN)

*Secretary,*

*Central Board of Direct Taxes.*

D. O. F. No. 201/151/80-ITA-II

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

JAGDISH CHAND,  
CHAIRMAN, CBDT.

*New Delhi, the 3rd March, 1982.*

My dear,

SUBJECT:— *Progress of set-aside assessments—review of—*

Pleased refer to the D.O. letter of Sh. M. S. Sivaramakrish Member (Income-tax) dated 14-12-1981, wherein it was clearly mentioned that since the Board stands committed to the Public Accounts Committee to ensure that all set-aside and re-opened assessments relating to assessment year 1970-71 and earlier

years are disposed of by 31st March, 1982, the Commissioner should so plan his work that the pendency of such assessment is not allowed to be carried forward beyond the assured date. I have noted with concern the slow progress made in this regard. It is regrettable that even Member (Income-tax)'s D.O. letter has not spurred you to take action. The Board takes a very serious view of the matter and has, therefore, necessarily to consider steps as to how the galloping indifference to instructions and follow-up action to be taken in core and committed areas can be secured through appropriate resort to the Central Services Conduct Rules. You should kindly take immediate note of this observation and let me know by 15-3-1982 as to why the matter was neglected by you and the officers under you.

2. The pendency and the task of follow-up shows worthwhile supervision or control has been exercised by you. Please look into the matter and see that the pendency is wiped off by 31-3-1982. In this connection, you are also advised to keep a special watch over the progress made and review the progress on a weekly basis so that the bottleneck are cleared.

Regards,

Yours sincerely,

Sd/-

(Jagdish Chand)

Shri

Commissioner of Income-tax.

D. O. F. No. 201/151/80-ITA-II

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

DILIP SINGH

OFFICER ON SPECIAL DUTY.

*New Delhi, the 15th January, 1982.*

Dear Shri

**SUBJECT:—Progress of set-aside assessment—Review of—**

Kindly refer to D.O. letter of even number dated 14-12-1981 from Shri M. S. Sivaramakrishna, Member (I.T.) requesting you

to intimate by 10-1-1982 the reasons for pendency of set-aside assessments but the same has not yet been received. As the Board has given an undertaking to the P.A.C. that all set aside assessments will be completed by 31st March, 1982, I am directed to request you that all possible efforts may kindly be made to dispose of all the set-aside assessments. Your report as desired by the Member (I.T.) in his D.O. letter dated 14-12-1981, may kindly be expedited.

With regards,

Yours sincerely,

Sd/-

(Dalip Singh)

Shri

Commissioner of Income-tax.

*MOST IMMEDIATE*

F. No. 201/108/81-ITA-II

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

*New Delhi, the 28th January, 1982.*

V. B. Srinivasan,

Secretary.

Dear Shri

I have been directed to say that on going through the summary prepared by DI (IT) from Statement-II of the Central Action Plan for November, 1981, Member (IT) finds that the targets set by the Board in various core sectors have not been achieved. His comments are as under:—

2. (a) *Scrutiny Assessment:*

- (i) Out of 15,29,604 (all India figures) scrutiny assessments pending for disposal, only 3,98,557 have so far been disposed of till the end of November, 1981. The percentage of disposal works out to only 25 per cent as against the expected target of 32.50 per cent upto November, 1981, as fixed in the Action Plan for this year.

- (ii) In your charge scrutiny cases have been disposed out of total pendency of which comes to about...per cent. This has been considered as unsatisfactory.

The Commissioner will have to stress upon the Officers to make all efforts to make up the deficiency in the remaining months of the year.

(b) *Company cases and cases with income over Rs. 1 lakh*

Out of the pendency of 92,011 company cases only 22,172 cases have been disposed of till the end of November, 1981. The disposal so far is only 24 per cent. Similarly as regards the cases with income over Rs. 1 lakh are concerned, out of 68,595 cases, only 22,012 cases have been disposed of which works out to only 29 per cent as against the target of 32.50 per cent. The disposal in the areas has been considered as low. It may be pointed out that as per the Action Plan, the demand to be raised this year was at least 25 per cent more than the figure of last year. This can be achieved only if a substantially large number of assessments of these two categories are disposed of well within time.

(c) *Search and Seizure cases*

The statistics before the Board reflects a very alarming position. Only 1228 cases have been disposed of till the end of November, 1981, out of total pendency of 10,791. The performance is very poor. The slackness on the part of the officers in this area was the subject of severe criticism by the PAC in their two meetings held this year. The Commissioner should review the progress in this field, try to remove the bottlenecks and issue suitable instructions to their officers. The Board expects more involvement of the Commissioners so that the problems of the officers, if any, in individual cases are also solved,

(d) *Set aside and reopened assessments relating to 1970-71 and earlier years*

It has been noticed that in respect of this category of assessments, only 2122 cases have been disposed of out of a total pendency of 8269. The disposal works out to hardly 24 per cent which is far below the target fixed in the Action

Plan and is considered as very poor. It is felt that in spite of repeated instructions, this area of the work continue to be neglected by the Income-tax Officers. This attitude on the part of ITOs appears to be not on account of the difficult nature of cases but, probably, because of lack of the necessary drive and initiative on the part of the ITO and proper supervision and control by the concerned supervisory authorities. If necessary, Commissioners should take an individual cases, discuss them with the ITOs, suggest suitable solutions and ensure that 100 per cent cases are disposed of by 31st March, 1982 positively because a commitment to this effect has been given by the Chairman to the Public Accounts Committee.

