

EIGHTEENTH REPORT

PUBLIC ACCOUNTS COMMITTEE (1991-92)

(TENTH LOK SABHA)

SALES TAX MINISTRY OF HOME AFFAIRS

[Action taken on 161st Report of Public Accounts Committee
(8th Lok Sabha)]



सत्यमेव जयते

Presented in Lok Sabha on 7 April, 1992

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PUBLIC ACCOUNTS COMMITTEE
(1991-92)

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Shri Atal Bihari Vajpayee

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3. **Smt. Ganga Murthy** — *Deputy Secretary*
4. **Shri K.C. Shekhar** — *Under Secretary*

INTRODUCTION

1, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Eighteenth Report on action taken by Government on the recommendations of the Public Accounts Committee contained in their 161st Report (8th Lok Sabha) on Sales Tax (Delhi Administration).

2. In pursuance of the recommendation made by the Committee in their earlier Report, the Summary Assessment Scheme in respect of Sales Tax was reviewed by a Committee set up by the Ministry of Home Affairs. On the recommendations of that Review Committee, the Sales Tax Department, Delhi Administration modified the Summary Assessment Scheme and introduced the same in July, 1990. The Committee have desired the Ministry to periodically review the scheme with a view to plugging the loopholes, if any, noticed therein. As regards the huge pendency of assessment cases, the Committee have recommended that since full complement of Staff has been deployed in the Sales Tax Department, a firm time schedule should be laid down to clear the arrears so as to prepare the ground for initiating legislative measures to reduce the limitation period from four years to two years as earlier recommended by them. The Committee have also favoured computerisation of the system in the Department to facilitate cross verification of ST-2 forms of the dealers in the interest of revenue. Besides, the Committee have underlined the need for evolving a system whereby the menace of keeping duplicate set of cash memos/books by the dealers is eliminated.

3. The Report was considered and adopted by the Public Accounts Committee at their sitting held on 17 March, 1992. Minutes of the sitting form Part II of the Report.

4. For facility of reference and convenience, the recommendations 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.

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

ATAL BIHARI VAJPAYEE

Chairman,

Public Accounts Committee.

NEW DELHI;

23 March, 1992

3 Chaitra, 1914 (Saka)

CHAPTER I

REPORT

1.1 This Report of the Committee deals with the action taken by Government on the recommendations/observations contained in the 161st Report of Public Accounts Committee (8th Lok Sabha) on Paragraphs 25-30 of the Report of the C&AG of India for the year ended 31 March, 1987— Union Government (Delhi Administration) relating to Sales Tax.

1.2 The 161st Report of the Public Accounts Committee (8th Lok Sabha) was presented to Lok Sabha on 25 April, 1989. It contains 23 recommendations/observations. Action Taken notes have been received on all the recommendations/observations. The Action Taken notes have been broadly categorised as follows:—

- (i) Recommendations/observations that have been accepted by Government;
Sl. Nos. 1-3, 5-7, 9, 14, 16, 19, 21 and 23.
- (ii) Recommendations/observations which the Committee do not desire to pursue in view of the replies received from Government;
Sl. Nos. 11, 15 and 18.
- (iii) Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration;
Sl. No. 20.
- (iv) Recommendations/observations in respect of which Government have furnished interim replies;
Sl. Nos. 4, 8, 10, 12, 13, 17 and 22.

R 1.3 The Committee hope that final replies in respect of recommendations in respect of which Government have furnished interim replies will be furnished to them after getting the same vetted by Audit.

1.4 The Committee would now deal with action taken by Government on some of their recommendations.

Review of Summary Assessment Scheme

(Sl. No. 2— Paragraph 16)

1.5 In paragraph 16 of the 161st Report (8th Lok Sabha) the Committee made the following recommendations:

“The Summary Assessment Scheme is aimed at expeditious disposal of assessment cases of dealers having small turnover and thereby minimising the overall pendency. Under this scheme, the Assessing Authorities are required to identify the eligible dealers from the list of dealers allocated to them. Thereafter, all the dealers so identified are duly informed about their eligibility with the advice to furnish the desired information in the proforma within 30 days. Clearly, the scheme envisages its voluntary acceptance by the dealers. The extent of coverage under the scheme has been hardly 20,712 in 1985-86, 16,649 in 1986-87 and 17,002 in 1987-88 and actual assessment far less than these. These figures speak volumes for the utter failure that the scheme has met due to poor response from dealers which was nearly 24% of the eligible dealers during 1987-88. The Department of Sales Tax have, however, with a view to bringing more dealers under the scheme, raised the ceiling of taxable goods to Rs. 5 lakhs. But if past experience is any indication, it was not the ceiling which was responsible for the poor response, possibly it was due to some inherent weaknesses in the scheme that prevented the dealers from accepting it and which need to be identified and remedied. Besides, there may be some other factors like lack of education or lack of proper guidance to the dealers, either from the Staff of the Department or from their Sales Tax advisers on account of some vested interests. The Committee, therefore, desire a thorough review of the Summary Assessment Scheme by a Committee of the Senior Officers of the Department and the Ministry of Home Affairs as also the representatives of the Dealers/Traders Unions so as to examine *inter alia*:

- (i) the reasons for non-acceptance of the Scheme by dealers;
- (ii) whether voluntary nature of the scheme is mainly responsible for poor response to the Scheme; and
- (iii) whether the procedure followed in Summary Assessment Scheme applicable to Income Tax assesseees could be made applicable to Sales Tax assesseees also subject to suitable modifications;

and make suitable recommendations so that the objectives for which the scheme was introduced could be achieved”.

1.6 In their Action Taken notes, the Ministry of Home Affairs stated:

“As desired by the PAC, a Committee is being constituted to review the Summary Assessment Scheme. It is proposed that two Senior Officers of the Sales Tax Department one nominee of the Ministry of Home Affairs and two or three representatives of the Trade Association should be the Members of this Committee.”

1.7 Subsequently, the Ministry of Home Affairs informed that the Report of the Committee appointed to review the Summary Assessment Scheme was received in December, 1989 and that Lt. Governor, Delhi approved the scheme on 2.7.1990 and the scheme was launched on 12.7.1990. The scheme as notified by the Sales Tax Department, Delhi Administration specify that:

1. (i) All registered dealers returning a turnover of Rs. 6 lakhs or less in any year who are not excluded by the provisions in the subsequent paragraph 2 shall, subject to the stipulations contained in the third proviso to the said sub-rule, be eligible to be assessed on the basis of the returns furnished by them without any prior enquiry under sub-rule (1) of rule 26.

(ii) in respect of the year ending on the 31st March, 1990 or any subsequent year, the last date for the eligible registered dealer to furnish the statement in Form 11-A shall be the 30th day of November succeeding the end of the year, and for the years ending on 31st March of the years 1987, 1988 and 1989 it shall be 1st October, 1990.

2. Any registered dealer returning a turnover of Rs. 6 lakhs or less in any year shall not however be eligible to be so assessed on the basis of the returns furnished by him, if he is a dealer:

(i) In respect of whom facts indicating likelihood of variations between the values of purchases or sales actually made by him and the value vouched by him in the records maintained by him or variations between the statements made by him in his books of accounts and in his returns have been discovered in relation to the past years including the year preceding the year under assessment.

(ii) who is a newly registered dealer in whose case no regular assessment has been framed so far.

(iii) who has closed his business and is to be assessed for the last year.

(iv) who has not filed any one or more of his returns.

(v) whose turnover during the year under assessment falls short of the turnover on the basis of which assessment

was made during the preceding year by not less than 10%.

- (vi) in whose business any person who had been convicted under the Delhi Sales Tax Act, 1975 or under the Central Sales Tax Act, 1956 during 5 years preceding the commencement of the year under assessment or who had become defaulter in respect of dues under these Acts, has an interest.
- (vii) In respect of whom the assessment had been made on the basis of the returns furnished without any inquiry and without production of any evidence in support of the returns in any part of his turnover in respect of any period had escaped or had been assessed at a rate lower than at the rate of which it was assessable or any deduction had been wrongly allowed there from were subsequently discovered.”

1.8 The Committee note that the modified Summary Assessment Scheme introduced in July, 1990 would be applicable to the Registered dealers who return a turnover of Rs. 6 lakhs or less. The Committee hope that with the introduction of the new modified scheme coupled with its faithful implementation, the assessment work would be considerably reduced enabling the Assessing Authorities to devote more attention to the high value cases. The Committee would, however, like the Ministry of Home Affairs to periodically review the scheme with a view to plugging the loopholes, if any, noticed therein the interest of revenue.

Action Plan for liquidation of arrears of assessment cases

(Sl. Nos. 5 & 6—Paragraphs 31 & 32)

1.9 In Paragraphs 31 and 32 of their 161st Report (8th Lok Sabha) the Public Accounts Committee had recommended as follows:—

“As per the provisions of Section 23(7) of the Delhi Sales Tax Act, 1975, assessment of returns filed by the registered dealers should be made within four years from the end of the year in respect of which tax is assessable. Besides, the cases remanded for re-assessment by the Appellate authorities may again spend for another 4 years. The Committee feel that this is too long a period within which the assessee can easily manage his affairs in such a fashion as to get away without paying tax. The Public Accounts Committee (7th Lok Sabha) had also gone into this question and recommended reduction of the period of two years which the Ministry did not accept on the plea that the upto date assessment could be made without amendment of Law and with the increased staff strength. Regretably, the staff strength is still awaiting augmentation.”

“The idea behind the reduction of the limitation period is manifold, firstly, to expedite the disposal of assessment cases, secondly, to eliminate the scope of staff getting slack in discharging their duties, thirdly, to prevent the unscrupulous dealers from engineering devices to evade tax and last but not the least, to ensure early recovery of Government dues. The Committee are of the firm opinion that the reduction of the limitation period would go a long way in improving not only efficiency of the staff but also the revenue to the exchequer. However, considering the heavy pendency of assessment cases at present, the Committee feel it all the more necessary that the backlog is first cleared under a time bound Action Plan as earlier recommended by the Committee and thereafter the limitation period of two years may become applicable. The Committee hope that necessary steps both administrative as well as legislative, would be taken in this direction.”

1.10 In their Action Taken note dated 19.10.1990, the Ministry of Home Affairs have stated as follows :

“The suggestion of the Committee with regard to reduction of the limitation period from 4 years to 2 years has been taken note of. However, keeping in view the pendency of assessment cases at present, the back-log should first be cleared under time bound action plan and thereafter, the limitation period of 2 years should become applicable. We propose to make the necessary amendment in the Act only after the huge back-log of arrears of assessment cases is first cleared.

.....the Department has formulated an Action Plan to wipe out the pending arrears of assessments in a phased manner and the steps taken by the Department have given encouraging results. However, since the liquidation of more than 7 lakh assessment cases is linked with the number of assessing authorities available with the Department, no precise time-limit can be laid down by which the Department will be able to clear the pending assessments.

Details of cases assessed and pending year-wise are as under :

Pending cases	Local	Central	Total
1986-87	76269	73141	149410
1987-88	99448	93851	193299
1988-89	107070	101135	208205
Assessed cases	Local	Central	Total
1986-87	18238	16014	34252
1987-88	3341	2922	6263
1988-89	960	858	1818

The pace of clearance was slow because of shortage of Assessing Authorities and staff and that is why the backlog of cases has gone up. Whatever can be done under the Delhi Sales Tax Rules is under consideration to amend relevant rules and to prescribe shorter time for filing of statutory form so as to facilitate the disposal of backlog of assessment cases especially."

1.11 As regards the staff requirements in the Department of Sales Tax, Delhi Administration, the Committee took note of the recommendations made by the Staff Inspection Unit (SIU) for creation of 213 posts (including 113 posts of Assessing Authorities) which remained unattended in the Ministry of Home Affairs for quite a long time. The Committee in paragraph 21 of their Original Report strongly favoured provisioning of full complement of staff in the Department. In response to the Committee's recommendations, the Ministry created all the posts recommended by the SIU and filled the same except a few in the categories of Programmer, Caretaker, Assistant Librarian, Coder, Despatch Riders and Peons which were stated to be in the process of being filled up.

1.12 With a view to improving not only the efficacy of the Department of Sales Tax but also for increasing revenues to the exchequer, the Committee in their Original Report laid special emphasis on augmentation of staff strength and reducing the time limit for assessment of cases from four years to two years. However, keeping in view the heavy pendency of assessment cases, the Committee desired that the backlog be first cleared under a time bound Action Plan and thereafter the limitation period of two years be made applicable.

1.13 According to Action Taken notes furnished by the Ministry of Home Affairs although an Action Plan to wipe out the pending arrears has been formulated, the Department has expressed its inability to lay down any precise time limit for clearing huge arrears of assessment cases which is stated to be linked with the availability of Assessing Authorities. The slow pace of clearance of pending cases in the past has also been attributed to paucity of Assessing Authorities. The Committee however, note that full complement of Assessing Authorities has since been deployed in the Department. The Department is thus left with no excuses but to cope with the mounting arrears effectively and vigorously. The Committee recommend that a firm time schedule should now be laid down for wiping out arrears so as to prepare the ground for initiating legislative measures to reduce and limitation period from four years to two years as already recommended. The Committee would like to be apprised of the action taken in this direction.

Functioning of Appellate Authorities

(Sl. No. 7 Para 33)

1.14 The Public Accounts Committee (8th Lok Sabha) recorded their disapproval with the pace of disposal of appeals filed with the Appellate Authorities of the Sales Tax Department, Delhi Administration and made the following recommendations in Para 33 of their original Report :

“The pace of disposal of appeals filed with the Appellate Authorities and the reassessment of cases remanded by Appellate Authorities is no better as will be seen from the following figures :—

	1985-86	1986-87	1987-88
a) Total No. of appeals filed	9150	9510	9172
b) No. of appeals decided	4281	4883	6339
c) (i) No. of cases remanded for reassessment	792	892	1410
(ii) No. of cases reassessed out of the above remanded cases	238	257	141

In order to ensure early and expeditious disposal of appeals, the Committee recommend that a study be made into the functioning of the Appellate Authorities especially, Deputy Commissioners and Assistant Commissioners, Sales Tax, and if found necessary, their strength may be increased to cope with the pendency of appeal cases. In addition to that, the question of setting up special courts for disposal of appeal cases may also be examined.”

1.15 According to Action Taken Note furnished by the Ministry of Home Affairs while the Study into the functioning of the Appellate Authorities had been entrusted to the Administrative Reforms Department of the Delhi Administration, the suggestion of the Committee regarding setting up of special courts for disposal of appeal cases was under the consideration of the Administration. Subsequently, the Ministry informed on 19.10.1990 that the Administrative Reforms Department had submitted its Report. In its Report, the Administrative Reforms Department has *inter alia* observed that :

“.....there is inordinate delay in disposal of appeals while the revenue involved in such cases is substantial, the pendency position is mounting; there is lack of monitoring and control, the majority of cases get remanded leading to further delays; the number of hearings fixed even in remand cases are quite high, there is no hard and fast rule in granting stay orders which provides ample discretion to the Appellate Authority. Apart from these, there is problem of delay in delegation of powers to

A.Cs and nonfilling up of vacancies in time which adds to the accumulation of backlog.”

1.16 In order to overcome these problems the Administrative Reforms Department made a number of recommendations which are at Appendix-I.

R 1.17 The Committee would like to be apprised of the precise action taken on each of the recommendations contained in the Report of the Administrative Reforms Department of Delhi Administration on Review of Working of Appellate Authorities in Sales Tax Department. The results of the examination of the question regarding setting up of special courts for disposal of appeal cases should also be made known to the Committee.

Cross verification of Sales and Purchases through computers

(Sl. No. 13 Para 54)

1.18 In the background of difficulties faced by the Department of Sales Tax in the matter of cross verification of sales and purchases made by various dealers, the Ministry informed the Committee that the cross verification of sales and purchases would be made easy through computerisation of the system and the National Information Centre was at the stage of developing software. The Committee in their Original Report desired to know the latest position in the matter.

1.19 The Ministry of Home Affairs in their Action Taken Note intimated as follows :

“Computerisation is being introduced on a pilot project basis in one time comprising of 4 wards. Orders for the necessary hardware have been placed and the supply is likely to be received very soon. Initially return processing application of the computer is to be implemented on pilot project basis after which it will be extended to all the zones. The cross verification of ST-2 account shall be taken up after evaluating the performance of the pilot project.”

Subsequently, the Ministry further informed :

“The preliminary demonstration has been finalised and the pilot project has been started in Zone V. The experience gained on the pilot project would facilitate the development of the assessment scheduling system of which the dealer to dealer cross verification of exemption claims would form an integral part.”

R 1.20 The Committee note that in regard to the computerisation of the system in the Sales Tax Department preliminary demonstration has been held and pilot project commenced in Zone V. The Committee desire that urgent steps be taken to make a thorough appraisal of the pilot project so that the entire system is computerised as early as possible to facilitate the cross-verification of the ST-2 forms of the dealers.

Inspection of Inventories by the Sales Tax Department

(Sl. No. 19 Para 70)

1.21 The Public Accounts Committee (8th Lok Sabha) had in Para 70 of their 16th Report made the following recommendation :

“The Committee note that apart from claiming exemption on the basis of false declarations, the tax is evaded by way of sales and purchases not being accounted for in the books of accounts either by not issuing the cash memo at all or by issuing the duplicate cash memo. According to rough estimates, the suppression of sales and purchases by dealers resulted in tax evasion to the extent of Rs. 17.09 crores in 348 cases during 1985-86, Rs. 4.28 crores in 405 cases during 1986-87 and Rs. 72.05 crore in 284 cases during 1987-88. Although the aggregate collections both under the Local and Central Sales Tax Act were more than the targets fixed therefor during 1985-86 to 1987-88 yet the collections would have been much higher if tax evasion had not taken place. The Committee, therefore, favour a stricter vigil over the activities of at least the habitual tax evaders. The Committee desire that the sales tax authorities be armed with powers to inspect the inventories of the dealers’ stock from time to time subject to the condition that the powers are not indiscriminately used to harrass the honest tax payers.”