*(e) Summary and Salary Assessments*

In this area, only 16,85,738 cases have been disposed of out of total pendency of 45,71,882. The percentage of disposal works out to 36 per cent as against the annual target of 85 per cent which has now been increased to 100 per cent. According to the target then fixed, the disposal upto the end of November, 1981 should have been 22.85 lakhs as against only 16.85 lakhs actually disposed of. There is, therefore, a shortfall of about 6 lakhs cases. The Commissioners should review the position and write back to the Member(II) in detail the steps taken by them for achieving the target in this respect.

Yours sincerely,

Sd/-

(V. B. SRINIVASAN)

Shri

Commissioner of Income-tax,

Copy to PS to Chairman/M(IT)/M(LP)-M (Inv)/M (S & T)/M (R & A)/M (WT& J).

Sd/-

(V. B. SRINIVASAN)

*Secretary, Central Board of Direct Taxes.*

F. No. 201/4/81/ITA-II  
CENTRAL BOARD OF DIRECT TAXES  
NEW DELHI

*Dated New Delhi the 20-6-1981*

To,

*All Commissioners of Income-tax including Central Charges.*

Sir,

*Subject:—Revised proforma for monthly telegraphic report of  
Income-tax Assessments and CAP—II—FORWARD  
ING OF—*

I am directed to refer to Chairman's D.O. F. No. 17/1/81-OD-DCMS dated 4th May, 1981, by which proforma of CAP-II report was revised to include the information which was hitherto being separately received in proforma of telegraphic disposal report (M-3) and CAP-II statements. A proforma of the revised CAP-II statement was forwarded *vide* Board's letter of even number dated 13-5-1981 and subsequent letter of even number dated 29-5-1981.

2. The following Commissioners of Income-tax have not so far sent the said statement for the month of April 1981.

1. W.B. III, V, IX & XIV.
2. Rajkot, Baroda, Jaipur, Patiala, Amritsar.
3. B.C. I, II, III, V, VI, VII, VIII, IX, XI.
4. Coimbatore, Cochin, Kerala I, II, Karnataka I, II, A.P.I.
5. Kanpur, Meerut, Bhopal, Delhi I, II, IV.
6. (Central Charges) W.B. I, II, B.C. I, II, T.N., Karnataka, Delhi I, II.

They are, therefore, requested to kindly send the statement for the month of April 1981 in the revised format by 30th June, 1981 positively.

3. The following Commissioners of Income-tax have sent their statement for the month of April 1981 in the old format.

- W. B. VIII,
- Gujarat I, II, III, Jodhpur, Jullundur.
- B. C. X, Nasik, Nagpur.
- Agra, Allahabad, Bihar I, II, M.P. II, Delhi V.

— Ludhiana (C), Kanpur (C).

They are, requested to kindly send the same for the month of April, 1981 in the revised format by the 30th June, 1981 positively.

4. It may be pointed out that the following new columns have been added in the new format of CAP-II statement. It is requested that these new columns may kindly be incorporated and the requisite information regarding these items added in the statement for the month of April, 1981 and onwards.

Code No.

15—Total No. of Summary cases selected at rando for scrutiny assessment for disposal	RS
16—Disposal out of item No. 15 upto the end of the month	RSD
17—Total No. of summary and salary assessments for disposal	TS
18—Total No. of summary and salary assessments disposed of upto the end of the month	TSD

5. It is, further added here that CAP-II statement is required to be sent by all Commissioners including Central Charges.

6. For the month of May 1981, this statement has been sent only by the following Commission:

- 1.—W. B. II, VI, X, XIII.
- 2.—Assam, Orissa.
- 3.—Nagpur, Kolhapur.
- 4.—Bihar II, Haryana.

All the remaining Commissioners are requested to send CAP-II statement of the month of May, 1981 so as to reach Board's office positively by 30th June, 1981.

The dates given above may kindly be strictly adhered to.

Yours faithfully,  
Sd/-

(M. G. C. GOYAL)

Under Secretary

Central Board of Direct Taxes.



F. No. 201/4/81/ITA-III  
GOVERNMENT OF INDIA  
CENTRAL BOARD OF DIRECT TAXES  
NEW DELHI

Dated New Delhi the 13-5-1981

To

All Commissioners of Income-tax.

SUBJECT.—Revised proforma for monthly telegraphic report of  
Income-tax Assessments and CAP-II Forwarding of—

I am directed to refer to Chairman's D.O. F. No. 17/1/81-OF-DOMS/dated 4th May, 1981 by which proforma of CAP-II report has been revised to include the information, which was hitherto being received in the proforma of telegraphic disposal report (M-3) and CAP-II report. A copy of the revised Cap-II report is enclosed herewith. The information from April 1981 onwards may kindly be sent in the revised proforma by 15th of the following month.

Yours faithfully,

Sd/-

(M. K. PANDEY)

*Secretary, Central Board of Direct Taxes  
New Delhi.*

Copy forwarded for Information to Director, Directorate of Organization and Management Services (I.T.) with reference to his letter No. 17/1-OD—DOMS, dated 4th May, 1981.

Sd/-

(M. K. PANDEY)

*Secretary, Central Board of Direct Taxes  
New Delhi.*

### CAP-TWO

CIT's charge\_\_\_\_\_

\*Due date: 15th of the following  
month.

Month \_\_\_\_\_

\*To be sent to: Member (IT) and  
Zonal Member, QBDT.

Title           CAP-TWO

.....

\*Central Action Plan—Monthly Telegraphic Report (regarding scrutiny/summary Assessments)

S. No.	Particulars	Code
1.	Total number of scrutiny assessments for disposal (as per revised Annex. B communicated under F. No. 17/1/81-OD-DOMS, dated 8-1-1981)	SA
2.	Number of assessments disposed of during the month	SD
3.	Number of assessments disposed of out of 1 above upto the end of the month	SDD
4.	Percentage of disposal upto the end of the month (Col. 3 as percentage of Col. 1)	SAP
5.	Number of Company assessments for disposal	COA
6.	Number of company assessments disposed of upto the end of the month	COD
7.	Number of assessments above Rupee one lakh other than company cases for disposal	LA
8.	Disposal out of item 7 upto the end of the month	LD
9.	Number of Search and Seizure assessments for disposal	SSA
10.	Disposal out of item 9 upto the end of the month	SSD
11.	Total number of assessments relating to 1970-71 and earlier years reopened or set aside by virtue of orders under sections 146, 251, 254, 263 and 264 passed before 1-4-1980 and pending as on 1-4-1981.	ASR
12.	Total number of assessments relating to 1970-71 and earlier years reopened or set aside by virtue of orders under sections 146, 251, 254, 263 and 264 passed on or after 1-4-1981	CSR
13.	Disposal out of number 11 upto end of month	ASD
14.	Disposal out of No. 12 upto end of month	CSD

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\*Not to be telegraphed.

Note: Name of the CIT's charge, month, title of report, code and its corresponding figures amounts should only be telegraphed.

S. No.	Particulars	Code
15.	Total number of summary cases selected at random for scrutiny assessment for disposal	RS
16.	Disposal out of item No. 15 upto the end of month	RSD
17.	Total number of summary and salary assessments for disposal	TS
18.	Total number of summary and salary assessments disposed of upto the end of the month	TSD

D.O.F. No. 201/151/80-ITA-II

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

*New Delhi, the 22nd January, 1981*

O. V. KURUVILLA,  
CHAIRMAN

My dear

During the recent meeting of the Public Accounts Committee the Department had to face service criticism from the members of the PAC regarding the large number of set-aside and re-opened assessments for the assessment year 1970-71 and earlier years which are still pending. The Board have been issuing instructions from time to time regarding the disposal of these assessments but the field formations have not complied with these instructions with the result that the number of such assessments which are pending is quite large. Shri Avtar Singh, in his D.O. letter dated 8th October, 1980 had asked the Commissioners to take stock of all pending assessments of this type. It is seen that as a result more such assessments are shown as pending. As on 30th November, 1980, 8804 assessments are pending. It is also seen that about half of these assessments are pending for more than 5 years.

2. The pendency of so many assessments is indefensible. The PAC has been promised that all these assessments will be liquidated by 31st March, 1982. I have, therefore, decided that I should personally keep a watch over the progress of this work. A time bound programme for the disposal of these assessments by 31-12-1981 should be drawn up by each Commissioner and sent to me. Each I.A.C. and Commissioner of Income-tax should have in their personal custody a list of such cases pending in their respective charges. They should review the disposal of these assessments every month. The Commissioners should forward to me (by name) their monthly review so as to reach me by the 20th of the month following the month reviewed. A copy of the review should be sent to Member

(III) as well as the Zonal Member. If the programme cannot be adhered to any month, detailed reasons therefore should be brought to my notice.

3. I have suggested that the programme should be so drawn up that all these assessments are disposed of by 31-12-1981 so that if for any unforeseen reason some assessments could not be completed by this date they can be disposed of before 31-3-1982 which is the date which has been promised to the PAC.

4. In drawing up the time-bound programme, care should be taken to see that as many assessments as possible are disposed of during the current financial year.

5. If after a physical verification of the files, it is seen that some of the pending assessments are not accounted for in the statistics such cases should also be accounted for and the statistics revised accordingly.

6. It is imperative that such assessments are disposed of by 31-3-1982. Commissioners are therefore, requested to devote their personal attention to this work so that the programme of disposal can be adhered to.

With regards,

Yours faithfully,

Sd/-

(O. V. KURUVILLA)

Shri

Commissioner of Income-tax,

F. No. 228/12/80-ITA-II

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 26th September, 1980.

Shri A. C. Jain,

Director,

Directorate of Organisation and Management Services,

Aiwan-E-Ghalib,

Mata Sundri Lane,

New Delhi.

Sir,

SUBJECT.—C.A.P.—inclusion of information regarding completion of reopened and set-aside assessments relating to

assessments relating to assessment year 1970-71 and earlier years—

The undersigned is directed to refer to the minutes of the Board's meeting in which it was decided that C.A.P. should be amended to include information regarding completion of reopened and set-aside assessments relating to assessment year 1970-71 and earlier years to be received from the Commissioners for the month of October to be reported in November, 1980.

2. I am enclosing herewith the information which is desired to be obtained in the form of Code which may be issued urgently from the side of the D.O.M.S. in continuation of Action Plan letter.

Yours faithfully,

Sd/-

(M. K. PANDEY)

*Secretary, Central Board of Direct Taxes*

11. Total number of assessments relating to 1970-71 and earlier years reopened or set aside by virtue of orders under sections 146, 251, 254, 263 and 264 passed before 1-4-1980 and pending as on 1-4-1980.
12. Total number of assessments relating to 1970-71 and earlier years reopened or set aside by virtue of orders under sections 146, 251, 254, 263 and 264 passed on or after 1-4-1980.
13. Disposal out of number 11 upto end of month.
14. Disposal out of No. 12 upto end of month.

#### **Recommendations of the Committee**

The pendency of set-aside/cancelled assessments has shown a persistent increase during the last few years for which data was called for by the Committee. The number of such cases increased from 21,451 in 1976-77 to 22,656 up 1977-78, 23,445 in 1978-79 and 23,565 in 1979-80.