1.22 In their Action Taken Note, the Ministry of Home Affairs have stated :

“Adequate provision in this regard already exists. Section 41 of the Delhi Sales Tax Act, authorises the Assessing Authorities to inspect and take the inventories. These powers are, however, used whenever necessary keeping in view the potential of hardship/harrassment that such inspections may cause.”

R 1.23 Observing the extent of evasion that had taken place in regard to Sales Tax in a number of cases in the past, the Committee in their Original Report favoured stricter watch over the activities of the wilful tax evaders by arming the Sales Tax Authorities with powers to inspect the inventories of the dealers’ stock from time to time subject to a condition that these powers were not used indiscriminately to harrass the honest tax payers. According to the action taken note furnished by the Ministry of Home Affairs, provision for inspection of inventories exist in Section 41 of the Delhi Sales Tax Act and these are used when ever necessary. The Committee would like to be apprised of the number of cases in which recourse to these provisions was made during the last 2 years and the outcome thereof.

SALES TAX EVASION

(Sl. No. 20 Paragraph 71)

1.24 While examining the evasion of sales tax by suppression of sales and purchases by not issuing the cash memo at all or by issuing the duplicate cash memo, the Committee suggested that the cash memo books may be got printed and supplied by the Department under their stamp on payment to the dealers who may be required to account for the utilisation thereof at the time of assessment.

1.25 In reply, the Department has stated that the printing of cash memo books and supply thereof by the Department to the dealers was not feasible because of the following reasons :

- (1) Keeping in view the number of our registered dealers which is more than one lakh, it is submitted that the work relating to the printing of cash memo books would be of such gigantic magnitude that the department shall not be able to cope up with the same, firstly, because it shall require the deployment of large number of staff as the cash memo books shall need to be issued under proper stamp of the competent Authority.
- (2) Secondly, in order to rule out the possibility of take cash memo books, it shall be necessary to get the cash memo books printed from some Govt. Press and going by our experience with regard to the printing of various types of declaration forms, quantum of work is not found manageable.

1.26 Subsequently, the Ministry of Home Affairs, in reply to an observation made by Audit, stated:

“Enforcement branch has organised series of checkings in different traders. During the period 1.4.90 to 31.8.90, 881 inspections have been carried out and in 88 cases incriminating documents have been surrendered. In more than 100 cases, recommendations have been made to Ward STOs to initiate cancellation proceedings where prima-facie dealers are felt to be non-functional.

The estimated suppression detected in terms of turnover is more than 100 crores. In the entire previous financial year, in 55 cases incriminating documents had been surrendered involving suppression of about 8 crores in terms of turnover.”

1.27 It has been noticed from the action taken note that the Enforcement Branch was able to detect suppression of turnover of more than Rs. 100 crores during the period from 1.4.90 to 31.8.90 it about 88 cases out of 881 inspections. Similarly, in the previous financial year, 56 cases were detected involving suppression of about Rs. 8 crores in terms of turn over. It is, thus, apparent that there is a large scale evasion of sales tax by the dealers by

maintaining bogus books of accounts either by not issuing the cash memo at all or by issuing the duplicate cash memo. While this indicates that the Enforcement Branch should be strengthened to detect all such cases, the need for evolving a system by which the menace of keeping duplicate set of cash memos/books by the dealers can be eliminated, cannot be under-estimated. The Committee hope that suitable steps to evolve a system in this direction would be taken by the Department.

CHAPTER II

RECOMMENDATIONS AND OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

The Committee are not happy with the pace with which the assessment cases are dealt with in the Department of Sales Tax. Year after year the cases are piling up and have reached the figure of 7.25 lakhs by the end of 1987-88. Though the amount involved in those cases can be known only after the completion of assessments, yet their number is a sufficient indication of the loss that the Government might have been suffering due to delay in their disposal. According to Ministry/Delhi Administration estimates, the additional demand created at the time of assessment could be approximately 2% of the total collection which, in their opinion, was negligible. The Committee, however, have understood from the Audit that the amount of additional demand worked out to approximately Rs. 10 crores and simple interest @ 18% for four years came to nearly Rs. 7.2 crores which cannot be said to be negligible. Though the Ministry have taken certain measures (which the Committee would deal within the succeeding paragraphs) to expedite disposal of cases yet the Committee feel that a concrete action plan should be drawn up to ensure early liquidation of the huge pendency. The Committee trust that steps would be taken in this direction with due promptitude.

[S. No. 1 Appendix VII Para 9 of 161 Report of the PAC (8th Lok Sabha)]

Action taken by Government

In this regard it may be submitted that as a matter of fact the observation of the PAC regarding early liquidation of the huge pendency of the assessment cases had been taken note of right at the time of the PAC meeting itself which was held on 24.1.89 and, accordingly, an exercise was taken up to draw a concrete action plan for the purpose. The action plan for clearance of the arrears of assessment cases so drawn up was issued to all the Assessing Authorities vide circular No. 1 of 1989-90 dated 5.4.89 (copy enclosed - Annexure A). Briefly, the action plan in this regard envisages to complete the assessment cases of two years i.e. 1985-86 and 1986-87 as against the time barring one year of 1985-86 only.

[Min. of Home Affairs, O.M. No. 15030/2/89 dated 3/7/89]

OFFICE OF THE COMMISSIONER OF SALES TAX : L-BLOCK
VIKAS BHAWAN: I.P. ESTATE: NEW DELHI-110002

CIRCULAR NO. 1 OF 1989-90

SUBJECT:- Plan of action for 1989-90 for clearance of arrears of assessment.

Keeping in view the need of additional resources mobilisation to achieve the target of Rs. 560.00 crores for the current financial year 1989-90, it is felt necessary to liquidate the back log of pending assessments, as the liquidation of only, time barring assessments every year has deprived the department of its legitimate revenue which could have accrued on the completion of pending assessment. 'As in earlier years, during the year 1988-89 also the department could only complete time barring assessments for the year 1984-85. At present, a huge backlog of assessments etc. is pending and the volume of pendency has been increasing day by day. In order to wipe out this backlog of assessments of year 1985-86, 1986-87, 1987-88 and 1988-89, a continuous and sustained effort is required. To improve the position of pendency, it is essential that there should be even disposal of assessment work during all months of the year starting from April, 1989. To achieve this objective, as well as to improve and streamline the working of the department, the following instructions are issued for compliance:

1. ASSESSMENT OF CASES PERTAINING TO TIME BARRING YEAR 1985-86 AND 1986-87

During the financial year 1989-90, assessments of year 1986-87, in addition to the assessment of the year 1985-86, shall be deemed to be time barred. The assessment cases for the year 1985-86 shall be taken up first and deemed to become time barred on 30.9.89 instead of 31.3.1990. However, if a dealer is interested to get himself assessed for the two years i.e., 1985-86 and 1986-87, simultaneously the assessing authorities can assess him accordingly.

2. ASSESSMENT OF CASES COVERED U/s 23(6)

All cases pertaining to un-registered dealers assessable u/s 23(6) of the Delhi Sales Tax Act, 1975 and pending on 1.4.89 shall be assessed by 30.9.89. Before completing the assessment in all such cases spot inquiries be got conducted through area Inspector to see whether the dealer is still functioning. This will avoid creation of demand for the period when the dealer might have actually closed down.

3. ASSESSMENT OF REMANDED CASES

Assessment in all remanded cases pending on 1.4.1989, shall be deemed to be time-barred by 30.9.1989. However, this will not mean extension of limitation period in those remanded cases which will get time barred before 30.9.1989. Assessments in all such cases shall be completed before the limitation expires. In future also, all the assessing authorities shall ensure that assessment in remanded cases is completed within six months of the date of issue of remand order and approval of the next superior authority should be obtained if not completed within time before proceeding with the case.

4. UP-TO-DATE ASSESSMENT OF CANCELLED REGISTRATION CERTIFICATE CASES/CASES WARRANTING CANCELLATION

All such dealers whose assessment cases have been decided ex-parte during the last two years should be identified and a list of the same furnished to the Zonal Asstt. Commissioners concerned latest by 10th April, 1989, with a copy to Sales Tax Officer (H.Q.).

Enquiry shall be made in all such cases to see as to why the dealer had not been cooperating in the matter of assessment. Spot enquiries shall be made by the area Inspector in these cases to report whether these are functioning units or have closed down.

Proceedings for cancellation of Registration certificates of all such dealers who have stopped functioning or who are not traceable, should be initiated latest by 20th April, 1989 and completed by 15th May, 1989.

Assessment of all such cases in which registration certificates were either cancelled or in which cancellation is contemplated or warranted should be completed up-to-date by 31.7.89.

5. UP-TO-DATE ASSESSMENT OF BIG DEALERS

A hundred big dealers on turnover basis be identified in each ward and assessment of these dealers be made up-to-date i.e., upto 1988-89 by 30.9.1989. A copy of the list of such dealers shall be sent to Sales Tax Officer (HQ) by 20.4.1989.

6. SUMMARY ASSESSMENT

The material received from the dealers identified under the summary assessment scheme upto 31.7.1989 be immediately processed and cases decided under the Summary Assessment Scheme as per existing instructions, without calling the dealers. Rest of the cases of time barring assessment year 1985-86 identified under the summary assessment scheme may be dealt with in the normal procedure by sending notices to the dealers immediately after 31.7.1989 without any loss of time as is being done in other time-barring cases.

7. ASSESSMENT OF CASES CONTAINING SEIZED/SURRENDERED DOCUMENTS OR WHERE HEAVY DEMANDS WERE CREATED IN THE PREVIOUS YEARS

Cases where the assessing authorities are in possession of incriminating documents and also those where for various reasons heavy demands were raised against the dealers in the preceding years should also be like-wise taken up for assessment in the month of April/May 1989 and completed by 31.7.89 so that these cases get due time and attention and are decided after proper verification and inquiries where necessary. List of such cases may be furnished to Sales Tax Officer (HQ) by 20.4.89.

8. ASSESSMENT FOLDERS AND NOTICES FOR ASSESSMENT

(i) Separate assessment folder in respect of every dealer shall be prepared in respect of assessment year 1985-86, 1986-87 by placing the corresponding returns and challans in this cover. This task shall be completed by 25.4.1989. These cases shall be identified where all the returns or/and B-parts of challan are not available. All such cases where all the returns/B part of challans are not available shall be fixed for assessment first. This will give ample time to the assessing authorities for verifying these payments from the collateral sources.

(ii) The assessing authorities should fix the date for appearance of the assessee well in advance. Cause list of cases fixed for the next day shall be prepared on the previous morning and one copy be given to the concerned record keeper who will ensure that properly arranged files of all cases fixed for the following day are made available to the respective assessing authorities by the same evening. Zonal Asstt. Commissioners will visit the Wards at least four times a month to personally satisfy themselves that the assessment files are being made available in advance as per these instructions. Zonal Asstt. Commissioners will keep a diary of their visit to the Wards indicating date, time and observations made in brief for inspection by higher authorities.

(iii) All the assessing authorities shall ensure that before a notice for assessment is issued, all the returns and B-parts of the challan have been placed in the assessment folder and the record keeper has made a summary of this on the order sheet.

(iv) If all the B-parts of the challan are not on record, but all the return and 'C' part of the challan are on record, immediately after the issue of notice, without waiting for the appearance of the dealer, action be taken, as per existing instructions, to verify the payment from collateral sources like E.D.P. Cell scroll etc. The shortcomings noticed in the file of the dealer, like non-availability of returns and B-parts of the challan shall be communicated to the dealer by mentioning it on the ST-13 notice itself so that the dealer comes prepared with necessary evidence on the first hearing itself.

(v) Notices shall not be issued in a mechanical fashion without any reference to the concerned file. The assessing authorities shall ensure that notices are put up to them for their signatures in the concerned files of the dealers. While signing the notices, the assessing authorities shall also simultaneously record entries in their own hand in the order sheet.

(vi) All entries in the order sheet relating to assessment proceedings shall be written personally in the hand of the assessing authority and these proceedings shall be recorded in chronological order. Entries even in respect of adjournments allowed whether on application or otherwise should also be recorded in the order sheet by the assessing authority in his own hand.

9. SERVICE OF NOTICES

All the notices for assessment shall be properly served upon the dealer in terms of provisions of Rule 46 of Delhi Sales Tax Rules, 1975. In case the notice is served personally through the process server on a person other than the dealer himself, the name, status and relation of the recipient with regard to the dealer shall be clearly mentioned on the office copy of the notice.

10. ADJOURNMENTS

Experience has shown that many dealers try to avoid appearance in the earlier part of the financial year. Since all the time barring and other priority cases have to be disposed off within a period of six months, all the assessing authorities shall ensure that no time is wasted in issuing notices repeatedly and/or after a long time gap. Adjournments should not be allowed liberally. Adjournments, if necessary, should be given for a short duration between 7-15 days only so that each dealer is afforded enough opportunities before the final assessment order is passed.

11. RETURNS & CHALLANS

At the end of each quarter, after the last date of filing of returns for one week there shall be a weeding out programme as follows:—

- a) 1st Quarter — 23rd Aug. to 31st Aug.
- b) IInd Quarter — 23rd Nov. to 30th Nov.
- c) IIIrd Quarter — 23rd April to 30th April.
- d) IVth Quarter — 5th June to 20th June.

During the weeding out week all the returns and B-part of the challan shall be placed in the relevant files of the dealer. The concerned ward incharges shall be personally responsible to ensure this task. The Zonal Asstt. Commissioners should visit the wards frequently during this period to see that all the returns and challans have been placed in the relevant files of the dealers.

12. MAINTENANCE OF RECORDS

(i) All the assessing authorities shall get prepared a list of time-barring cases of the year 1985-86 and 1986-87 and send a copy of the same to the STO(HQ) for record by 20.4.1989. Whenever the assessing authorities are either transferred out of the department or from one ward to another or whenever they go on long leave, they shall handover the list indicating the name and number of time barring pending cases to their successors with a copy of the same to the Sales Tax Officer(HQ) for record.

(ii) All the Ward Officers shall personally inspect all registers maintained in the Ward to ensure that these are maintained properly in the prescribed manner and that all entries therein are upto-date. This task shall be completed by 30.4.89 and a compliance report sent to the Zonal Asstt. Commissioner by 2.5.89.

(iii) After the task of bringing all the prescribed registers upto-date has been accomplished as directed above, that ward officers shall ensure that entries in these registers are up-to-date regularly and the same will be certified by them to the Zonal Asstt. Commissioners concerned at the end of each month.

(iv) The Zonal Asstt. Commissioners should inspect the statutory registers more particularly the registers mentioned below at the end of each month so that position pertaining to the wards defaulting in this behalf could be discussed in the monthly meeting:

- (A) Demand and Collection register
- (B) Return Register
- (C) Registration Register
- (D) Remand Register
- (E) Amendment Register.

13. RETURN DEFAULTERS

A list of return defaulters shall be prepared within a period of 15 days from the last date fixed for submission of returns in different quarters of the year and a copy of the list should be sent to the concerned Zonal Asstt. Commissioner and Asstt. Commissioner (R&C).

Proper action as provided under the Delhi Sales Tax Rules 1975 should be taken against returns defaulters which will be reviewed in the monthly meeting of the officers.

14. RECOVERY:

(i) Each assessing authority shall ensure that recovery certificates are issued in respect of all outstanding demands by 30.4.89, unless the demand is stayed by the appellate authorities and a compliance report shall be sent to Asstt. Commissioner (Recovery & Collection) through Zonal Asstt. Commissioners by 2.5.89.

(ii) All cases of outstanding demands for more than 3 months shall be reviewed by the Zonal Asstt. Commissioners with a view to ensure that all permissible actions under the law are taken to recover the outstanding dues. Each Zonal Asstt. Commissioner will be required to review atleast 100 such cases every month and intimate the result of review to Asstt. Commissioner (R&C) to begin with cases of outstanding demands for the year 1983-84 and 1984-85 shall be listed and copy of this sent to the concerned Zonal Asstt. Commissioners by 20.4.89 and review of these cases undertaken by the Zonal Asstt. Commissioners. One copy of the list also be sent to Asstt. Commissioner (R&C).

15. PENDING AMENDMENT, RECTIFICATION, REFUND APPLICATIONS:

All applications for Amendment, rectification and refund pending on 1.4.1989 shall be disposed off by 31.7.1989 and compliance report sent to the Zonal Asstt. Commissioner by 2.8.1989. To ensure this, each assessing authority will be expected to take up this task right from the beginning of the first week of April, 1989 and the Zonal Asstt. Commissioners will review the progress made in this regard at the end of each month.

Sd/-

(M. K. BEZBORUAH)

COMMISSIONER OF SALES TAX

NEW DELHI.