Section 153 of the Income-tax Act sets out a time limit of two years for completion of re-assessment proceedings in respect of assessments

pertaining to the year 1971-72 and onwards. No such limit has however been prescribed in the Act for 1970-71 and earlier years. However, the Department issued instructions in October, 1968 laying down an administrative time limit of two years for completion of these assessments. The Action Plans for the years 1978-79 and 1979-80 laid down a target of 80 per cent for disposal of such cases. From the figures of pendency furnished by the Ministry, it is noticed that with reference to the opening balance on 1st April, 1978, additions during 1978-79 and disposals during 1978-79 the number of cases pending as on 31-3-1979 works out to 19,981, whereas it has been shown by the Ministry as 23,445. This itself is indicative of the fact that these figures do not represent the correct position of pendency and that the alleged "excess" disposal of cases with reference to Action Plan targets was illusory. The Committee would therefore urge that a suitable machinery to receive reliable statistics of pending cases be devised and also action taken to reduce the number of pending set aside assessments and the Committee informed of the precise progress made.

The Committee find that as a result of severe strictures passed by the Supreme Court in the case of Ram Narayan Bhajnegarwala Vs. ITO 'A' Ward, Calcutta (Civil Appeal No. 318 of 1971), the Board issued a Circular letter in October, 1975 emphasising the necessity for completing all pending set aside assessments with utmost expedition. The Es IT were also asked to find out whether (a) there was any statistical record of assessments prior to assessment year 1971-72 set aside pending disposal, (b) if so, the type of record that was being maintained and the control that was being exercised (c) the details of and reasons for the pendency of these assessments as on date and (d) what further time they expected to take in getting assessments completed.

The Committee find that the position over the last six years since these instructions were issued, has if anything, only deteriorated. Apart from the fact that the pendency of such assessments has been going up as shown above, even the correctness of the number of such pending cases is a matter of doubt.

The Ministry have in their circular letter to as dated 8 October, 1980 pointed out that "the pendency has not been correctly recorded. The pendency shown under Section 146 has come up in the year ending 31-3-1979 from 1800 to 2164. Similarly, the pendency under Section 263 has gone up from 169 to 385 in the year ending 31-3-1978. This is a clear indication that no care has been taken to report the

figures correctly, as normally, the pendency should not go up. As compared to these figures, the pendency of such assessments as per the Review of Central Action Plan Performance for the quarter ended 31 March, 1980, was 23,426. This is totally out of tune with the other set of figures and needs a careful checking up. The Chairman, Central Board of Direct Taxes admitted in evidence that "all these statistics are wrong."

The Committee desire that the Commissioners of Income Tax should be asked not only to ensure that the relevant registers are completed in all respects by a target date, but they should also get them checked and up dated periodically say, at least once in three months so that the disposal of such assessments could be carefully monitored.

Government had stated in an earlier reply that as on 30 November, 1980 out of a total number of 6804 pending reopened and set aside assessments relating to assessment year 1970-71 and earlier years, 2632 were pending for less than two years, 2031 were pending for between two to five years and 4150 were pending for over five years.

The Committee thus find that over 47 per cent of the pending set aside/cancelled assessments of 1971-72 and earlier years were more than five years old and 23 per cent were between two to five years old which clearly establishes that the administrative time limit of two years has remained largely on paper. The Committee have been assured that highest priority will now be accorded to these assessments and that most of these cases would be completed by 1981-82. The Committee would expect the Board to keep close watch on the disposal of these assessments through periodical reports, on the spot inspections etc. with a view to ensuring that the backlog is cleared by the revised target date. Periodical review meetings should be held to assess the progress made.

In this connection, the Committee would also like to point out that the Board are surprisingly enough not in a position to indicate how many reopened and set aside assessments have become time-barred. The Committee require that this information should be gathered without delay and furnished to them. It should also be ensured that priorities are drawn up in such a manner that cases about to get time barred are disposed of well in time so that the interests of revenue do not suffer.

[S. Nos. 16-23 (Paras 3.43 to 3.50) of the Appendix VII of the 38th Report of the PAC (Seventh Lok Sabha) 1980-81]

### Action Taken by the Ministry

The Central Board of Direct Taxes has been according highest priority to the completion of reopened and set aside assessments relating to assessment year 1970-71 and earlier years, as also those which relate to the period later to the assessment year 1970-71. Instructions have been issued from time to time for ascertaining the correct pendency of such assessments and also to liquidate the same at the earliest. The latest steps taken by the Board are as under:

- (i) A d.o. letter No. 201/51/80-ITAI dated 8-10-80 was addressed to all Commissioners, by the Member (IT) wherein it was desired that the Commissioners should get personally involved, and have a constant watch over the matter; a review should be made every month at the time of sending the Monthly Telegraphic CAP-II Report to the Board and the progress should be so arranged as to achieve well in time the target of 75 per cent laid down in the 1980-81 Action Plan.
- (ii) A d.o. letter F. No. 201/151/80-ITAI dated 22-1-1981 was issued by the then Chairman (C.B.D.T.) wherein it was pointed out that the pendency of such set aside assessments should be liquidated by 31st March, 1982 and time bound programme for the disposal of these assessments by 31-12-1981 should be drawn up by each Commissioner and sent to the Chairman. The Commissioners were requested to devote their personal attention to this work so that the time bound programme of disposal of these assessments by 31-3-1982 could be achieved (Annexure A)
- (iii) Columns to the telegraphic CAP-II Report have been added for reporting the pendency and disposal of set aside and reopened assessments.
- (iv) The Commissioners of Income-tax have been requested to ascertain the correct pendency of such assessments and to report as to how many of the assessments had become time barred by 31-3-81. A copy of the letter addressed to the Commissioners of Income-tax is also enclosed (Annexure B). After the receipt of their replies, further follow-up action will be considered.

2. The Board hope that with these measures, the pendency of reopened and set aside assessments would be reduced considerably.