Recommendation

The Summary Assessment Scheme is aimed at expeditious disposal of assessment cases of dealers having small turnover and thereby minimising the over-all pendency. Under this scheme, the Assessing Authorities are required to identify the eligible dealers from the list of dealers allocated to them. Therefore, all the dealers so identified are duly informed about their eligibility with the advice to furnish the desired information in the proforma within 30 days. Clearly, the scheme envisages its voluntary acceptance by the dealers. The extent of coverage under the scheme has been hardly 20,712 in 1985-86, 1149 in 1986-87 and 17,002 in 1987-88 and

actual assessment for less than these. These figures speak volumes for the utter failure that the scheme has met due to poor response from dealers which was nearly 24% of the eligible dealers during 1987-88. The Department of Sales Tax have, however, with a view to bringing more dealers under the scheme, raised the ceiling of taxable goods to Rs. 5 lakhs. But if past experience is any indication, it was not the ceiling which was responsible for the poor response, possibly it was due to some inherent weaknesses in the Scheme that prevented the dealers from accepting it and which need to be identified and remedied. Besides, there may be some other factors like lack of education or lack of proper guidance to the dealers, either from Staff of the Department or from their sales tax advisers on account of some vested interests. The Committee, therefore, desire a thorough review of the Summary Assessment Scheme by a Committee of the Senior Officers of the Department and the Ministry of Home Affairs as also the representatives of the Dealers/Traders Unions so as to examine *inter-alia*:

- i) the reasons for non-acceptance of the Scheme by dealers;
- ii) whether voluntary nature of the scheme is mainly responsible for poor response to the Scheme; and
- iii) whether the procedure followed in Summary Assessment Scheme applicable to Income Tax assesseees could be made applicable to sales tax assesseees also subject to suitable modification.

and make suitable recommendations so that the objectives for which the scheme was introduced could be achieved.

[S. No. 2 Appendix VII Para 16 of 161st Report of the PAC (8th Lok Sabha)]

Action taken by Government

As desired by the PAC, a Committee is being constituted to review the Summary Assessment Scheme. It is proposed that two Senior Officers of the Sales Tax Department one nominee of the Ministry of Home Affairs and two or three representatives of the Trade Associations should be the Members of this Committee.

Observations of the Report

The results of the review by the Committee so constituted for the Summary Assessment Scheme may be intimated as and when the review is completed.

Action taken in December, 1989

The Committee constituted to review the Summary Assessment Scheme has completed its deliberations and the report of the Committee is expected to be received by the end of December, 89.

Action taken in February, 1990

Report of the Committee appointed to review the Summary Assessment Scheme was received in December, 89. It is being examined with a view of amending/modifying the existing Summary Assessment Scheme so that it could achieve the desired objectives. The salient features of the amended/modified Scheme will be intimated accordingly.

Observation of the Audit

Final outcome of the Summary Assessment Scheme in view of the Report of the Review Committee would be awaited. The salient features of the amended/modified Scheme when finalised may please be furnished.

Action taken in April, 1990

The modified/Amended Scheme has been prepared but decision to be arrived through inter-departmental consultation.

Observation of Audit

Final decision in respect of summary Assessment Scheme through inter departmental consultation as stated may be made available to audit and when ready.

Action taken in September, 1990

No change in the position explained in Action taken Note in August, 90. When it was intimated that the L.G. Delhi approved the Scheme of 2.7.90. The scheme was launched on 12.7.90. The ST-11A forms are being received by the Deptt. w.e.f. 1.8.90. Notification and salient features of scheme were attached.

(Ministry of Home Affairs.

OM No. 15030/2/89-Bgt. II Dated 19-10-90)

(TO BE PUBLISHED IN DELHI GAZETTE PART IV EXTRAORDINARY)

DELHI ADMINISTRATION: DELHI
FINANCE (GENERAL) DEPARTMENT

5-Sham Nath Marg, Delhi-54.

Dated:

N O T I F I C A T I O N

No. F. 4(15)/90-Fin(G):—in exercise of the powers conferred by Section 71 of the Delhi Sales Tax Act, 1975 (No. 43 of 1975), the Administrator of the Union Territory of Delhi is pleased to make the following rules further to amend the Delhi Sales Tax Rules, 1975, namely:—

*Short title and
Commencement*

1. (1) These rules may be called the Delhi Sales Tax (Amendment) Rules, 1990.
- (2) These rules shall come into force with effect from 1st August, 1990.

***Amendment of
Rule 26***

2. In the Delhi Sales Tax Rules, 1975 (hereinafter referred to as the "Principal" Rules) in rule 26, below sub-rule (1). The following shall be inserted, namely: "Provided that the Appropriate Assessing Authority may without such enquiry without requiring the presence of the dealer and without production of any evidence in support of the returns, assess for any year the amount of tax due from every dealer belonging to such categories as may be specified by the Commissioner by a notification in the official gazette, on the basis of the returns furnished by the dealer.

Provided further that no such assessment on the basis of the returns furnished may be made unless the dealer eligible for such assessment furnished to the appropriate Assessing Authority within such period as may be specified by the Commissioner by a notification in the official Gazette a statement in form ST-11A.

Provided also that the appropriate Assessing Authority shall get the requisite enquiry conducted into every such case as may be identified by a random process for post-assessment enquiry and shall in case such enquiry leads to discovery of facts indicating that the whole or any part of the turnover of any dealer in respect of any period has escaped assessment to tax or has been under assessed or has been assessed at a rate lower than the rate at which it is assessable or any deduction has wrongly made therefrom, or any other fact indicating non-compliance with the law relating to sales tax take further necessary action according to law.

Explanation

The provisions of this sub-rule shall not be deemed to limit in any way the power of the assessing authority to assess the amount of tax due from other dealers on the basis of the return(s) filed by them, in exercise of the power if any, delegated".

*Prescription of
statement
in form
ST-11 A.*

3. In the principal Rules, after Form ST-11, the following form ST-11 A shall be inserted namely.

FORM 11 A

THE DELHI SALES TAX RULES, 1975

(SEE RULE "26")

Statement of particulars in support of the returns furnished for the year_____.

1. Year of Assessment.
2. Name and complete address of the dealer:
3. Registration Certificate No.
4. Brief description of commodities dealt:
 - (a) for resale
 - (b) for manufacture
5. Particulars of
 - (a) the account of purchases and sales maintained u/s 39, and
 - (b) other accounts if any maintained.
6. Details of turnover, exemptions claimed, additions of purchase prices if any disclosed, calculation of tax due, particulars of tax paid and returns furnished etc.

Particulars	Quarter(I)	(II)	(III)	(IV)	TOTAL
	Rs.	Rs.	Rs.	Rs.	Rs.
(1) Turnover					
(2) Cost of freight, delivery or installation separately charged to include in (I) above.					
(3) Value of goods returned within the period prescribed under Rule 5.					
(4) Cash discount allowed according to ordinary trade practice and included in (I) above.					
(5) Tax collected as such and shown separately in cash memoranda or bills.					
(6) Turnover net of (2) to (5) above.					
(7) Deductions on account of sale or "First point" goods claimed u/s 4(2) (a) (i)					
(8) Deductions on account of sale of goods declared tax free u/s 7 claimed u/s 4(2) (a) (ii)					

- (9) Deductions on account of sale of goods not liable to tax u/s 8 claimed u/s 4(2) (a) (iii) showing separately.
 - (a) Sales in the course of interstate trade or commerce:
 - (b) sales outside Delhi.
 - (c) sales in the course of export out of India.
 - (i) from the UT of Delhi
 - (ii) through any other state/UT
 - (d) Total of (a), (b) and (c)
- (10) Deductions on account of sale of goods on which tax has been paid prior to registration claimed u/s 4(2) (a) (iv) read with the first proviso to section 4(2) (a)
- (11) Deductions on account of sales made to registered dealers claimed u/s 4(2) (a) (v) read with the second proviso to section 4(2) (a)
- (12) Deductions on account of sales exempt u/s 66 of rule 11 claimed u/s 4(2) (a) (iv) showing separately.
 - (a) Turnover on sale of first point goods exempted under Rule 11.
 - (b) Turnover on other sales exempted u/s 66 of under Rule 11.
- (13) Total deductions claimed from cols. (7) to (12)
- (14) Turnover net of items (2) to (5) and (7) to (12)
- (15) Purchase price of goods purchased on the basis of declarations without payment of any amount by way of tax but not utilised in the manner declared.
- (16) Taxable turnover (total of cols. 14 & 15).
- (17) Analysis of taxable turnover showing:
 - (a) Turnover taxable @ 1%.
 - (b) Turnover taxable @ 2%.
 - (c) Turnover taxable @ 3%.
 - (d) Turnover taxable @ 4%.
 - (e) Turnover taxable @ 5%.
 - (f) Turnover taxable @ 7%.
 - (g) Turnover taxable @ 10%.
 - (h) Turnover taxable at any other rate (ratewise)
- (18) Amount of tax due
- (19) Amount of tax paid into Govt. Account and date of payment.
 - (a) Amount
 - (b) Date

- (20) Amount of excess if any paid (-) (col. 18-col. 19).
- (21) Amount of tax if any paid into Govt. Account subsequent to the Return to make up for less payment and dates of payment into Govt. Account.
 (a) Amount
 (b) Date.
- (22) Date of filing the return.

7. Particulars of certificates and declarations furnished herewith by the dealer (to be annexed as a separate statement if space is insufficient)

Type of Form (ST I/ST 3/ST 35/ ST-49 etc.)	Serial No. of the form	Date of the declaration/ certificate	Amount of the turn- over involv- ed in the transaction	Name & complete ad- dress of the signatory of the declara- tion certifi- cate
--------------------------------------------------	---------------------------	--------------------------------------------	--------------------------------------------------------------------	-------------------------------------------------------------------------------------------------

(i) (ii) (iii) (iv) (v)

8. Analysis of the turnover on sales in the course of interstate trade and commerce [(item 6(9)) (a) and sales in the course of export out of India through a State/UT other than Delhi [(item 6(9)) (c) (ii)], calculations of Central Sales Tax if any due, particulars of tax paid, returns furnished, etc.

Particulars	Quarter(I) Rs.	(II) Rs.	(III) Rs.	IV Rs.	TOTAL Rs.
(1) Amount of turnover being the aggregate of sale prices received/receivable in respect of sales in the course of interstate trade and commerce.					
(2) Amount if any of deductions u/s 8A(1) of the Central Sales Tax Act, 1956.					
(3) Turnover being the aggregate of sale prices at (1) above net of deductions at (2) above.					
(4) Turnover on account of sale to Govt.					
(5) Turnover on account of sale to regd. dealer other than Govt. of goods referred to in Section 8(3) of the Central Sales Tax Act, 1956.					
(6) Turnover on account of sales falling in (4) and (5) above showing separately:					
(a) Turnover on account of sale of declared goods.					
(b) Turnover on account of sale of goods other than declared goods.					

- (c) Turnover on account of sales of goods exempted from tax generally or subject to tax generally at a rate lower than 4% (ratewise).
- (d) Turnover on account of sales subsequent to the first interstate sale (sale in transit).
- (e) Turnover on account of sales in the course of interstate trade or commerce immediately preceding the sale of purchase occasioning the export of those goods out of India in compliance of an agreement of order.

(7) Turnover taxable at different rates (specify):

- 1%
2%
3%
4%
8%
10%

(8) Amount of tax due.

(9) Date of payment.

(10) Amount of tax paid into Govt. account.

(11) Date of furnishing Return under the CST
(Delhi) Rules, 1957.

10. Particulars of certificates and declaration furnished by the dealer (to be annexed as a separate statement if space is insufficient).

Type of Form (C/D/EI/EII/H etc.	Serial No. of the Form	Date of the declaration/ certificate	Amount of Turnover	Date & Bill No.
(i)	(ii)	(iii)	(iv)	(v)

10. Particulars of values of opening stock, purchases, sales gross profit and closing stock in respect of the year.

Particulars	Amount (Rs.)	Particulars	Amount (Rs.)
(i)	(ii)	(iii)	(iv)
Opening stock		Sales	
Purchases		Closing Stock	
Gross Profit			
Total		Total	

11. Particulars of goods if any returned (to be annexed as a separate statement if space is insufficient).

Serial No.	Date when goods returned taken in Stock	Name and complete address of the buyer from whom returned	Particulars of Cash Memos/Bill vouching the original sale and credit Note No. or any other proof		
			No.	Date	Amount
(i)	(ii)	(iii)	(iv)	(v)	(vi)

VERIFICATION

I hereby state and declare on solemn affirmation that:—

- (1) The particulars stated above and in the statements if any annexed to this statement are true and correct to the best of my knowledge and belief; and
- (2) M/s _____ is eligible to be assessed for without any prior enquiry under sub-rule (1) of Rule 26 of the said Rules in accordance with the notification issued under the first and second provision of the said Rule.

Signature _____

Name of person authorised to sign. Return. _____

Place: _____ Status of the signatory in relation to the dealer.

Date: _____

Note:—This statement is to be signed and verified by a person competent to sign and verify the returns under sub-section (5) of Section 21 of the Delhi Sales Tax Act, 1975.

Acknowledgement *cum* assessment order u/s 23(2)

**OFFICE OF THE COMMISSIONER OF SALES TAX:
'L' BLOCK VIKAS BHAWAN: NEW DELHI:**

In the matter of assessment of M / s _____
for (year) _____ under 'DST Act, 1975/Central Sales Tax Act, 1956

O R D E R

On perusal of the statements made in Form-ST-11-A and documents filed herewith and after having been satisfied that returns furnished in respect of _____(year) are correct and complete, and that a sum of Rs. _____has been paid into Government Account, the amount of tax due from the aforesaid dealer is assessed as Rs. _____under the DST Act, 1975 and Rs. _____under CST Act, 1956, on the basis of such returns.

The receipt of following documents is hereby acknowledged.

<i>Type of documents/ Form of Declaration</i>	<i>Serial No.</i>	<i>Dated</i>	<i>Amount (Rs.)</i>
ST-1/ST-35/C/D etc.			

Name
Designation of Assessing
Authority/Notified Authority

By order and in the name of the
Administrator of the Union Territory of
Delhi.

Sd/-
(ALKA DIWAN)
DEPUTY SECRETARY (FINANCE)

No. F.23(3)/90/3857-4206

Dated: 9-7-90

Copy of Notification forwarded for information & necessary action to:—

1. Addl. Commissioner Sales Tax/All Deputy Commissioners/All Zonal Asstt. Commissioners.
2. All Assessing Authorities
3. Sales Tax Officer (L & J)
4. Asstt. Legal Advisor I & II.
5. All Traders Association/Federation
6. Sales Tax Bar Association

Sd/-
(G.G. SAXENA)
ASSTT. COMMISSIONER (HQ)

(TO BE PUBLISHED IN PART-IV OF DELHI GAZETTE—EXTRA
ORDINARY)

**DELHI ADMINISTRATION: DELHI
SALES TAX DEPARTMENT: NEW DELHI.**

NOTIFICATION

Dated: 5-7-90

No. F. 23(3)/89-PPR/PF:— In exercise of the powers vested in him under the first and second provisos to sub-rule (1) of rule 26 of the Delhi Sales Tax, Rules, 1975, the Commissioner, Sales Tax, Delhi is pleased to specify that:—

1. (i) All registered dealers returning a turnover of Rs. 6 lakhs or less in any year who are not excluded by the provisions in the subsequent paragraph 2 shall, subject to the stipulations contained in the third proviso to the said sub-rule, be eligible to be assessed on the basis of the returns furnished by them without any prior enquiry under sub-rule (1) of rule 26.
 - (ii) In respect of the year ending on the 31st March, 1990 or any subsequent year, the last date for the eligible registered dealer to furnish the statement in Form-11-A shall be the 30th day of November succeeding the end of the year; and for the year ending on 31st March of the years 1987, 1988 and 1989 it shall be 1st October, 1990.
2. Any registered dealer returning a turnover of Rs. 6 lakhs or less in any year shall not however be eligible to be so assessed on the basis of the returns furnished by him, if he is a dealer:
- (i) In respect of whom facts indicating likelihood of variations between the values of purchases or sales actually made by him and the values vouched by him in the records maintained by him or variations between the statements made by him in his books of accounts and in his returns have been discovered in relation to the past years including the year preceding the year under assessment.
 - (ii) who is a newly registered dealer in whose case no regular assessment has been framed so far.
 - (iii) who has closed his business and is to be assessed for the last year.
 - (iv) who has not filed any one or more of his returns.
 - (v) who turnover during the year under assessment falls short of the turnover on the basis of which assessment was made during the preceding year by not less than 10%.

- (vi) In whose business any person who had been convicted under the Delhi Sales Tax Act, 1975 or under the Central Sales Tax Act, 1956 during 5 years preceding the commencement of the year under assessment or who had become defaulter in respect of dues under these Acts, has an interest.
- (vii) In respect of whom the assessment had been made on the basis of the returns furnished without any inquiry and without production of any evidence in support of the returns in any part of his turnover in respect of any period had escaped assessment to tax or had been under assessed or had been assessed at a rate lower than at the rate on which it was assessable or any deduction had been wrongly allowed therefrom were subsequently discovered.

Sd/-

(RAMESH CHANDRA)

COMMISSIONER: SALES TAX

Dated: 9-7-90

No. F. 23(23)/89-PPR/PF/4457-4806

Copy forwarded for information & necessary action to:—

1. Addl. Commissioner/All Deputy Commissioners/All Zonal Asstt. Commissioners.
2. All Assessing Authorities.
3. Sales Tax Officer (L & J)
4. Asstt. Legal Advisor I & II.
5. Sales Tax Bar Association.
6. All Traders Association/Federation.

(G.G. SAXENA)

ASSTT. COMMISSIONER (H.Q.)