[Min. of Finance Deptt. of Revenue O.M. F. No. 241/8/81-A & PAC  
II dated 24-11-1981]



D.O. No. 201/151/80-ITA-II

GOVERNMENT OF INDIA

## CENTRAL BOARD OF DIRECT TAXES

O. V. KURUVILLA  
CHAIRMAN.

*New Delhi, the 22nd January, 1981.*

My dear

During the recent meeting of the Public Accounts Committee the Department had to face severe criticism from the members of the PAC regarding the large number of set-aside and re-opened assessments for the assessment year 1970-71 and earlier years which are still pending. The Board have been issuing instructions from time to time regarding the disposal of these assessments but the field formations have not complied with these instructions with the result that the number of such assessments which are pending is quite large. Shri Avtar Singh, in his D.O. letter dated 8th October, 1980 had asked the Commissioners to take stock of all pending assessments of this type. It is seen that as a result more such assessments are shown as pending. As on 30th November, 1980, 8804 assessments are pending. It is also seen that about half of these assessments are pending for more than 5 years.

2. The pendency of so many assessments is indefensible. The PAC has been promised that all these assessments will be liquidated by 31st March, 1982. I have, therefore, decided that I should personally keep a watch over the progress of this work. A time-bound programme for the disposal of these assessments by 31-12-1981 should be drawn up by each Commissioner and sent to me. Each I.A.C. and Commissioner of Income-tax should have in their personal custody a list of such cases pending in their respective charges. They should review the disposal of these assessments every month. The Commissioners should forward to me (by name) their monthly review so as to reach me by the 20th of the month following the month reviewed. A copy of the review should be sent to Member (II) as well as the Zonal Member. If the programme cannot be adhered to any month, detailed reasons therefore should be brought to my notice.

3. I have suggested that the programme should be so drawn up that all these assessments are disposed of by 31-12-1981 so that if for

any unforeseen reason some assessments could not be completed by this date they can be disposed of before 31-3-1982 which is the date which has been promised to the P.A.C.

4. In drawing up the time-bound programme, care should be taken to see that as many assessments as possible are disposed of during the current financial year.

5. If after a physical verification of the files, it is seen that some of the pending assessments are not accounted for in the statistics such cases should also be accounted for and the statistics revised accordingly.

6. It is imperative that such assessments are disposed of by 31-3-1982. Commissioners are therefore, requested to devote their personal attention to this work so that the programme of disposal can be adhered to.

With regards.

Yours sincerely,

Sd/-

(O. V. KURUVILLA)

Shri

Commissioner of Income-tax.

Copy forwarded to all concerns as usual.

*Annexure B*

F. No. 228/30/81-ITA-II

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 24th September, 1981.

To

All Commissioners of Income-tax,

Sir,

**SUBJECT.—**Reopened and set aside assessments—

Para 3.50 of the 38th Report of the PAC (Seventh Lok Sabha) on reopened, set aside and cancelled assessments reads as under:

“In this connection, the Committee would also like to point out that the Board are surprisingly enough not in a position to indicate how many reopened and set-aside assessments have become time barred. The Committee require

that this information should be gathered without delay and furnished to them. It should be ensured that priorities be drawn up in such a manner that cases about to get time barred are disposed of well in time so that the interests of revenue do not suffer."

2. The Board has been laying emphasis on the completion of set-aside, reopened and cancelled assessments etc. In this D.O. No. 201/151/80-ITA-II dated 22-1-1981, addressed to all Commissioners, the Chairman had pointed out the imperative need of reopened and set-aside assessments relating to 1970-71 and earlier years being disposed of by 31-4-1982 by drawing up a time bound programme to fulfil the assurance given before P.A.C.

3. You are requested to report as to whether any reopened and set-aside assessments had become time barred by 31-3-1981 and if so, the number and details of such assessments may please be furnished to the Board by 30th October, 1981.

Yours faithfully,

Sd/-

(M. K. PANDEY)

*Secretary, Central Board of Direct Taxes.*

## CHAPTER V

### CONCLUSIONS OR RECOMMENDATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES/ NO REPLIES

#### Recommendations

The Committee further observe that the original assessments for the years 1967-68, 1968-69 and 1969-70 made on 29th March, 1972, were cancelled on 12 February, 1973. Re-assessments for the assessment years 1968-69 and 1969-70 were completed in November, 1979 while similar proceedings in respect of the assessment year 1967-68 were completed only in August 1980. The demand of Rs. 2.74 lakhs in respect of the latter assessment viz., 1967-68 is yet to be collected. From the statement of wealth tax demands raised and collected from the assessee for the assessment years 1957-58 to 1974-75 (Appendix III), the Committee find that as on 1 January, 1981, the total demand outstanding against the assessee was of the order of Rs. 53.17 lakhs. In addition, arrears of income tax outstanding against the assessee amounted to Rs. 4.37 lakhs. Thus the total outstanding demand amounted to Rs. 57.54 lakhs.

The Committee were informed that the tax demands in this case are fully secured. Notice has been served by the tax Recovery Officer and house properties of the assessee are under attachment. The Committee would like the Department to take steps for realisation of the outstanding dues without further loss of time. They would await a specific report in this regard.

[S. Nos. 12-13 (Para 2.22-2.23) of the Appendix VII of the 38th Report of the Public Accounts Committee (1980-81) (Seventh Lok Sabha)].

#### Action taken

Out of the total outstanding demand, the Commissioner of Income-tax allowed the assessee time to pay an amount of Rs. 5 lacs by 30-3-1982 forwarded Wealth Tax. It is learnt from the WTO D-Ward, Indore, that the assessee had paid a sum of Rs. 5 lacs on 30-3-1982 as promised.

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As regards the remaining arrears, in view of the non-availability of liquid resources, no recovery has been made so far. The T.R.O. is already seized of the matter and further progress in this regard shall be communicated.

[Ministry of Finance (Department of Revenue) O.M. F. No. 236/229/79—A& PAC-II dated 13-4-1982].

### **Recommendations of Committee**

As early as in April 1975, the Board had in a circular letter deprecated the increasing tendency on the part of the AACs to take recourse to setting aside assessments, especially complicated ones, at the first available opportunity. The circular had pointed out that "such action is apt to be misunderstood as either unwillingness on the part of the AACs to take decisions or even more seriously as inability to tackle issues posed in appeal." It was further pointed out that "a set aside assessment would cause its own chain reaction in protracting assessment proceedings and throw the administration out of gear in so far as the planned programme for maximising disposal of assessment and collections are concerned." The Finance Secretary stated in evidence that as quasi-judicial authorities, the AACs could well be expected to hold the scales even between the Revenue and the assessee. Sharing the concern of the Committee, he stated that the question whether this could best be done through administrative or executive action or through amendment of the law, would be gone into.

The Committee are not happy over the tendency on the part of the Cs. I.T. and AACs to set aside/cancel assessments as an easy expedient. Section 251 empowers the AAC to confirm, reduce, enhance, or annul the assessment as well as to set it aside and remand the case to the ITO for making a fresh assessment in accordance with the direction given by the AAC. The AAC may make such further inquiry as he thinks fit or might direct the ITO to make further inquiry, and report the results to him. It has been judicially held that this 'power includes the power to admit fresh and additional evidence. In fact, it has been held by the Supreme Court that the AAC has plenary powers in disposing of an appeal, the scope of his powers is co-terminus with that of the ITO; he can do what that ITO can do and also direct him to do what he has failed to do. The impression was gathered during evidence that in too many cases of appeal the assessments are merely set aside

involving indefinite delays in the final disposal of cases. Generally, the assessments had merely been set aside for reasons such as those given below, though under the powers vested in the AACs, final orders could have been passed by them;

(i) The ITO had failed to determine the allowable expenses on the basis of material available on record.

(ii) The assessee's claim for status of registered firm, which was negated by the ITO, was justified.

(iii) Deductions/liabilities claimed by the assessee were omitted to be allowed by the ITO in the assessment orders.

(iv) ITO had ignored certain evidence produced before him during assessment proceedings.

(v) Additions and disallowances made by the ITO were without proper analysis and consideration.

The Committee consider that as far as possible, the appeals should be disposed of by the AAC/CIT (Appeals) himself and the assessments should be cancelled/set-aside only where he finds some flaw in the very basis of the assessment. The Committee would therefore like the Ministry of Finance to give serious thought to the question whether any amendment of the extant provisions of the Income-tax Act is called for with a view to effectively curb the tendency on the part of the AACs/CIT (Appeals) to cancel/set aside the assessments.

In this connection, the Committee would also like the Ministry to examine whether Section 146 of the Income-tax Act which empowers the ITO to cancel the assessment in certain conditions and make a fresh assessment, could be disposed with on the analogy of the Wealth Tax Act which does not have a corresponding provision.

[S. Nos. 24, 25, 26, and 29 (Paras 3.51, 3.52, 3.53 and 3.56) of the Appendix VII of the 38th Report of the Public Accounts Committee (1980-81) (Seventh Lok Sabha)].

#### **Action taken by the Ministry**

The above recommendations of the PAC are covered by similar recommendations made by the Direct Tax Laws Committee (Chok-Committee) contained in paras II-6.3 and II-4.22 of its Final

**Report.** These recommendations of the Chokshi Committee are under consideration of the Economic Administration Reforms Commission.

[Ministry of Finance (Department of Revenue) O.M. F. No. 241/8/81—A&PAC-II dated 7-1-1982].

### **Recommendations of Committee**

The Committee had noted the delays occurring in disposal of revision petitions by the Cs. I.T. under Section 264. The Committee welcome the positive response of the Chairman of the Board that a statutory time limitation could be imposed for disposal of such petitions. The Committee note that in some cases there may be valid reasons especially when it may be beneficial to the taxpayer himself to keep the matter pending.

The Committee therefore recommend that a statutory limitation be imposed on the time allowed to the Cs. I.T. for disposing of revision petitions under Section 264. In any individual case or class or classes of cases, of the Board to relax the time limit by invoking Section 119(2)(b) of the Act would ensure relief in individual cases of real hardship, without penalising many other assesseees whose revision petitions are pending for years as at present.

[S. Nos. 27 & 28) (Paras 3.54 & 3.55) of the Appendix VII of the 38th Report of the Public Accounts Committee (1980-81) (Seventh Lok Sabha)].

### **Action taken by the Ministry**

The recommendations of the Hon'able Committee contained in the above paras are under consideration of the Ministry.

[Ministry of Finance (Department of Revenue) O.M. F. No. 241/8/81—A& PAC-II dated 15-1-1982].

### **Recommendations of the Committee**

As pointed out in the audit paragraph, the assessee did not file any return of wealth for the assessment years 1972-73 to 1977-78 and the Department could not detect this failure. This shows that the system of maintenance of initial records like Blue Book by the assessing officers for watching the rendition of wealth-tax returns, completion of assessments and calling for the returns in wanting cases is defective. The Chairman, Central Board of Direct Taxes

stated during evidence that the best way to coordinate the Income-tax and wealth-tax assessments was to take up both the assessments simultaneously. Administrative instructions to this effect had already been issued to the assessing officers. The Finance Secretary was of the view that it may not be feasible to make any statutory stipulation in this regard in view of the fact that any delay in finalising the wealth-tax assessments will hold up income-tax assessments and the flow of revenue might be in jeopardy.