Recommendation

The Committee regret to note that while there has been steady increase in the number of assessment cases and the registered dealers since 1985-86, the strength of the Assessing Authorities remained static. The recommendations of the Staff Inspection Unit (SIU) given as long back as in December 1985 for creation of 213 posts (including 113 posts of Assessing Authorities) in the Sales Tax Department have become the victim of red-tapism. It is a sad commentary on the apathetic attitude of the Ministry of Home Affairs towards recommendation of SIU for creation of more posts which is so important a matter having revenue implications. The Department of Sales Tax has been clamouring for augmentation of staff strength for pretty long time without any success. The Committee can very well imagine the haphazard way in which the assessment cases might have been dealt with by the understaffed sales tax wards due to time bar drawing

nearer. The Committee strongly recommended that urgent measures be taken to complete all the requisite formalities and full complement of staff provided at the earliest to ensure timely and correct assessment of cases.

[S.No. 3 Appendix VII Para 21 of 161st Report of the PAC (8th Lok Sabha)]

Action taken by Govt.

The sanction with regard to creation of 213 posts (including 113 posts of Assessing Authorities) has since been issued and action is being initiated to fill up these posts.

Observations of the Audit

Whether the staff position has since been augmented against the newly created 213 posts including 113 posts of the Assessing Authorities.

Action taken in December, 1989

Sanction for creation of 213 posts including 113 posts of the Assessing Authorities was issued on 7th July, 89. Twelve Assessing Authorities have since been posted against the newly created posts and for rest of the posts action is being taken to fillup them.

Action taken in February, 1990

By this time 32 Assessing Authorities have been posted in the Department against 113 newly created posts of Assessing Authorities and for the rest of the posts action is being taken to fulfil them urgently.

Observation of the Audit

Latest position regarding filling up of the remaining posts of Assessing Authorities and other staff may please be incorporated. The causes for delay in posting/deployment against the vacancies may also be mentioned.

Action taken in April, 1990

So far as the latest position of filling up of the remaining posts of Assessing Authorities and other staff concerned there is no change to what has already been informed.

Observation of Audit

Latest position regarding filling up of the remaining posts of Assessing Authorities and other staff may continue to be incorporated in the revised Action Taken Notes.

Action taken in September 1990

The following 213 Posts of various categories were created on 7-7-89.

S. No.	Name of the Post	Scale of Pay	No. of Post
1.	Deputy Commissioner	3000-4500+300 S.P.	1
2.	Programmer	2200-4000	2
3.	Asstt. Commissioner	2000-3500+200 S.D.	1
4.	Administrative Officer	2000-3500	1
5.	Sales Tax Officer	2000-3500	64
6.	Asstt. Sales Tax Officer	1640-2900	49
7.	Superintendent	1640-2900	1
8.	SAS Accountant	1640-2900	1
9.	Inspector	1400-2300	6
10.	Caretaker	1400-2300	1
11.	Asstt. Librarian	1400-2300	1
12.	Junior Stenographers	1200-2040	21
13.	Coder	1200-2040	4
14.	Despatch Rider	950-1500	21
15.	Peons	750-940	39
Total			213

Out of above posts all have been filled up except the following as per remarks given against each category of post.

S. No.	Name of the Post	Remarks
1	2	3
1.	Programmer	One post of Programmer is vacant and the same is to be filled up by the Plg. Deptt. Delhi Admn., Delhi very shortly.
2.	Care-Taker	The R.Rs. are under the Process of finalisation.
3.	Asstt. Librarian	The R.Rs. are under the Process of finalisation.
4.	Coder	We have requested the Plg. Deptt. for clubbing these posts with that of Data Entry Operator as both these posts have got similarity in regard to nature of duties and pay scale. The matter is under active consideration and it is expected that the vacant post of coder will be filled up very soon.

1	2	3
5.	Despatch Riders	16 candidates have been selected and for the remaining 5 vacant posts the matter is under process Orders for 21 Motor Cycles have already been placed to the DGS&D.
6.	Peons	All the vacant posts of Peons are being filled up by adjusting the abolished posts of Process Servers (as per report of SIU).

[Min./Department of Home Affairs O.M. No. 15030/2/89-Bgt. II dated 19-10-90]

Recommendation

As per the provisions of Section 23(7) of the Delhi Sales Tax Act, 1975, assessment of returns filed by the registered dealers should be made within four years from the end of the year in respect of which tax is assessable. Besides, the cases remanded for re-assessment by the Appellate Authorities may again pend for another 4 years. The Committee feel that this is too long a period within which the assessee can easily manage his affairs in such a fashion as to get away without paying tax. The Public Accounts Committee (Seventh Lok Sabha) had also gone into this question and recommended reduction of the period to two years which the Ministry did not accept on the plea that the upto date assessment could be made without amendment of Law and with the increased staff strength. Regretably, the staff strength is still awaiting augmentation.

[(S.No. 5 Appendix VII) Para 31 of 161st Report of the PAC (8th Lok Sabha)]

Action taken by Government

The Department has chalked out an Action Plan for liquidation of the arrears of assessment case and is on its way. Additional posts of 113 Assessing Authorities have been sanctioned in the Department. With this the Department would be in a position to bring the assessment work upto date after sometime. Thereafter, the limitation period of 2 years should become applicable as recommended by the Committee in Para 32 of the Report.

Observation of Audit

This recommendation has perhaps been attended to first time by the Ministry in their revised Action Taken Notes. However, results will be watched as regards to the PAC's recommendation.

Action taken in April, 1990

Details of cases assessed and pending year-wise as in para 32.

Observation of Audit

Table reveals that the pace of clearance of pending cases is very slow. What factors are attributable for this slow progress. Please elucidate.

Action taken in September, 1990

Details of cases assessed & pending year-wise as in para 32.

[Ministry/Department of Home Affairs O.M. No. 15030/2/89-Bgt. II
Dated 19-10-90]

Recommendation

The idea behind the reduction of the limitation period is manifold, firstly, to expedite the disposal assessment cases, secondly, to eliminate the scope of staff getting slack in discharging their duties, thirdly, to prevent the unscrupulous dealers from engineering devices to evade tax and last but not the least, to ensure early recovery of Government dues. The Committee are of a firm opinion that the reduction of the limitation period would go a long way in improving not only efficiency of the staff but also the revenue to the exchequer. However, considering the heavy pendency of assessment cases at present, the Committee feel it all the more necessary that the backlog is first cleared under a time bound Action plan as earlier recommended by the Committee and thereafter the limitation period of two years may become applicable. The Committee hope that necessary steps both administrative as well as legislative would be taken in direction.

[S.No. 6, Appendix VII Para 32 of 161st Report of the PAC (8th Lok Sabha)]

Action taken by Govt.

The suggestion of the Committee with regard to reduction of the elimination period from 4 years to 2 years has been taken note of. However, keeping in view the observation of the Committee that considering the heavy pendency of assessment cases at present, the backlog should first be cleared under time bound action plan and thereafter, the limitation period of 2 years should become applicable. We propose to make the necessary amendment in the Act only after the huge backlog of arrears of assessment cases is first cleared.

Observations of the Audit

How & by when this backlog is likely to be cleared as Ministry's reply does not convey any meaningful conclusions?

Action taken in December, 1989

As stated in reply to para 9, the Department has formulated an Action Plan to wipe out the pending arrears of assessments in a phased manner and the steps taken by the department have given encouraging results. However since the liquidation of more than 7 lakh assessment cases is linked with the number of assessing authorities available with the Department no precise time-limit can be laid down by which the Department will be able to clear the pending assessment.

Action taken in February, 1990

The Department is on its way to early liquidation of arrears of assessment case and is trying its best for this. However, no precise time limit can be laid down for this.

Observation of the Audit

Further progress regarding pending cases may continue to be incorporated in the revised A.T.N.

Action taken in April, 1990

Details of cases assessed and pending year-wise

<i>Pending cases</i>	<i>Local</i>	<i>Central</i>	<i>Total</i>
1986-87	76269	73141	149410
1987-88	99448	93851	193299
1988-89	107070	101135	208205
<i>Assessed cases</i>	<i>Local</i>	<i>Central</i>	<i>Total</i>
1986-87	18238	16014	342520
1987-88	3341	2922	6263
1988-89	960	858	1818

Observation of Audit

Table reveals that the pace of clearance of pending cases is very slow. What factors are attributable for this slow progress. Please elucidate.

Action taken in September, 1990

The pace of clearance was slow because of shortage of Assessing Authorities and staff and that is why the backlog of cases has gone up. Whatever can be done under Delhi Sales Tax rules is under Consideration to amend relevant rules and to prescribe shorter time for filing of statutory forms so as to facilitate the disposal of backlog of assessment cases especially.

[Ministry of Home Affairs O.M. No. 15030/2/89-Bgt II, dated 19-10-90.]

Recommendation

The pace of disposal of appeals filed with the Appellate Authorities and the reassessment of cases remanded by Appellate Authorities is no better as well be seen form the following figures:—

	1985-86	1986-87	1987-88
(a) Total No. of appeals filed	9150	9510	9172
(b) No. of appeals decided	4281	4883	6339
(i) No. of cases remanded for re-assessment	792	892	1410
(ii) No. of cases reassessed out of the above remanded cases	238	257	141

In order to ensure early and expeditious disposal of appeals, the Committee recommend the a study be made into the functioning of the Appellate Authorities especially Deputy Commissioners and Assistant Commissioner, Sales Tax, and if found necessary, their strength may be increased to cope with the pendency of appeal cases. In addition to that the question of setting up special courts for disposal of appeal cases may also be examined.

[S.No. 7, Appendix VII, Para 33 of 161st Report of the PAC (8th Lok Sabha)]

Action taken by Govt.

In this regard, the study has been entrusted to the Administrative Reforms Department of the Delhi Administration. The suggestion of the Committee with regard to setting up of speical courts for disposal of appeal cases, is also under the consideration of the Administration.

Observations of the Audit

A copy of suggestions of the Committee with regard to setting up of special courts for disposal of appeal cases, mentioned in the Ministry's reply, may be supplied. The results of the study entrusted to the Administrative Reforms Department of Delhi Administration may also be intimated.

Action taken in December, 1989

A copy of the suggestions of the Committee with regard to setting up of special courts for disposal of Appeals is enclosed below. The Administrative Reforms Department has conducted the study and its Report is likely to be received by the end of March, 1990. The results of the study will be intimated in due course.

Action taken in February, 1990

The report of the Administrative Reforms Department for disposal of appeals is likely to be received by the end of March, 1990. The result of the study will be intimated in due course.

Observation of the Audit.

Copy of the Report of the Administrative Reforms Department when received may please be supplied for reference.

Action taken in April, 1990

Report of Administrative Reforms Department has been received and is currently under examination. A copy of the report is enclosed.

Observation of the Audit

Final decision taken on the Report and the implementation of its recommendations may please be incorporated. The results of its examination & consequent changes in Report, if any, may also be intimated.

Action taken in September, 1990

No change in the position explained in Action Taken Note in April, 1990.

[Ministry of Home Affairs O.M. No. 15030/2/89-Bgt. II Dated 19-10-90.]

Recommendation

The Committee would also like to be apprised whether the dealers involved in these cases were proceeded against or are proposed to be proceeded against under the criminal laws.

[S.No. 9. Appendix VII. Para 50 of 161st Report of the PAC (8th Lok Sabha)]

Action taken

The concerned Assessing Authorities have been directed to examine these cases from the view point as to whether or not prosecution proceedings can be launched against these dealers. The final report with regard to the decision as to which are the fit cases for prosecution and the action thereon shall be intimated shortly.

Observations of the Audit

Final replies will be awaited.

Action taken in Dec. 89

The necessary action is under active consideration and final reply will be sent by the end of Dec. 1989.

Action taken in Feb. 90

Audit has pointed out mistakes committed by the Assessing Authorities while accepting the declarations in Form ST-1 in the case of 12 dealers. F.I.Rs. have been filed against the following dealers:—

1. M/s Jain Rubber Industries (Ward 39)
2. M/s Rudhia Oil Traders (Ward 43)
3. M/s Mohan Industries (Ward 37)
4. M/s Panipat Food Ltd. (Ward 50)
5. M/s Amar General Industries (Ward 15)
6. M/s Dex Electronics (Ward 50)
7. M/s Veer Traders (Ward 11)

After detailed examination the assessee was not found at fault in this case. The purchasing dealers namely M/s Meena Metals (Ward 32) M/s Aggarwal Industries (Ward 42) were found at fault. Accordingly FIR have been launched against these two dealers.

Criminal action does not appear to be called for against the remaining five dealers who will be dealt with according to the provisions of Delhi Sales Tax Act, 1975.

Observation of the Audit

Out of the seven dealers listed at Sl. Nos. 1 to 7, FIR against six have been filed, only one dealer (Sl. No. 7) namely M/s Veer Traders (Ward No. 11) was not found at fault, however, the two purchasing dealers namely M/s Meena Metals (Ward-32) and M/s Aggarwal Industries (Ward-42) were found at fault and against whom the FIR have been launched. The latest position of the cases in respect of eight dealers including the two purchasing dealers may please be incorporated. The facts and grounds on which the remaining five dealers who had obtained exemption on the sales by submitting false/invalid declarations could not be dealt with criminal action may also please be intimated and incorporated in the revised ATN. The action if taken against these under the Delhi Sales Tax Act, 1975 may also be intimated.

Action taken in April, 1990

In the case of eight dealers including two purchasing dealers against whom FIR has been launched were yet to receive any information from the Police Department.

In the case of remaining five dealers objection was that the dealers have claimed wrong exemption for R.D. sales against the ST declaration forms. On the re-examination of cases, it was found that the exemption so granted was not wrong on account of any fake forms but it was wrong because, on the cross verification from respect Wards of purchasing dealers

the transactions shown in the ST-1 forms differed with the ST-2 account of the purchasing dealers, i.e. the transactions were shown to some other dealers for different amounts, as such the criminal proceedings were not warranted in all these cases against the selling dealers/assesseees. The facts and figures of each case are as follows:

1. In the case of *M/s Modern Laminators Pvt. Ltd.* (Para No. 26.8 Ward-43), the dealer was called for re-assessment where he made it clear that the purchasing dealer M/s Lamina Packers has already filed a revised Utilization Account and an Affidavit in his Ward according to which the said ST-1 form was issued to M/s Modern Laminators Pvt. Ltd. for correct amount (Rs. 147418.88 p.). This fact was cross verified from the concerned Ward and found correct. Therefore, no case of suppression was found against the assessee and the Audit Objection needs to be dropped. This request has already been made to the Officer of the DACR.

2. *M/s G.G. Foam* (Para No. 26.10 Ward-47): In this case also the objection was made as the transactions shown in the ST-I forms differed with the ST-II account of the purchasing dealer on cross verifications from the respective Wards. On the basis of the Audit Objection raised by the Audit the dealer was reassessed and an additional demand was created. Aggrieved with the re-assessment order the dealer went in appeal and finally the stay of this amount has been granted by the Appellate Authority. Prima facie no offence seems to have been committed under Section 50 and case shall be reviewed after the appeal is disposed off by Appellate Authority.

3. *M/s Puneet Udyog* (Para No. 26.11 Ward-47): The facts of the case are similar as in the case of above dealer. The case was remanded back by the Appellate Authority for the reassessment. The dealer was reassessed and no demand was raised against him. The Assessing Authority of the purchasing dealer has been informed about the filing of the revised ST-II account by the dealer, who has seen the papers on his file filed by the purchasing dealer. Under these circumstances no action is to be taken against the assessee.

4. *M/s N.U.Foam Industries* (Para No. 26.4 Ward-19): This case also does not warrant launching of FIR in view of the nature of Audit Objection involved therein. i.e. filing of wrong utilisation account by the purchasing dealer. The dealer had appealed against the reassessment order. The same has been remanded by the Appellate Authority for framing fresh assessment orders. Thus in this case also no action is to be taken against the assessee.

5. *M/s Hervey Radio Corporation* (Para No. 26 Ward-31): This case did not involve any fake forms. In brief, the objection of the Audit was that the dealer has been given excess exemption to the tune of Rs. 1,13,670/- because the total of 12 ST.1 form filed by the dealer at the time of assessment was wrongly computed by the A.A. The Audit has also

pointed out that the dealer had furnished 3 old ST.1 forms against which the A.A. had allowed exemption. The observation of the audit was that the old ST.1 forms had been manipulated by the dealer to be accepted by the assessing authority by forging the stamp embossed on the ST.1 forms. Further it has been also observed by the Audit that one ST.1 form for Rs. 70530.25 was also invalid.

The A.A. found that instead of difference of Rs. 1,13,670/- as pointed out by the Audit there was a difference of Rs. 13671/- in the ST.1 forms and the same has been taxed by him. Similarly the A.A. had also taxed the sales of Rs. 152300/-, 70530.25 and thus the total demand of Rs. 23652/- was created on account of tax, and Rs. 3639.50 has been created as interest. The A.A. had also separately imposed u/s 56 a penalty of Rs. 55000/-. Against the above two orders the dealer went in appeal and in one case the dealer admitted the additional demand of Rs. 23652/- but disputed the interest which was reduced Nil by the Appellate Asstt. Commissioner. The penalty order which was passed by the A.A. was also challenged by the dealer in appeal. The appellate A.C. remanded the same to the A.A. to pass fresh orders. This case is till pending with the A.A. Since u/s 56 the A.A. had already imposed penalty at the time of assessment, there is no case against the dealer and therefore, no FIR can be lodged against the dealer. In any case the matter of penalty and reassessment is still pending with the Assessing Authority.