The instant case shows that even though the omission on the part of the assessee to file any return of wealth for the assessment years 1972-73 to 1977-78, was brought to the notice of the Department by Audit in October, 1977, notices calling for returns of wealth had not been issued by the Wealth Tax Officer even as late as February, 1979. Since it has not been possible for the Department to bring about necessary coordination in the disposal of income-tax and wealth tax assessments through administrative instructions, the Committee would recommend the amendment of the Wealth Tax Act to also provide for a period of 2 years (instead of 4 years as at present) beyond which the bar of limitation would apply. The Committee consider that simultaneous disposal of income-tax and Wealth-tax assessments would be in the interest of revenue as well as the assessee.

[S. Nos. 35 & 36 (Paras 4.24 and 4.25) of Appendix VII of the 38th Report of the Public Accounts Committee (1980-81) (Seventh Lok Sabha)].

### **Action taken by the Government**

Initially there was no time limit for completion of assessments under the Wealth-tax Act. However, section 17A inserted by the Taxation Laws (Amendment) Act, 1975 with effect from 1-1-1976 laid down a time limit of four years from the end of the assessment year in which the net wealth was first assessable, for completion of the assessment.

2. The Chokshi Committee in paragraph II—4.40 of their final report recommended that a uniform time limit of two years should



be laid down for finalisation of wealth-tax assessments, like for income-tax assessments. The recommendations of the Chokshi Committee are under consideration by the Economic Administration Reforms Commission. On receipt of the report of the said Commission a final view would be taken regarding the prescription of a time limit of 2 years instead of the present 4 years for completion of wealth-tax assessments.

[Ministry of Finance (Deptt. of Revenue) O.M. F. No. 241/  
5/81-A&PAC-I dated 7th January, 1982].

NEW DELHI;

June 18, 1982

Jyaistha 28, 1904 (S.)

SATISH AGARWAL

Chairman

Public Accounts Committee.

## APPENDIX

### Conclusions and Recommendations

S.No.	Para No.	Ministry concerned	Conclusion/Recommendation
1	2	3	4
1	1.4	Ministry of Finance (Deptt. of Revenue)	<p>The Committee desire that replies showing conclusive action taken on the above recommendations should be processed expeditiously and the requisite notes submitted to the Committee after getting them vetted by Audit.</p> <p>Commenting on the delay in completion of assessments of a private company (M/s Hindustan Tractors Ltd.) for the years 1959-60 and 1961-62 set aside in August 1965 and July 1968 till as late as December 1979, the Committee had pointed out that the ITO did not complete the re-assessment proceedings before transfer of the records of the case. The Committee had desired to be furnished with the reasons why the ITO did not complete the re-assessments even in 5 years in one case and 2 years in another. The Committee had also commented on the defaults at the levels of the IAC and the Commissioner of Income-tax to whom a copy of the set aside order is required to be sent by the AAC under the provisions of Section 250 (7) of the Income-tax Act.</p>
2	1.8	-do-	

According to the Ministry, "there do not appear to be any special reasons for delay in the completion of the assessments before the transfer of files to Baroda charge except that it is a case of human

failure which might have happened due to the reason that there was no time prescribed for the completion of such set aside assessments." The Ministry have further contended that the delay in this case is not attributable to any defect in the system and checks devised by the Department.

Considering that the case reflected failures occurring not only as the level of ITO but also at the other senior levels of IAC and CIT the plea of 'human failure' is rather too simplistic. The Committee feel that in spite of the plethora of instructions issued by the Board and various forms and registers prescribed for maintenance of details of pending cases, mistakes of the nature pointed out by audit in the aforesaid case continue to occur. It is obvious that the prescribed procedures are not being followed at all levels and there is general laxity of supervision and control on the part of supervisory officers in the department. The Committee consider that the causes of failure at different levels in a few cases should be analysed in depth and brought home to the officers of all levels as concrete examples, to bring home to them that the prescribed procedures are indeed required to be observed.

-do-

1.11

3

In the 38th Report (7th Lok Sabha) the Committee had drawn attention to the persistent increase in the pendency of set aside/cancelled assessments over the last few years. The number of such cases had increased from 21451 as on 31 March, 1977 to 23565 as on 31 March, 1980. The Committee had further pointed out that over

47 per cent of the pending set-aside/cancelled assessments pertaining to the assessment year 1970-71 and earlier years were more than five years old and 23 per cent were between 2 to 5 years old. This clearly showed that the administrative time limit of two years for disposal of such cases had remained largely on paper. During evidence, the Committee were assured that highest priority would be accorded to these assessments and that most of them would be completed by 31 March, 1982. The information now furnished to the Committee reveals that out of a total pendency of 8269 cases, only 2122 had been disposed of till January, 1982 which works out to hardly 24 per cent. Drawing attention to the poor performance, the Board had in its letter of 28 January, 1982 addressed to the Commissioners of Income-tax stated *inter alia* that "in spite of repeated instructions this area of work continues to be neglected by the Income-tax Officers. This attitude on the part of ITOs appears to be not on account of the difficult nature of cases but probably, because of lack of necessary drive and initiative on the part of ITO and proper supervision and control by the concerned supervisory authorities. If necessary, Commissioners should take up individual case, discuss them with the ITOs, suggest suitable solutions and ensure that 100 per cent cases are disposed of by 31 March, 1982 positively because a commitment to this effect has been given by the Chairman (CBDT) to the Public Accounts Committee."

In another Communication dated 30 January, 1982 the Secretary, Central Board of Direct Taxes again drew attention of the Commissioners of Income-tax to the DO letter of December, 1981 issued by the Member, Income-tax asking every Commissioner to make a review and report on the reasons in respect of each case pending on 1 January, 1982 and the efforts being made to liquidate pendency. The communication pointed out that "it is highly regrettable that an important communication like this has been lost sight of by the Commissioners and a majority of them have not responded to the present DO letter addressed by the Member. The Chairman and Members of the Board take a very serious view of the matter and would like your comments as to why you could not send the report to the Board as required by 10 January, 1982."