Observations of the Audit

- (1) Further progress made by police in respect of 8 (Eight) dealers against whom the criminal proceedings have been initiated may please be incorporated.
- (2) Decision of the Appellate Authorities/Assessing Authorities in respect of cases listed at Sl. No. 2,4,5, (viz. M/s.G.G. Foam, M/s N.U. Foam Industries & M/s. Harvey Radio Corporation would be awaited and may please be incorporated.

Action taken

- (1) Report is still awaited from police.
- (2) Decision of the Appellate Authorities/Assesing Authorities in respect of cases listed at Sl. No. 2,4,5, (viz. M/s.G.G. Foam, M/s.N.U. Foam Industries & M/s. Harvey Radio Corporation is as follows:—

Sl.No.2 M/s. G.G.Foam:

In this case Appellate Authority has remanded the case and the matter is with Asstt. Commissioner-IX for futher action.

Sl.No.4 M/s. N.U. Foam Industries:

The dealer has been issued with notices for appearance for the finalisation of the remanded cases as per Dy. Commissioner (Appeals) order dated 6.3.90. So far reassessment has not been done as the same is under process.

Sl.No.5 M/s. Harvey Radio Corporation

The case has finally be decided by Appellate Authority who had reduced the demand to Rs. 22,285/- which the dealer has already paid.

[Min. of Home Affairs O.M. No. 15030/2/89-Bgt. II dated 19-10-90.]

Recommendation

The Committee are unhappy to note that the Assessing Authorities do not keep their knowledge upto date as to the Departmental instructions, Notifications, judicial pronouncements etc. issued/made from time to time, which costs the exchequer heavily. The instances cited in Audit para 28 are indicative of the perfunctory manner in which these cases were dealt with without having any regard for the procedure laid down and judicial decisions given by Courts. Strange enough, even the old and obsolete forms were accepted. Merely saying that there was no *mala fide* intention on the part of assessing authorities or that frequent changes in Notifications led to irregular exemptions or that due to oversight of judicial pronouncement the mistakes were committed do not absolve the Assessing Authorities of their responsibility. The Committee need hardly point out that the Assessing Authorities are charged with quasi-judicial functions and they cannot function efficiently without full knowledge of all the changes in law, rules or the judicial decisions made from time to time. Being final authority in assessment cases, the degree of their responsibility is rather high especially because of the frequent changes in the Notifications etc. to keep themselves abreast of the day to day developments. The Committee feel that there should be a sound monitoring system so as to update systematically the knowledge of the Assessing Authorities from time to time. The Committee also feel that disciplinary action should invariably be taken in such cases against the erring officials in order to improve the functioning of the Department.

[S.No. 14, Appendix VII, Para 55 of 161st Report of PAC (8th Lok Sabha)]

Action taken By Govt.

In this regard the following steps have been taken:—

- (a) The Department proposes to prepare a 'Manual' on the Sales tax Acts and Rules so as to enable the Assessing Authorities to discharge their quasi-judicial functions more efficiently. The work relating to the preparation of the 'Manual' is in progress.

- (b) All the important circulars/instructions issued from the Office of the Commissioner of Sales Tax to the various Assessing Authorities from time to time are being compiled for issuance of the same in a consolidated form the Assessing Authorities to up-date their knowledge relating to the Sales matters.
- (c) A comprehensive programme for training of the officers/officials of the department has been prepared and the same has been sent to the Secretary, Training, Delhi Administration so as to devise the training programme accordingly.

Regarding disciplinary action against the erring officials, it may be mentioned that the same is invariably taken wherever warranted.

Observations of the Audit

The Progress made in this direction will be watched by the result orientation. How the Assessing Authorities have been made responsible for the cases mentioned in para. Copies of the (i) proposed Manual on Sales Tax & Rules; and (ii) compilation of Report and circulars/instructions issued to the Assessing Authorities from time to time may also be supplied to Audit. Salient features of the proposed comprehensive programme for training of departmental staff being devised may also be intimated.

Action taken in December 1989

In this regard the position is as under:

- (a) The work relating to the updating the Manual is in progress and is likely to be completed shortly.
- (b) All the important circulars/instructions will be appended to the Manual being prepared.
- (c) A copy of the draft scheme for the training of officers of the department is enclosed.

Action taken in February 1990

Work relating to the updating of manual is in progress and important circulars and instructions will be appended to the revised manual to be brought out. Work is likely to be completed by June 1990.

Observation of the Audit

Updated manual of Sales Tax duly appended with circulars/instructions issued from time to time may please be sent.

Action taken in April, 1990

The work is likely to be completed by June, 1990 as intimated earlier.

Observation of the Audit

The copy of the manual when completed duly appended with circular/instructions may please be supplied.

Action taken

The same is still under preparation however it is added the department has already completed all the circulars/instructions issued from 1975-76 onwards upto 1989-90 for circular and inspection to the officers of the departments.

[Min. of Home Affairs OM No. 15030/2/89.Bgt. II dated 19-10-90]

Recommendation

The case relating to M/s Shiraz Restaurant is another instance of carelessness on the part of Assessing Authority who omitted to levy interest under the provisions of law which would, but for the audit having pointed out, have resulted in loss of Rs. 59,235/- to Government. The Committee feel that such omissions take place only due to the procedure followed in assessments not being streamlined. The Committee are of the opinion that in order to eliminate scope for such omissions, a check list is all the more essential for use of the assessing authorities to ensure that nothing has escaped their notice while scrutinising the returns.

[S. No. 16 Appendix VII para 59 of 161st Report of PAC (8th Lok Sabha)]

Action taken by Govt.

In this regard the necessary steps have already been initiated and the requisite check-list shall be finalised soon.

Observations of the Audit

A copy of check list being adopted may be supplied. What is the latest position of recovery from the erring dealer.

Action taken in December 1989.

A copy of the draft check list proposed to be introduced is enclosed. The check list is yet to be finalised in consultation with the concerned officers.

Regarding recovery position in the case of M/s Shiraz Restaurant, it is submitted that aggrieved with the orders of the assessing authority levying interest of Rs. 59,235/- the dealer has filed an appeal before the Appellate Authority who has stayed the recovery of the demand till the disposal of the Appeal. The appeal is still pending with the Appellate Authority.

Action taken in February, 1990

The Check list prepared for the guidance of the Assessing Authorities at the time of assessment has been finalised (copy enclosed).

Regarding recovery position in the case of M/s. Shiraz Restaurant, it is submitted that aggrieved with the orders of the Assessing Authority levying interest of Rs. 59,235/- the dealer had filed an appeal before the Assistant Commissioner, Sales Tax, who had dismissed the appeal. Now, the dealer has again filed an appeal in the Appellate Tribunal, Sales Tax, where recovery has been stayed.

Observation of the Audit

Latest position of the appeal in the Appellate regarding recovery of Rs.59,235/- may please be incorporated.

Action taken in April, 1990

The recovery is stayed by the Appellate Tribunal of Sales Tax and the stay is still in force.

Observation of the Audit

Latest position of the appeal may be incorporated.

Action taken in September, 1990

No change in the comments earlier given.

[Ministry of Home Affairs OM No. 15030/2/89-Bgt. II, dated 19-10-90]

Recommendations

The Committee note that apart from claiming exemption on the basis of false declarations, the tax is evaded by way of sales and purchases not being accounted for in the books of accounts either by not issuing the cash memo at all or by issuing the duplicate cash memo. According to rough estimates, the suppression of sales and purchases by dealers resulted in tax evasion to the extent of Rs. 17.09 crores in 348 cases during 1985-86. Rs. 4.28 crores in 405 cases during 1986-87 and Rs. 72.05 crores in 284 cases during 1987-88. Although the aggregate collections both under the Local and Central Sales Tax Acts were more than the targets fixed therefor during 1985-86 to 1987-88 yet the collections would have been much higher if tax evasion had not taken place. The Committee, therefore, favour a stricter vigil over the activities of atleast the habitual tax evaders. The Committee desire that the sales tax authorities be armed with powers to inspect the inventories of the dealers' stock from time to time subject to the condition that the powers are not indiscriminately used to harras the honest tax payers.

[S.No. 19, Appendix VII, Para 70 of 161st Report of PAC (8th Lok Sabha).]

Action taken by Govt.

As this suggestion of the Committee involves a policy decision, the matter is under examination of the Administration.

Observation of the Audit

Final reply will be awaited.

Action taken in December, 1989

A number of trade associations have represented against this suggestion regarding inspection of the inventories of dealers' stock, hence it needs to be examined in detail before a decision is taken in this matter. Further Communication in this regard shall follow in due course of time.

Action taken in February, 1990

Adequate provision in this regard already exists Section 41 of the Delhi Sales Tax Act, authorises the Assessing Authorities to inspect and take the inventories. These powers are, however, used whenever necessary keeping in view the potential of hardship/harrasment that such inspections may cause.

Observation of the Audit

From the Ministry's reply it is evident that although the provision to inspect and take inventories do exist under Section 41 of the Delhi Sales Tax Act, yet the Assessing Authorities are hesitant to use the provision to achieve results for the reasons best known to them as it is not clear from the reply why these authorities feel shy to implement the provisions incorporated in law when the sole aim is collection of correct revenue and making evasion deterrents. The PAC's recommendation is based on the same premise. Please elucidate. How many periodical inspections had been carried out in this direction during last three years and what results have been yielded? What further remedial action is suggested by the department for stricter vigilance by the Department under Section 41 of the Sales Tax Act to minimise the evasion of Sales Tax due to suppression of sales and purchase by the dealer.

Action taken in April, 1990

Information regarding periodical inspection and result thereof is being compiled and will follow shortly.

Observation of the Audit

Information regarding periodical inspections & result thereof would be awaited.

Action taken in September, 1990

Information regarding periodical inspections & result thereof is being compiled and will follow shortly.

[Min. of Home Affairs O.M. No. 15030/2/89-Bgt. II dated 19.10.90]

Recommendations

The role of consumer/buyer is very vital in checking tax evasion. He has to be very vigilant and should insist on a cash memo on every sale made to him while paying 'local tax extra'. Generally, people do not so insist and in doing so; they forfeit their right to claim any damages etc. in case the product turns out to be sub-standard or spurious one. In the circumstances, the committee feel that a duty is cast upon the Government to educate the masses through publicity media like T.V., Radio, Newspapers etc. of their rights and duties in this regard and the benefits that might accrue to them of cash memo is taken on all goods purchased.

[S.No. 21, Appendix VII, Para 72 of 161st Report of PAC (8th Lok Sabha).]

Action taken

The suggestion of the Committee with regard to educating of the masses through publicity media of their rights and duties in this regard and the benefits that may accrue to them of cash memo is taken on all goods purchased has been taken note of and the necessary steps for the purpose are being taken.

Audit observation

The Ministry's/Department's reply is evasive to the recommendation in so far as the Cash Memo will be insisted upon by the masses only if they are properly educated by the Govt. through mass publicity media as is being done by the Income Tax Authorities.

Action taken in December, 1989

The Department is of the view that this education will benefit atleast these sections of consumers who are interested in after sales service, return of goods etc. The matter has already been taken up with the Ministry of Information and Broadcasting and their reply is still awaited.

Action taken in February, 1990

Arrangements for mass education through public media are being finalised with the help of Ministry of Information and Broadcasting, Govt. of India.

Observation of the Audit

Final reply is awaited.

Action taken in April, 1990

Further progress made in this regard that a Budget provision of Rs 3 lakh has been made to beg in with and the Ministry of Information & Broadcasting, Govt. of India are being consulted regarding further modalities of mass education on through newspapers advertisements, Radio & T.V. hoardings and Cinema slides.

Observation of the Audit

No comment on Ministry's draft reply, excepts results consequent to their mass education programme would be watched. The activities in this regard of the Department may however be intimated from time to time.

Action taken in September, 1990

We have already gone for a special supplement in leading Delhi newspapers in the month of June & July, 1990. Also one radio spot has been prepared to educate the public/consumers and is likely to be aired through the Vividh Bharti programme of A.I.R. around 3rd week of Sept., 90.

[Min. of Home Affairs O.M. No. 15030/2/89-Bgt-II Dated 19-10-90]

Recommendation

The Internal Audit Cell is expected to act as a check on the irregularities that might have occurred due to human failures etc. during the course of assessment of Sales Tax cases. Unfortunately, the Cell could not put its hand on any of the irregularities pointed out by the C.&A.G. in audit paragraphs 26-30, though it (Internal Audit) detected 5320 cases of irregularities during audit for the last 3 years. This goes to indicate that there is no tight system in the Department to ensure that no mistake or irregularities escape undetected. Presently, the Internal Audit Cell consists of 6 Audit teams to check, on random basis, cases of dealers whose number has risen to more than 21 lakhs. Considering the increasing number of dealers in Delhi the Committee are of the view that the Internal Audit Cell should be strengthened and the guidelines for selection of cases reviewed and so designed that no suspected cases escape audit and thus make it an effective instrument for helping the Department in plugging the revenue leaks.

[S.No. 23, Appendix VII, Para. 76 of 161st Report of PAC (8th Lok Sabha)]

Action taken by Govt.

The recommendations of the Committee in this regard have been taken note of and necessary steps for strengthening of the Internal Audit Cell are being taken by the Department.

Observation of the Audit

There are no comments on Ministry's draft replies except that the efficacy of the steps taken in this regard will be watched. The innovation being made to strengthen the Internal Audit Cell may be intimated.

Action taken in December, 1989

A proposal is being included in a Plan Scheme for the creation of the posts for strengthening of the Internal Audit Cell.

Action taken in February, 1990

Plan proposals for 1990-91 are yet to be finalised.

Observation of the Audit

Latest position may please be incorporated.

Action taken in April, 1990

The proposal has been included in the plan Scheme of 1990-91. Detailed instructions have already been issued to the Internal Audit Cell giving them guidelines for selection of cases and scrutiny of the cases. Efforts are being made to post more officers in Internal Audit Cell from our own internal recoveries till the scheme is approved.

Observation of the Audit

No comments on Ministry's draft reply except the results yielded in views of strengthening the Internal Audit Cell would be watched. However, a Copy of the instructions issued to the Internal Audit Cell for selection & scrutiny of case may please be supplied.

Action taken in September, 1990

Copy of the instructions issued to I.A.C. for selection and scrutiny of cases is enclosed.

[Min. of Home affairs O.M. No. 15030/2/89-Bgt. II Dated 19-10-90.]

**Office of the Commissioner of Sales Tax: Vikas Bhawan, New Delhi:
Internal Audit Cell**

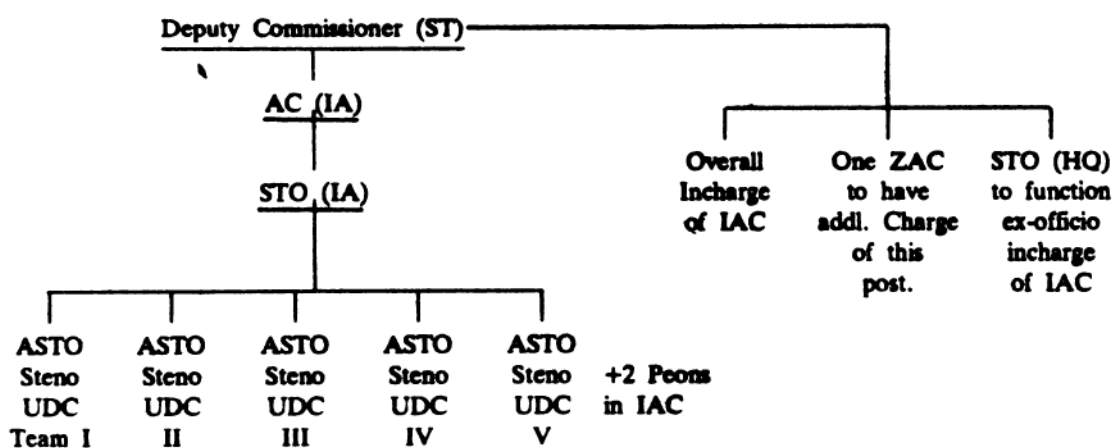
Order

The main purpose of Internal Audit Cell is to detect irregularities in assessment and registration orders passed by the Assessing/Notified Authorities and to suggest corrective measures.

The Internal Audit Cell is expected to act as a check on the irregularities that might occur due to human failures etc. during the course of assessment of sales tax cases. Unfortunately, the cell could not put its hands on any of the irregularities pointed out by the Revenue Audit particularly in its report for the year 1988-89 *vide* which 5320 cases of irregularities were detected during audit for the last 3 years. Though there are instructions on the working of IAC, the present situation indicates that there is no system to ensure that mistakes of irregularities do not go undetected.

It was recommended by the PAC in its meeting in Jan. 1989 that the IAC should be strengthened and guidelines for selection of cases reviewed and so designed that it works as an effective instrument of the Department in plugging the revenue leaks.

Detailed guidelines were issued on the working of IAC *vide* order No CST/PA-76-77/663 dated 25.3.77. With the passage of time, the importance/working of the cell has been diluted giving rise to the above mentioned observations of the PAC. The matter has therefore been reviewed and the following administrative structure is envisaged for the IAC.:-



Nature and Scope of Internal Audit Work

(A) The Commissioner of Sales Tax, being the Controlling Officer for purposes of the General Financial Rules, has been entrusted under GFR 23 (1) with the responsibility to ensure that all sums due to Govt. under the laws relating to Sales Tax are regularly and promptly assessed, realised and duly credited to the Consolidated Fund of India. Prompt assessment by the assessing authorities is ensured by various instructions and a system of periodical inspection by the Asstt. Commissioners incharge of the wards. Realisation of revenue and reconciliation of credit are ensured by the Recovery and Collection Branches. The main purpose of the Audit

Cell is to discover irregularities in the assessment and registration proceeding held in the wards so that the Controlling officer can ensure prompt corrective action and avoid adverse reports of statutory audit parties and adverse references in the reports presented by Comptroller and Auditor General to the Parliament. The Audit Cell, in so discovering irregularities shall be guided by the detailed rules and procedure referred to in GFRs 24 & 33.

(B) The scope of internal audit work in the Audit Cell shall extend to the wards, SIB and the Recovery Branch. The work in the Audit Cell shall be confined to matters affecting the revenue and receipts of the Govt. (including refunds, remissions, abandonments of revenue and write-off of losses of revenue) and shall not extend to matters affecting miscellaneous receipts or expenditure of the office of Commissioner of Sales Tax dealt within the Accounts Branch (such as on staff and contingencies).

Similarly, matters to be ordinarily attended to by the Asstt. Commissioners Administratively incharge of the wards (such as record work in the wards, maintenance of registers, delay in assessments, adequacy of the quantum of penalties imposed or of surety/security demanded, work of Sales Tax Inspectors in the wards, recovery etc.) do not fall within the purview of the Audit Cell. Again matters to be dealt in the Vigilance Branch such as fixing responsibility for the loss of revenue on individual officers will not be dealt in the Audit Cell but references made to the Audit Cell for a special internal audit of a specified case or a specific category of cases should be attended to in the Audit Cell.

Internal Audit Procedure

(C) The Statutory audit of the receipt and refund of tax revenue in respect of the Union Territory of Delhi is done annually by officers deputed by the Accountant General (Central Revenues). As such, there is likely to be considerable time-lag between the possible commission of an irregularity and its detection by the local revenue audit party from the office of AGCR. This 'time-lag can be best utilised for detection of mistakes and initiation and completion of corrective action. But it is to be ensured by internal Audit parties that their task is accomplished well before the work of Revenue Audit is started.

Various items to be checked by the Internal Audit Parties are indicated in the check-sheets in Annexures. A copy of the check-sheet should be kept in the folder relating to each case taken up for checking by the Internal Audit party and the ASTO to whom the case is allotted for scrutiny should indicate the correct position.

There will be 5 task forces in the IAC and the following procedure shall be adopted:—

One task force, comprising one ASTO, one Steno & one UDC, each shall audit atleast 75 assessment/registration/cancellation files per month

starting from 1st April of the year. All the 75 cases assigned to a unit in a month shall be from the same ward. In this manner, all the 50 wards shall be covered within 10 months time. For the rest of the period, approximately 100 cases pertaining to SIB and some special assignments given to these task forces by the CST from time to time shall be completed. In this manner, approximately, 4500 cases would be scrutinised in a year which is approximately 3% to 4% of total assessment work.

Selection of cases in the wards will be done by STO (IAC) and AC (IAC) and it shall be broadly based on the following guidelines:

- | | |
|-------------------------------------------------------------------------------------------|---------|
| (a) All assessments in which GTO exceeds Rs. 75 lakhs—
Minimum cases to be scrutinised | ...100% |
| (b) Assessments in which GTO exceeds Rs. 50 lakhs but
not more than 75 lakhs | ...50% |
| (c) Assessments in which GTO exceeds Rs. 25 lakhs but
not more than Rs. 50 lakhs | ...15% |

Out of 75 cases selected from one ward, approximately 65 cases should be pertaining to 23(3) cases, approximately 5 cases should be from 23(6). However, all cases of 23 (6) should be selected where GTO is determined at more than Rs. 5 lakhs. Approximately, 2-3 cases should be of registration and rest related to the last assessments in the case of cancellation orders.

The cases should be so selected that 50% of the audited cases should be those of the STOs and the rest of the 50% cases should be from each and every ASTO in equal proportion. Purpose is that assessment/registration of all AAs should be covered in the internal audit.

The other types of cases should be those where adverse reports are available, some proportion of cases should be from those where best judgements are made, 5 to 10% ex-parte cases be also selected. The task force may select these cases after going through DCR and adverse report registers available in wards.

In selecting the cases, it should be borne in mind that the cases terminating in refund should invariably be included for scrutiny.

Selection of cases on the above mentioned orders would be done by Zonal ACs from their respective zones. They should prepare a list of cases selected for audit on monthly basis and send it to the DC Incharge of IAC by the 20th day of the preceding month.

The ward Officers/SIB Officers should ensure that the DCRs in their respective officers are posted uptodate on the first working day of every month showing particulars of all assessment proceedings decided upto the end of the previous month. The Ward/SIB officers should invariably indicate in the remarks column of the DCRs as to whether the assessment was based on any adverse survey report. The officer-in-charge and the

ASTOs of the Internal Audit Cell should visit the wards under their charge and SIB and select the cases for internal audit on the basis of the entries in the DORs in accordance with the principles of selection detailed above. The officer-in-charge/ASTO concerned should then prepare in duplicate a list of cases so selected showing *inter alia*, the GTO determined in each case, whether the assessment was on the basis of any adverse survey report, and whether the case is under section 23(6). The following certificate should be recorded by the ASTO on the list prepared.

“Certified that the list of cases selected above is in accordance with the principles laid down for selection of cases for internal audit.”

Where the certificate is recorded by ASTO, it should be countersigned by the officer-in-charge of the internal audit cell. The following certificate should be recorded by the ward/SIB officer on the list prepared:—

“Certified that this list of cases containing all the assessment proceedings decided during the month....where.

- (a) all proceedings where GTO is more than 75 lakhs
- (b) where the proceedings have terminated in refund
- (c) where assessments are based on adverse survey report
- (d) where GTO determined exceeds Rs.5 lakhs in cases of unregistered dealers i.e. proceedings u/s 23 (6)

System on Internal Audit Reports

The Reports of the Internal Audit Party should be drawn up in three parts, Part-I (b) should state the serial No. of the Audit (whether it is the third, fourth or fifth audit of the particular ward) period covered by the audit, the number of assessments completed by the AAS during the period under scrutiny, the number of registration applications decided during the period under scrutiny and the number of cases of cancellation of RC. The names of the dealers and the years for which the records were not furnished by the ward officer/SIB officer even though called for by the Internal audit party should be set out in this part so that such cases can be followed up by the audit Cell. Part-I (b) should enumerate all the outstanding audit objections from the preceding audit reports in the following manner:—

1. Sr. No. of the Audit Report.
2. Para No. of the Audit Report.
3. Remarks showing *inter alia* the stage of rectification.

Part-II of the report should deal with the items of the current audit report having a revenue effect of Rs. 100 or more.

Part-III of the report should deal with the items of the current audit report where the revenue effect is less than Rs. 100/-

Draft internal audit reports should after discussion with ward officers be submitted by the internal audit parties to STO (IAC) and the AC (IAC) should obtain the comments of the Administrative AC concerned and

submit the draft report to the CST through ICST alongwith latter's comments. Internal Audit reports approved for issue should issue under the signature of the AC(IAC). Copies of the Internal audit reports should be made available to the revenue audit parties from AGCR when the latter ask for such reports.

Quota of Disposal for Internal Audit Parties

Internal audit programme drawn up by AC (IAC) as per above paras should ensure that each member of the Internal Audit Parties is reasonably busy throughout the year. While allotting cases to the task forces of each Internal Audit Party, the officer in charge of the Internal Audit Party should ensure that (1) the assessment proceedings in which the GTO determined exceeds Rs. 75,00,000/- (2) the assessment proceedings terminating in refunds and involving major legal issues (3) and the assessment proceedings in which adverse survey reports have been relied upon are scrutinised by him personally. The UDCs in the Internal Audit Party shall generally scrutinise the registration proceedings but (4) the officer incharge should check at least 25% of the registration proceedings scrutinised by each UDC. The officers incharge of the Internal Audit Parties should also personally scrutinise proceedings of cancellation of registration certificates.

Follow-up Action

Two copies of the approved internal audit report in respect of each ward should be sent to the Asstt. Commissioner having administrative jurisdiction over the ward. The AC concerned should acknowledge the receipt of the internal audit report and pass on one copy of the internal audit report to the ward concerned with his remarks. The report of finalisation of rectification of mistakes pointed out by the Audit Cell should invariably be received in the Audit Cell within 2 months of the issue of the internal audit report and should be put up by the STO (IAC) to the CST through AC (IAC) and DCST for information. The headquarter unit of the Audit Cell should maintain a register in the procedure for dealing with internal audit objection in the wards and SIB in form given in annexure for watching the issue and compliance of internal audit reports. This register should be brought uptodate every month and should be put up to the CST by the STO (AC) through AC (IAC) and DCST on or before 15th of the month.

On receipt of the approved internal audit report such action as may be required under the law should be taken by the ward officer on priority basis and compliance should be reported to the Audit Cell on completion of this action within the period prescribed above. The Administrative Asstt. Comr. concerned may also refer matters pointed out in the draft internal audit reports mentioned above to the words for invariably corrective action without working for the formal issuance of approved

disposal audit reports. These personal Branches of Asstt. Commissioners should maintain a register in the form in annexure given for watching the progress of rectification of mistakes pointed out by the audit cell.

The foregoing instructions will come into force w.e.f. 1-4-90 and will thereafter supercede all earlier instruction on the subject including order No.CST/PA/76-77/663 dated 25-3-77.

One copy of the list prepared should be left with the Ward/SIB officer and one copy be sent to DC(IAC) for record. Similarly the ward officers should ensure that the registers in form ST-10 in the respective officer are posted upto date on the first working day of every month so that the particulars of registration applications decided during the month can be ascertained by the internal audit parties. The branch charged with the publication of particulars of cancelled certificates of registration under rule 20 of the Delhi Sales Tax Rules, 1975 should ensure that the list published are exhaustive in respect of the period in question and that the copies of the published lists are sent to the Audit Cell enabling the internal audit parties to identify cases of cancellation of registration certificates.

While cases of refund under the provisions of the Delhi Sales Tax Act, 1975, and Central Sales Tax Act, 1956 would have been covered in as much as proceedings of assessment terminating in refund would have been internally audited by the various internal audit parties, other cases of remissions of revenue and abandonment of claims to revenue sanctioned otherwise than in accordance with law or rule having the force of law will have to be internally audited in the light of the rules referred to in GFR 33. In such cases, the audit by the Audit Cell will invariably precede the order sanctioning the remission of revenue or abandonment of claim to revenue and consequent refund under chapter-IX of part V of the Treasury Rules Vol. I.

Programmes of internal audit of the various wards and the AAs in SIB should be prepared in consultation with the officers incharge of internal audit parties. As far as practicable and subject to allocation of wards to the task forces, the programmes should be so made out that the assessment and registration orders passed in the month of April, May, June and July are audited before 15th October the orders passed in August and September are audited before 15th December, the orders passed in October and November are audited before 15th Feb., the orders passed in December and January, audited before 15th April and the orders passed in February and March are audited before 15th August, STO (IAC) should ensure that the programme so drawn up keeps all members of the internal audit parties reasonably busy throughout the year.

Action on the part of Ward Officers/SIB Officers

The Ward Officers/SIB Officers should ensure that the records requisitioned by the Internal Audit parties are made available to the parties ever where it is necessary to contact the Appellate/Revisional Authority etc. with whom records may be for the time being.

No.FI/CST/90-91/Misc./

Dated: 7.5.1990

Copy forwarded for information & necessary to the :—

1. P.S. to CST.
2. P.As. to Addl. CST/D.C. (Appeal)/D.C. (Admn.).
3. All Zonal Asstt. Commissioners.
4. Asstt. Commissioners, I.C., Revenue Audit, Law & Judicial Branch.
5. All the Assessing Authorities (STOs. & ASTOs.).
6. P.P.R. Branch.
7. Administrative Reform Branch of Sales Tax.
8. Office order File/Guard File.

(V.K. BENIWAL)
SALES TAX OFFICER (IAC)

ANNEXURE-A**OFFICE OF THE COMMISSIONER OF SALES TAX: NEW DELHI**

Check list for scrutiny of Assessment orders passed under Section 23(3) of the Local Act.

Part I-Preliminary Information

- (a) Ward No.
- (b) Name & Address of the dealer
- (c) R.C. No.
- (d) Name & Designation of the AA
- (e) G.T.O.
- (f) Period of Assessment
- (g) Deals in

Part II>Returns

- (a) In case return for any qr/month has been filed late, state qr/month along with delay and amount of tax involved.
- (b) Whether penalty for late filing of returns has been levied or reasons for condonation discussed in the assessment order.

Part III-Verification of GTO

- (a) Is GTO taken for assessment as per returns?
- (b) Is GTO taken for assessment as per sales shown in the trading account?
- (c) If GTO varies from returns or trading account, reasons discussed in the assessment order and remarks thereon?

Part IV-Deductions allowed**(A) Tax free goods**

- (a) Are the items in respect of which deductions on account of sales of tax free goods covered by the items mentioned in the schedule of exempted goods has been allowed?

(B) Sales to Registered dealers

- (a) Are deductions allowed on account of sales to registered dealers in accordance with list of registered dealers?
- b) State irregular deductions allowed if any?

(C) Exports

Are deductions allowed on account of interstate Sales or export out of India supported by requisite despatch particulars?

(D) Sales to other Organisations

Are deductions allowed on account of sales to Embassies, Ministry of Defence and other organisations notified from time to time in order?

Part V-Verification of taxable turnover & tax levied

- (a) Has the TTO been correctly arrived at?
- (b) Have the correct rates of tax applicable been applied?
- (c) Has the tax been correctly calculated?
- (d) Has credit for amounts deposited been correctly given?
- (e) Is the amount of additional demand/refund including penalty if any in order?

Part V-Miscellaneous

- (a) Have the seized/surrendered documents or adverse reports relating to either to one assessment year or to a previous or subsequent year, if any, been properly considered in the assessment order?
- (b) Are there any transfers to factory/branch/on consignment basis?
- (c) In case reply to (b) above is in the affirmative has addition of the correct amount been made in TTO by invoking second proviso to section 5 (2) (a) (ii) of the Bengal Finance (Sales Tax) Act, 1941/Third proviso to section 4 (2) (a) of Delhi Sales Tax Act, 1975.
- (d) Are the items dealt in by the dealer specified in the RC?
- (e) Mention any other point to show under assessment or over assessment noticed from the record of assessment order.

Part VI-Tax effect, action proposed

- (a) Mention in brief irregularities noticed, if any.
- (b) Likely tax effect as a result of (a) above.
- (c) Suggest remedial action.

**Signature with full name
and designation of the official
and date of scrutiny.**

ANNEXURE-B**Check list for scrutiny of registration orders passed under the Central Act/
Local Act****PART 1****Preliminary information**

- (a) Name and address of the dealer.
- (b) Ward No.
- (c) Date of submission of application.
- (d) Is application signed and verified by the person as required under rule 3 (1) (a) & (b) of the Central Sales Tax (Registration & Turnover Rules), 1957.
- (e) Is application in the prescribed form?
- (f) Is it duly affixed with requisite court fee stamps?
- (g) Date of passing registration order.
- (h) Name & designation of the A.A. who passed the order.
- (i) Section under which registration order has been passed.
- (j) If regn. order was not passed within 3 months time of filing of appln., whether requisite extension was obtained from competent Authority?

PART 2**Scrutiny of registration orders**

- (a) Has the date of liability & validity been determined correctly in the order and noted in the RC accordingly?
- (b) Has any item not allowable been allowed which may effect revenue adversely?
- (c) If so, state items so allowed.
- (d) Are the items allowed in order and as claimed by the dealer and specified in the RC accordingly?
- (e) Have the reasons been discussed in the order for not allowing any items as claimed by the dealer in his registration application?
- (f) Has branch/Head Office of the dealer, if any, mentioned in the application for registration been specified in the registration certificate?

PART 3**General Remarks & Remedial Action**

- (a) Mention in brief irregularities noticed with reasons.
- (b) Suggest remedial action.

Signature with full name
& designation of the official
and date of scrutiny.

**REGISTER FOR WATCHING THE COMPLIANCE OF
Internal Audit Reports (19.....)**

Index

1. Serial No.
2. Name of the Unit/Ward No.
3. Page No.

Folio

1. Serial No. of Internal Audit report.
2. Date of issue.
3. Due date of compliance.
4. Name of the dealer against which irregularities/mistakes pointed out.
5. Nature of objection raised.
6. Tax effect expected to be raised.
7. Actual date of compliance.
8. Action taken in brief.
9. Amount of tax revised/increased/decreased.
10. Remarks.

**GENERAL GUIDELINES FOR INTERNAL AUDIT TASK FORCE
FOR THE PURPOSE OF SCRUTINISING THE ASSESSMENT
UNDER DST ACT AND CENTRAL SALES TAX ACT**

Part I—Preliminary Information

- (a) Ward No.
- (b) Name & address of the dealer
- (c) R.C. No.
- (d) Name & designation of A.A.
- (e) G.T.O.
- (f) Period of assessment.
- (g) Deals in

Part II—Registration Certificate

- 1. Whether items purchased by the dealer are allowed in the R.C. under different heads like 'Manufacturing' 'Re-Sale', 'Packing' etc.
- 2. Whether such incorporated items are allowable under the R.C. (i.e. raw-material consumable during the manufacturing process like electrodes etc. are not allowable).
- 3. Whether any unauthorised purchases detected. If yes, whether penal action taken?