In yet another letter dated 3 March, the Chairman, CBDT reiterated the serious concern of the Board on the slow progress in the disposal of set aside and re-opened assessments relating to assessment year 1970-71 and earlier years. He stated *inter alia*: "It is regrettable that even Member (Income-tax's D.O. letter has not spurred you to take action. The Board takes a very serious view of the matter and has, therefore, necessarily to consider steps as to how the galloping indifference to instructions and follow up action to be taken in core and committed areas can be secured through appropriate resort to the Central Services Conduct Rules".

The above re-countal indicates a very sorry state of affairs in the Income-tax Department. Apparently, the Board have miser-

ably failed to secure compliance with the instructions issued repeatedly Holding out assurances to the Committee and administering homilies to the field officers without being able to secure compliance seems to have become the accepted norm of working for the CBDT. The Committee take a very serious view of this state of affairs. The Committee would strongly urge that Government should take very serious note of such utter lack of concern and defiance of the orders of the Board in the interest of better administration of tax laws. The Committee would like to be apprised of the precise progress made in completion of pending set aside/cancelled assessments as on 31 March, 1982 and the concrete steps devised by the Board to clear the arrears without further loss of time.

The Committee also desire that suitable disciplinary action should be taken against the defaulting officials for their failure to fulfil the tasks laid down for them. The Committee consider that it is imperative for the Department to tone up the efficiency of the machinery in the field by devising a suitable scheme of providing incentives to meritorious officers and punishing those who are not upto the mark and fail to deliver the goods consistently over period of time.

It is unfortunate that the Ministry's reply does not indicate the number of cases which had become time-barred by 31 March, 1981 as required by the Committee. The Committee would like to be apprised of the position without delay and the steps taken to ensure that such cases are not allowed to get time barred to the detriment of revenue.

## PART II

*Minutes of the Second sitting of the Public Accounts Committee  
(1982-83) held on 11 June, 1982.*

The Committee set from 11.00 hours to 13.10 hours on 11 June, 1982 in Committee Room 'D', Parliament House Annexe, New Delhi.

### PRESENT

#### CHAIRMAN

Shri Satish Agarwal

#### MEMBERS

2. Shri Chitta Basu
3. Smt. Vidyavati Chaturvedi
4. Shri C. T. Dhandapani
5. Shri G. L. Dogra
6. Shri Bhiku Ram Jain
7. Shri Mahavir Prasad
8. Shri Sunil Maitra
9. Shri Dhanik Lal Mandal
10. Shri Jamilur Rahman
11. Shri Harish Rawat
12. Dr. Sankata Prasad
13. Smt. Pratibha Singh
14. Shri Syed Rehmat Ali
15. Shri B. Satyanarayana Reddy
16. Shri Kalyan Roy
17. Shri Nirmal Chatterjee
18. Shri A. P. Janardhanam

#### REPRESENTATIVE OF AUDIT

#### (SECRETARIAT

Shri R. S. Gupta—*Director of Receipt Audit I.*

#### SECRETARIAT

1. Shri D. C. Pande—*Chief Financial Committee Officer*
2. Shri K. C. Rastogi—*Senior Financial Committee Officer.*



2. The Committee took up for consideration the following draft Reports and approved the same subject to modifications/amendments as given in Annexure I\* and II respectively.

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- (ii) Draft 114th Report on Action Taken by Government on the 38th Report of Public Accounts Committee (7th Lok Sabha) regarding Re-opened, set aside and cancelled assessments, wealth tax escaping assessments and incorrect computation of business income.

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*The Committee then adjourned.*

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\*Annexure I not printed.

## ANNEXURE II

*List of Modifications/Amendments made by the Public Accounts Committee in the draft 114th Report on Action Taken on the 38th Report of Public Accounts Committee (1980-81).*

		Modifications/Amendments	
Page (1)	Para (2)	Line(s) (3)	(4)
6	1	11-17	The sentence "The Committee....by the Board" may be substituted by the following:  "The Committee had also commented on the defaults at the levels of the IAC and the Commissioner of Income-tax to whom a copy of the set aside order is required to be sent by the AAC under the provisions of Section 250 (7) of the Income-tax Act."
7	—	1-18	The sentences "The Committee find....warning to others," may be substituted by the following:

"Considering that the case reflected failure occurring not only at the level of ITO but also at the other senior levels of IAC and CIT the plea of 'human failure' is rather too simplistic. The Committee feel that in spite of a plethora of instructions issued by the Board and various forms and registers prescribed for maintenance of details of pending cases, mistakes of the nature pointed out by audit in the aforesaid case continue to occur. It is obvious that the prescribed procedures are not being followed at all levels

and there is general laxity of supervision and control on the part of supervisory officers in the department. The Committee consider that the cases of failure at different levels in a few cases should be analysed in depth and brought home to the officers of all levels as concrete examples, to bring home to them that the prescribed procedures are indeed required to be observed."

15-16 Last Para — The sentences "The Committee take a very serious view...in the Act" may be substituted by the following:

"Holding out assurances to the Committee and administering homilies to the field officers without being able to secure compliance seems to have become the accepted norm of working for the CBDT. The Committee take a very serious view of this state of affairs. The Committee would strongly urge that Government should take very serious note of such utter lack of concern and defiance of the orders of the Board in the interest of better administration of "tax laws."

16 — 8 For the "steps"

read "concrete steps"

16 — 11 For "The Committee desire"

read "The Committee also desire"

**P.A.C. No. 501**

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