Part III—Returns & Books of Accounts

- 4. Whether returns have been filed in time.
- 5. Whether due tax has been deposited in time.
If not, whether penal action is taken after issuing requisite notice.
- 6. Any difference between return version and documents filed at the time of assessment noticed.
If yes, whether difference is explained separately.
- 7. Whether the dealer has claimed any return of goods as allowable under the law.
If yes, supporting documents be scrutinised.
- 8. Whether abnormal increase or decrease in G.T.O. is properly discussed in the assessment order.
- 9. Whether exemption claimed by the dealer has been supported with valid statutory forms under rules 7 to 11 of DST Act, 1975.
- 10. Whether items shown under the head 'tax free sales/purchases' are covered under 3rd schedule or DST Act, 1975 for grant of exemption.
- 11. Whether the amount of tax charged by the dealer is in accordance with the rate of tax prescribed under the Sales Tax Act

12. Whether bye-products in case of manufacturing has been disposed off as per provisions i.e. accounting for incidental sales.
13. Whether the tax paid sales of 1st point goods have been discussed in the order.
14. Whether entries made in the utilisation a/c(ST-II) tally with the Trading A/C entries in order to ensure that there are no suppression of purchases.
15. Whether statutory forms like F, E-1, E-2 etc. if submitted have been scrutinised with respect to entries and supporting documents for the purpose of granting exemption on IS sales/transfers.
16. Whether interest has been charged on surrendered sales showed to have been made to registered dealers but actually made to un-registered dealers.
17. Where all ST-1 forms for more than Rs. 1 lakh have been verified from purchasing dealers ward before granting exemption.

Points for guidance

Exemption claimed under Central Act.

In case of sales made to registered dealers outside Delhi in the course of Interstate trade and commerce, it should be supported by valid C forms; and also supported by RRs, GRs and despatch particulars.

In case of sale to Govt. agencies in the course of ISS the same should be supported by necessary 'D' forms etc.....

Explanation

Semi-Govt. institutions i.e. the organisation which are not Govt. departments but may be 100% administered or sponsored by the Govt. of India i.e. public sector undertakings etc. cannot issue 'D' forms and hence no concessional rate is allowed except for 'C' forms, if applicable.

In case of sales which have been conducted outside the State but the goods have not entered in Delhi, should be supported with E-1, and E-2 alongwith necessary purchase vouchers etc. [Sec. 62(a) and (b) : Sec.8(3) of CST Act 1956 & Rule 12].

Concessional rate claimed @ 2% be allowed after verifying that the goods have been re-sold during the ISS in the same forms and identity and duly supported by sale and purchase vouchers.

Exports

Sales to exporters in India meant for export outside India are supported with H forms, ST-49 and other documents like bill of lading, shipping etc. In case of sales by the dealer directly outside the country, the same should be supported by necessary documents such as bank certificate, custom clearance, bill of lading and shipping etc.

Exemption against 'High Seas' sales

In case of exemption on account of 'High Seas' sales, same be allowed after following the provisions of the law. In case exemptions are allowable against high-seas transactions, it must be ensured that the transfer of documents, have taken place before the entry of goods in the territorial water limits.

Checking of statutory forms

While checking of statutory forms, the auditors may check the following:—

(a) In case of more than one transaction for total amount of more than Rs. one lakh, separate ST-1 forms are to be issued. However, for a single transaction for any amount, single ST-1 form will be valid.

(b) Date of validity of the RC mentioned in the Statutory form may be checked with reference to date of purchase etc.

(c) As per instructions of the Deptt. all ST-1 forms showing transactions of more than Rs. one lakh be verified from purchasing dealer's ward. In case of doubt about any transaction of lesser value, it is also desirable to get verification of ST-1 forms from issuing dealer's ward.

Consumable Raw material purchased on R.C.

Raw materials like electrodes, cooking gas etc. purchased on the basis of registration certificate/authorisation certificate, which disappear or get fully consumed during manufacturing process are also liable to be taxed. However, AAs should ensure that such items are deleted from the RC forthwith. For, if the same is not deleted, the dealer may question the authority on disallowance of such deductions as he is legally entitled to make purchases on ST-1 forms etc. of items mentioned in RC (please see the judgement *Standard Metal Industries vs. CST-Reported in 229-45 STC 1980.*

POINTS FOR GUIDANCE TO TASK FORCES

Following are the types of objections raised by Rev. Audit, in the past:—

- 1. Purchases shown in ST-II do not tally with ST-I in respect of amount.**
- 2. ST-I forms were issued to a particular dealer while in ST-II a/c. these were shown to some other dealer.**
- 3. Forms issued to a dealer were used by other dealers or forms were used by a cancelled dealer/bogus purchaser.**
- 4. Sales could not be verified in the absence of ST-II accounts.**
- 5. Wrong calculations.**
- 6. Invalid/defective forms used.**
- 7. Forms not issued by the ward to the purchasing dealer.**
- 8. ST-I form belongs to a non-existing firm.**
- 9. ST-I form not available on record.**
- 10. Form H not supported by proof of export.**
- 11. C forms incomplete, defective, authorised additions or issued before the date of billing, do not tally with 'C' form utilisation account etc.**
- 12. Tax not levied on articles which get consumed during the process of manufacturing.**
- 13. Amount shown in trading account/other books do not tally.**
- 14. Interest/penalty not charged.**
- 15. Regn. No. & address of issuing dealer not shown.**
- 16. Sales shown to purchasing dealer assessed as nil purchaser.**
- 17. Amount shown in 'H' form differed with the amount shown as exempted.**

CHAPTER III

RECOMMENDATIONS AND OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES RECEIVED FROM GOVERNMENT

Recommendation

Under the Delhi Sales Tax Act, 1975, the purchasing dealer is required to keep in ST-2 form the record of his purchases made on the strength of ST-I forms. In 14 cases cited in Audit para 27, the short accountal of purchases by dealers resulted in suppression of corresponding sales whereby the Government suffered loss amounting to Rs. 8.78 lakhs on account of short levy of tax and Rs. 21.30 lakhs being leviable penalty. The main reason for non-detection of these cases is stated to be inability on the part of Assessing Authority to cross verify the facts from the corresponding selling dealer's accounts due to the procedure being very time consuming and the statement in ST-2 forms becoming available to the Department only when the dealer comes to have the ST-I forms. The Committee are constrained to observe that there seems to be lack of sincere efforts on the part of the Department to go into the working of the Delhi Sales Tax Act, 1975 to find out the loopholes therein with an intent to plug the same for preventing the revenue leakages. The department has been functioning in a stereotyped manner accepting whatever information was furnished by the dealer as true. The Committee have no doubt that the Government must have suffered huge loss of revenue since inception of the Delhi Sales Tax Act, 1975 on account of complacency on the part of the Department and the Ministry of Home Affairs.

[S.No. 11 Appendix VII, Para 52 of 161st Report of PAC (8th Lok Sabha)]

Action taken

The para is only an observation about the keeping of record of dealer's purchases in form ST-2 wherein certain discrepancies were noted by Audit on cross-verification of the entries made therein. The remedial action has been suggested in para 53 for which reply has been given separately. No further comments on the para.

Observations of Audit dated 18.4.90

No comments on Ministry's draft replies.

Subsequent Observations of Lok Sabha Secretariat

Even if the recommendations of PAC are "Observations" or "Narration" and "Action Taken Notes" are required to be furnished.

Action taken

The observations of PAC are covered by para 53 of the same report and action taken report in respect of para 53 is as follows:—

"Inter-ward cross-verification of sales and purchases involving such a huge number of dealers/transactions may not be feasible as long as this work is done manually. In the computerisation programme, therefore, presently under way necessary software is being developed to facilitate this. It is, therefore, felt that the question of prescribing the furnishing of ST-2 account with the return of the fourth quarter be kept pending till the computerisation programme has become functional".

This action taken may be treated as action taken in respect of this para also.

[Min. of Home Affairs, O.M.No.15030/2/89-Bgt.II(Vol.III), dated 17.9.1990]

Recommendation

Under the Delhi Sales Tax Act, 1975 and the rules made thereunder every registered dealer is required to furnish a quarterly return of sales in the prescribed form and before the date prescribed for submission of such returns, pay into appropriate Government Treasury, the tax due and payable according to such return. Failure to pay the tax due would incur simple interest on the amount so due at the rate of one per cent per month (from the date immediately following the last date for submission of the return) for a period of one month and at the rate of one and half per cent per month thereafter as long as the failure continues or till the date of completion of assessment which ever is earlier.

[S.No. 15, Appendix VII, Para 58 of 161st Report of PAC (8th Lok Sabha)]

Action taken

Para No. 58 is narrative in nature and the recommendation of the PAC on the basis of para are contained in para 60 for which reply has been given separately. No further comments.

Observation of Audit dated 18.4.90

No comment on Ministry's draft replies.

Subsequent observation of Lok Sabha Secretariat

Even if the recommendations of the PAC are "observation" or "narration" 'Action Taken Notes' are required to be furnished.

Action taken

The observations of PAC are covered in para 60 of the same report and action taken note in respect of para 60 is as follows:—

"The matter is still under consideration and the decision will be communicated in due course".

[Min. of Home Affairs, O.M.No. 15030/2/89-Bgt.II, dated 17.9.90]

Recommendation

The Committee are surprised to note that the Ministry of Home Affairs have taken very lightly the crime of mis-representation allegedly committed by the dealers to evade tax. It is a human psychology that once escaped undetected, one would try to repeat the offence more brazenly. The plea that "the items purchased not covered by the Registration Certificate is merely a technical lapse which is rectified either by amending the Registration Certificate or by levying tax on the goods so purchased" indicates the apathetic attitude of the Ministry to a very serious matter and in a way that will only encourage the unscrupulous dealer to resort to the mal-practice till it is detected thereby rendering the provisions of Section 50(d) of Delhi Sales Tax Act 1975 inoperative. The leniency coupled with the fact that no prosecution has been launched also shows that the Department is not interested in taking deterrent action against the tax evaders. The Committee desire that the Ministry should formulate guide lines for action by the Sales Tax Department in such a manner as to make the tax evaders realise that the tax evasion is not only unrewarding but can also attract prosecution in courts. The evasion of tax should also be made unrewarding by making procedure applicable to assesseees who have been guilty of evasion, more rigorous.

[S.No. 18, Appendix VII, Para 64 of 161st Report of PAC (8th Lok Sabha)]

Action taken

It is submitted that the Committee may kindly appreciate the reply in an appropriate perspective. It is again reiterated that misrepresentation relating to the items not specified in the Registration Certificate does not amount to suppression of purchases because the purchases so made are accounted for in the books of accounts despite the fact that the items so purchased are not specified in the Registration Certificate of the dealer. In case the items are not specified in the Registration Certificate of the

purchasing dealer and such purchases can be taxed at the hands of the seller and as such it is disadvantageous for a dealer not to get the items included in the Registration Certificate. Even the Legislature has taken the offence under Section 50(d) of Delhi Sales Tax Act 1975 as a minor offence by not including the same in Sub-Section (2) of Section 56 of the Act. Further this offence is also compoundable under Section 54 of the Act.

Observation of the Audit

The Department/Ministry have stated that in cases of goods not covered by Registration Certificate of the dealer the purchases can be taxed only at the hands of the selling dealer. This can happen only provided that selling dealer knows that the goods do not stand included in the R.C. of the purchasing dealer and that the ST-1 forms thus issued in support do not qualify for exemption. On the contrary what will happen? Please elucidate the amending law for providing some deterrent may also be examined as desired by the P.A.C.

Action taken in December, 1989

It is submitted that such goods purchased by a dealer which are not mentioned in his Registration Certificate do not at any stage escape the taxation by the mere facts that they were not so mentioned in the Registration Certificate of the purchasing dealer since these are duly recorded by him in his account books and are therefore, taxed at the moment he sells these goods. In view of this clarification, the Committee will appreciate that such unauthorised purchasing of goods not mentioned in the Registration Certificate do not amount to suppression of purchases/sales and the existing provisions of law are adequate to deal with such cases which *inter-alia*, provides for penalty for such offences and also for the compounding of the same.

Action taken in February, 1990

No further comments to offer.

Observation of the Audit

The exiting Rules *viz.* 50(d), 54 and 56 (2) of Delhi Sales Tax Act have no provisions for the prosecution of defaulters (*viz.* dealers who purchase items not specified in the Registration Certificates) but have provisions for imposing financial penalties. As desired in the Committee's recommendations, guidelines for action by the Sales Tax Department be so formulated so as to make the Tax evaders realise that Tax evasion is not only unrewarding but can also attract prosecution in the Court of Law. Steps taken, in view of Committee's recommendation, may please be incorporated.

Action taken in April, 1990

No further comments to offer.

Observation of Audit

The reply reveals that the Department is not interested to implement the recommendations of the PAC by providing for deterrent action in the shape of criminal proceedings/prosecution in the court of law for erring dealer who evade tax by misrepresentations but is contented with the procedure laid down in the existing Rules which are hardly sufficient deterrents as recommended by the P.A.C. This needs elucidation.

Action taken in September, 1990

No further comments to offer.

[Min. of Home Affairs O.M.No. 15030/2/89-Bgt. II, dated 19.10.90]

CHAPTER IV

RECOMMENDATIONS AND OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation

So far as the question of issue of duplicate cash memo by dealers is concerned, the Committee would like to suggest that the cash memo books may be got printed and supplied by the Department under their stamp on payment to the dealers who may be required to account for the utilisation thereof at the time of assessment.

[S. No. 20, Appendix VII, para 71 of 161st Report of PAC (8th Lok Sabha)]

Action taken

In this regard the Department begs to state that printing of the cash memo books and supply thereof by the Department to the dealers shall not be feasible because of the following reasons:—

- (1) Keeping in view the number of our registered dealers which is more than one lakh, it is submitted that the work relating to the printing of cash memo books would be of such gigantic magnitude that the Department shall not be able to cope up with the same, firstly, because it shall require the deployment of large number of staff as the cash memo books shall need to be issued under proper stamp of the competent authority.
- (2) Secondly, in order to rule out the possibility of fake cash memo books, it shall be necessary to get the cash memo books printed from some Govt. Press and going by our experience with regard to the printing of various types of declaration forms, quantum of work is not found manageable.

In view of the above, the Committee may like to re-examine this suggestion further.

Observation of the Audit

If the suggestions made by the Committee, do not appear to be feasible by the Ministry/Deptt., what alternative arrangement they want to make in this direction. Please amplify in the revised A.T.N. to the P.A.C.

Action taken in December, 1989

The Department has a separate enforcement wing which carries on surveys and raids throughout the year and all such cases where the dealers are found to maintain duplicate set of cash books, due action is taken in this regard while framing the assessment of these dealers. Hence, it is felt there is no necessity of providing for alternative management/system for checking this menace of duplicate cash memos/books.

Action taken in February, 1990

No further comments.

Observation of Audit

The Department has not suggested any alternative arrangements, since the PAC's recommendations, suggesting issue of cash Memo Books by the Department under their seal and signatures to dealers to ward off the malpractice of maintaining duplicate cash Memos. Books/Accounts were made while taking into consideration the failure of the existing procedure being adopted by the Department, in this direction. The existing system has not proved foolproof. How the Govt. would like to react in this direction? Please elucidate in the revised A.T.N. to the Public Accounts Committee.

Action taken in April, 1990

The Department had expressed its inability to implement the recommendation of the Committee and was requested to re-examine the same. Later on it was informed by the Department that there is a separate Enforcement Wing which carries on surveys and raids and such cases wherever found are taken into consideration at the time of assessment. It was lastly suggested by the Department that there is no necessity for alternative arrangement/system for checking the menace of duplicate cash books/memos. The Committee is of the opinion that the existing system has not proved foolproof. The Department is making all its efforts through its Enforcement Wing and efforts are being made to strengthen this wing to minimise this menace of using duplicate set of cash memos/books by the dealers.

Observation of Audit

Whether the Department admits that the existing system is not foolproof as commented upon in the P.A.C.'s recommendation, if so, what call out efforts are being made to strengthen the Enforcement Wing? Please explain in a brief note.

Action taken in September, 1990

Enforcement Branch has organised series of checkings in different traders. During the period 1.4.90 to 31.8.90, 881 inspections have been carried out and in 88 cases incriminating documents have been surrendered. In more than 100 cases, recommendations have been made to Ward STOs to initiate cancellation proceedings where *prima-facie* dealers are felt to be non-functional.

The estimated suppression detected in terms of turnover is more than 100 crores. In the entire previous financial year, in 55 cases incriminating documents had been surrendered involving suppression of about 8 crores in terms of turnover.

[Min. of Home Affairs O.M. No. 15030/2/89-Bgt.-II, dated 19.10.90]

CHAPTER V

RECOMMENDATIONS AND OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

Recommendation

The proposal for giving financial incentive to the Assessing Authorities on the basis of increased output will definitely help in clearing the arrears of assessment cases, but at the same time it may lead to certain problems affecting the revenue. The incentive of 1/4th and 1/3rd of the emoluments for Assessing Authorities showing monthly output of 150 and 175 cases, respectively, is so attractive and alluring that the Assessing Authority might be swayed to show more and more output to get more and more financial benefits. In doing so, there is every possibility of incorrect assessment being done on account of omission of certain important aspects of commission of certain mistakes leading to loss of revenue or even unnecessary litigation. In effect, the emphasis will be more on quantity and quality aspect would be given the backseat. The Committee, therefore, desire the Ministry of Home Affairs and the Delhi Administration to re-examine the proposal in the light of apprehensions expressed by the Committee, before its implementation.

[S.No. 4, Appendix VII, Para 34 of 161st Report of PAC (8th Lok Sabha)]

Action taken by Government

Having regard to the observations of PAC and with the sanction of additional staff, the entire incentive scheme shall be recast if at all necessary.

Observation of the Audit

The language of the reply shows that Ministry/Department themselves are not sure of the efficacy of their incentive scheme, which may yield quantity rather than quality. This needs to be amplified.

Action taken in December, 1989

Keeping in view the observations of the Committee that increased emphasis on number of units will compromise the quality of assessment to be framed, the Department has recasted the incentive scheme and has restricted it to the field of recovery of outstanding dues. The same is under the Government's consideration.

Action taken in February, 1990

The recasted scheme is still under consideration.

Observation of the Audit

The reply shows overall reversal of Ministry's earlier instance taken before the P.A.C. both during oral/written evidence. How far the Incentive scheme was operated and what results were obtained from the incentive scheme? How far authorities would produce results in the absence of incentive scheme/staff augmentation?

Action taken in April, 1990

The recasted scheme is still under consideration.

Observation of Audit

Latest position may please be incorporated. The reply is also silent on audit's last observation.

Action taken in September, 1990

It was felt that increased number of assessments if covered in incentive scheme shall compromise the quality. No incentive scheme was therefore operated upon and thus no question of results. However the scheme which was recast for recovery is still under consideration.

[Ministry of Home Affairs OM No. 15030./2/89-Bgt-II, dated 19-10-90]

Recommendation

ST-1 form is a declaration form issued by the purchasing dealer as proof that he is registered with the Department and the purchases made by him are specified in his registration certificate. A test check by Audit of certain returns filed by dealers disclosed serious mistakes having been committed by the Assessing Authorities in 12 cases during their scrutiny, by accepting false/fake/interpolated declarations without any check leading to loss of revenue to the extent of lakhs of Rupees. Non-detection of false/fake/interpolated figures in these declarations has been attributed to the heavy work-load incapacitating the staff in cross-verifying the declarations of corresponding purchasing dealers of some other Wards, which the Committee do not consider sufficient justification for their failures. It only proves that the Department has not profited from their experience. No attempt seems to have been made to evolve some device to ensure that the ST-1 form which is one of the most important documents, is not allowed to be misused or interpolated. What is more surprising is the fact that none of these cases was detected by the internal Audit. The Committee, however find that in 1987 instructions were issued to Assessing Authorities asking them to make 100% cross-verification in cases where exemptions claimed by

a dealer exceeded the sale of amount of Rs. one lakh. But considering the work load of the Assessing staff stated to be heavy and the ST-1 forms are submitted at the time of assessment, the Committee have doubts if the Assessing Authorities would be able to find time to cross-verify the sales/purchases effected in other wards. In the circumstances, the Committee recommend that a study be conducted as to the reasons why false/fake/interpolated declaration forms could not be detected by the Assessing Authorities and whether any changes in the ST-I form itself are necessary to eliminate the scope of the malpractices being indulged into by the wilful tax evaders.

[S. No. 8, Appendix VII, Para 49 of 161st Report of PAC (8th Lok Sabha)]

Action taken

In this regard too, the Department has requested the Administrative Reforms Department of the Delhi Administration to conduct a study as to the reasons why false/fake/interpolated declaration forms could not be detected by the Assessing Authorities and that whether any changes in the ST-1 forms itself are necessary to eliminate the scope of malpractices being indulged in by the wilful tax evaders.

Observations of the Audit

It may be intimated whether the Administrative Reforms Deptt. has sufficient expertise to unearth the malpractices for false/fake/interpolated declaration forms and assuredly suggest a change in the declaration form which again may not be available by fake printing. Please elaborate.

Action taken in December, 1989

The Administrative Reforms Department of Delhi Administration has sufficient expertise to unearth the malpractices for false/fake/interpolated declaration forms and would be in a position to suggest some changes in the declaration forms which may not be available by false printing.

Action taken in February, 1990

The report of the Administrative Reforms Department is still awaited.

Observations of the Audit

The changes contemplated in declaration forms consequent to suggestion of Administrative Reforms Department may be intimated when undertaken.

Action taken in April, 1990

The report of the Administrative Reforms Department is still awaited.

Observation of Audit

The Report of the Administrative Reforms Department on this subject when available may be furnished alongwith the revised Action Taken Note.

Action taken in September, 1990

The Report of the Administrative Reforms Department is still awaited. [Ministry of Home Affairs OM No. 15030/2/89-Bgt. II, dated 19-10-90]

Recommendation

During evidence, the Committee were informed that it was not a statutory requirement to submit ST-I forms alongwith the return but it was required to be submitted upto the time of assessment. Rule 7(2) of the Delhi Sales Tax Rules, 1975 provides that the declaration in form ST-I shall be furnished by the selling dealer to the appropriate assessing authority upto the time of assessment by it. Presently, the period for making assessment under the law is four years. As such, the assessee can hold back from the Assessing Authorities important documents for a period upto four years and submit the same at the fag. end of the prescribed period. This leaves sufficient room for the unscrupulous assessees to indulge in malpractices of the kind reported in the Audit paragraphs. The Committee recommend that relevant provisions should be so amended as to make it obligatory on the part of the assessees to submit all the requisite supporting documents while filing returns and not upto the time of assessment as at present. The Committee trust that appropriate legislative measures would be taken in this direction with due expedition.

[S. No. 10, Appendix VII, Para 51 of 16 Ist Report of PAC (8th Lok Sabha)]

Action taken

The recommendation/suggestion of the Committee in this regard is under examination of the Sales Tax Department and final decision is likely to take some time.

Observations of the Audit

Final replies will be awaited

Action taken in December, 1989

It is felt that a decision on this should be kept pending till the Department is able to clear all pending assessments and reach a stage when assessments of the dealers are completed on year to year basis so that the problem of dealing with such a voluminous record/documents is not faced at this juncture.

Action taken in February, 1990

Inspite of the best efforts, the Department has not yet been able to clear the arrears of assessment cases and has not yet reached the stage when assesment of the dealer are completed on year to year basis. Hence it is felt that the decision on this issue may be kept pending at this juncture.

Observation of the Audit

Latest position may please be incorporated in the revised ATN.

Action taken in April, 1990

As in para. 32.

Observation of Audit

Table reveals that the pace of clearance of pending cases is very slow. What factors are attributable for this slow progress? Please elucidate.

Action taken

As in para. 32.

[Min. of Home Affairs OM No. 15030/2/89-Bgt.-II, dated 19.10.90]

Recommendation

The problem of cross-verification does not appear to be as insurmountable as claimed by the Ministry. It could very well have been overcome by requiring the dealer to furnish ST-2 form or its zerox copy in support of the facts mentioned in his return. The Committee recommend that furnishing of ST-2 account on the financial year basis alongwith the last quarterly return of the relevant year be made obligatory on the part of the registered dealers through suitable legislative measure.

[S. No. 12, Appendix VII, Para 53 of 161st report of PAC (8th Lok Sabha)]

Action taken

As this recommendation of the Committee involves a policy decision, the matter is under consideration of the Department.

Observations of the Audit

Final replies will be awaited.

Action taken in December, 1989

The matter is under consideration and decision will be communicated shortly.

Action taken in February, 1990

Inter-ward cross-verification of sales and purchases involving such a huge number of dealers/transactions may not be feasible so long as this work is done manually. In the computerisation programme, therefore, presently under way necessary soft-ware is being developed to facilitate this. It is, therefore felt that the question of prescribing the furnishing of ST-2 account

with the return of the fourth quarter be kept pending till the computerisation programme has been functional.

Observation of Audit

Latest position may please be incorporated in the revised ATN.

Action taken in April, 1990

No change in the positions explained in ATN of February, 1990.

Observation of Audit

Latest position may please be incorporated.

Action taken

No change in the position explained in Action Taken Notes of April, 1990.

[Min. of Home Affairs OM No. 15030/2/89-Bgt.-II dated 19.10.90]

Recommendation

The Committee are informed that the cross-verification of sales and purchases would be made easy through computerisation of the system and the National Information Centre is at the stage of developing the software. The Committee would like to be apprised of the latest position in this regard.

[S. No. 13, Appendix VII, Para 54 of 161st Report of PAC (8th Lok Sabha)]

Action taken

Computerisation is being introduced on a Pilot Project basis in one time comprising of 4 Wards. Orders for the necessary hardware have been placed and the supply is likely to be received very soon. Initially return processing application of the computer is to be implemented on Pilot Project basis after which it will be extended to all the zones. The cross-verification of ST-2 account shall be taken up after evaluating the performance of the Pilot Project.

Observations of the Audit

Governments assurance as contained in their Action Taken note printed as para 1.11 of the P.A.C.'s 15th Report (8th Lok Sabha) while complying with PAC's 227th Report (7th L.S.) containing discussion on para 3.04 of C&AG's Report on indirect taxes 1981—82 proved false as they had stated that with the installation of Electronic Data processing Cell, cross check of claims of exemptions based on ST-1 forms would be possible but the results show that the Department has not progressed a little bit towards this direction since the setting up of E.D.P. Cell in 1982. What the Government has to say in this direction? Will the introduction of computerisation on a Pilot Project basis meet the same fate? What has been the progress so far in this direction? Please elucidate.

Action taken in December, 1989

The computer hardware of the required configuration has been installed in Zone V comprising Wards No. 33 to 36. The software for the following two applications has also been developed:—

- (i) Applications handling system (Registration & its amendments thereof)
- (ii) Returns handling system.

Preliminary demonstration is proposed to be held in December, 1989 itself and finalised. It is expected that the pilot project will thereafter commence in Zone V. It has been decided that the on-line experience gained with the implementation of the above mentioned two application will facilitate the development of the assessment scheduling system of which dealer to dealer cross-verification of exemption-claims would form an integral part.

Action taken in February, 1990

The preliminary demonstration has been finalised and the pilot project has been started in Zone V. The experience gained on the pilot project would facilitate the development of the assessment scheduling system of which the dealer to dealer cross-verification of exemption claims would form an integral part.

Observation of Audit

Results yielded especially in the cross-verification of Forms ST-1 and ST-2 after the introduction of computerisation on Pilot Project basis may please be incorporated in the revised A.T.N.

Action taken in April, 1990

No change in the comments earlier given.

Observation of Audit

It may be stated as to whether the computerisation on pilot project has been introduced, if so the name of Zones in which the same has been introduced and the result achieved may be incorporated.

Action taken

Pilot run has been implemented in Zone-V covering wards 33—36. The N I C (Nation Informatic Centre) who are consultant to the Deptt. has still not made appraisal of the pilot run.

[Min. of Home Affairs, OM No. 15030 / 2 / 89-Bgt. II, dated 19-10-90]

Recommendation

Keeping in view the prevalent rate of interest on loans in the market, the Committee find that the rate of interest (i.e., one per cent or one and half per cent) leviable on the defaulters under section 27 of the Delhi Sales Tax Act, 1975 is too low to motivate the assessees to deposit the tax due in time. The Committee recommend that the matter be examined and a rate of interest prescribed which would have enough deterrent effect on the assessee not to willfully withhold Govt. dues for long period.

[S. No. 17, Appendix VII, Para 60 of 161st Report of PAC (8th Lok Sabha)]

Action taken

As it involved a policy decision, the matter is under consideration of the Administration.

Observations of the Audit

Replies will be awaited.

Action taken in December, 1989

The matter is still under consideration and the decision will be communicated in due course.

Action taken in February, 1990

The matter is still under consideration and the decision will be communicated in due course.

Observation of Audit

Final policy decision if arrived at may please be incorporated.

Action taken in April, 1990

The matter is still under consideration and the decision will be communicated in due course.

Observation of Audit

Final policy decision may please be incorporated.

Action taken in September, 1990

The matter is still under consideration and the decision will be communicated in due course.

[Min. of Home Affairs, O.M. No. 15030 / 2 / 89-Bgt. II, dated 19-10-90]

Recommendation

The Committee are not happy with the progress of cases filed with the Police in as much as out of 360 cases registered with Police during the years 1985-86 to 1987-88, challans have been filed only in 106 cases and investigations are under way in 254 cases. None of the cases filed in the courts has yet been decided. Surprisingly, the Ministry are not even aware

of the position of cases at present under investigation with the Police. The Committee need hardly point at the close liaison with the police is all the more necessary for expeditious investigation of cases. As regards the cases filed in courts, the Committee desire the Ministry to take up the matter with the High Court to set up special courts to deal with such cases which will not only prevent revenue from being locked up for long period but shall itself have a deterrent effect on those assessing who are now taking advantage of court proceedings which acts as a time buffer between their tax evasion and the punishment which law requires them to suffer, if caught.

[S. No. 22, Appendix VII, Para 73 of 161st Report of PAC (8th Lok Sabha)]

Action taken

The recommendation of the Committee in this regard has been taken note of and the matter is being taken up at the appropriate level.

Observations of the Audit

The results of taking up of this matter at appropriate level as mentioned in the A.T.N. will, however, be awaited.

Action taken in December, 1989

The matter is still under consideration. The progress in this regard will be communicated in due course.

Action taken in February, 1990

The matter is under active consideration.

Observation of Audit

Final reply is awaited.

Action taken in April, 1990

As suggested by the Committee the matter was taken up with the High Court and in the last meeting with the District Session Judge he was agreed to ear-mark one court for trial of such cases. Regarding close liaison with the Police department, the Sales Tax Department has already designated one officer of the rank of Dy. Commissioner, who is also looking after the Enforcement Wing of the Sales Tax department. By this arrangement it is hoped that investigation shall be expedited by the Police Department.

Observation of Audit

Has the Court earmarked for trial started functioning? If so, the results yielded may be incorporated?

Action taken in September, 1990

No further progress made and is in active pursuasion of the Deptt. and results shall be communicated in due course.

[Min. of Home Affairs, O.M. No. 15030 / 2 / 89-Bgt. II, dated 19-10-90]

NEW DELHI;

23 March, 1992

3 Chaitra, 1914(S)

ATAL BIHARI VAJPAYEE

Chairman,

Public Accounts Committee.

APPENDIX I

RECOMMENDATIONS MADE BY THE ADMINISTRATIVE REFORMS COMMISSION DELHI ADMINISTRATION ON REVIEW OF WORKING OF APPELLATE AUTHORITIES IN THE SALES TAX DEPARTMENT, DELHI ADMINISTRATION

X. Conclusions / Recommendations

10.1 The forgoing analysis indicates that there is inordinate delay in disposal of appeals while the revenue involved in such cases is substantial; the pendency position is mounting; there is lack of monitoring and control, the majority of cases get remanded leading to further delays; the number of hearing fixed even in remand cases are quite high; there is no hard and fast rule in granting stay orders which provides ample discretion to the Appellate Authority. Apart from these, there is problem or delay in delegation of powers to A.Cs and non-filling up of vacancies in time which adds to the accumulation of backlog.

10.2 In order to overcome these problems, the following recommendations are made:

- (i) The department may be sanctioned one post each of Deputy Commissioner and Asstt. Commissioner for clearance of arrears for a period of 4 years and position reviewed periodically.
- (ii) Regular monitoring of pending cases *viz-a-viz* output of each appellate authority may be done at Commissioner level and the performance of Appellate Authority should be linked with their ACR.
- (iii) The appellate authorities may be directed to give precedence to old cases *viz-a-viz* those involving higher amount of taxation.
- (iv) The department should maintain proper record of revenue involved in appeal cases and monitor the progress.
- (v) It may be impressed upon the appellate authorities that they should decide the cases expeditiously rather than remanding them. A system of summary disposal may be adopted and the dealers may be required to produce all their records in one go. The appellate authorities who are in the habit of remanding cases should be persuaded to shun this practice. Infact as a matter of policy no case should be remanded as it only increased the pendency.
- (vi) There is need for curtailing delays and number of hearings per case, specially in those cases which are to be remanded. The appellate authorities may make up their mind in the first 2-3 hearings and remand the case, if required, instead of lingering it on for indefinite periods. All forms, registers etc. that would be required at the time of hearing should be informed in

advance. No adjournment should normally be given on this account.

- (vii) Orders in appeal cases are normally not self-speaking, in quite a number of cases. At times, cases are kept pending for months together to dictate judgement which is not a healthy practice. This not only leads to unnecessary prolonging of cases but causes harassment to the dealers. It should be avoided.
- (viii) Regular review of pending cases should be done to rationalise the workload amongst the various appellate authorities. Such a review should also be done in respect of cases remanded to the ward officers.
- (ix) At present there is no statutory provision for disposal of appeal cases with the result that in 33% cases it is taking more than eight years for disposal. In order to discourage this tendency it is recommended that norms may be fixed administratively to ensure quicker disposal of old cases and responsibility fixed for delays.
- (x) The Tribunal may be strengthened and it may comprise of two Members, one of whom would be Chairman.
- (xi) The supporting staff of Tribunal may be posted on deputation basis so that persons may be selected on merit basis and Registrar provided financial powers of Head of Office with some budgetary provisions.
- (xii) The powers for hearing appeals / disposal should be delegated to Appellate Authorities at the earliest and if need be this work may be handled by the Sales Tax Department on single file system to reduce time lag in re-examination by Finance Department.
- (xiii) The vacancies in the Sales Tax Department should be filled up immediately to avoid delays in disposal of work and trained and skilled staff sent.
- (xiv) In order to avoid discretion in granting stay orders it is suggested that it should be made mandatory to deposit 10 to 15% of the amount appealed.
- (xv) The present practice of obtaining documents in duplicate should be dispensed with (barring Tribunal cases) as the second copy is not at all being used and it is leading to record management problem and wastage of manpower and stationery. This would help reduce paper burden by 50%.
- (xvi) Regular weeding out of records should also be done.
- (xvii) The R&D Wing is getting lot of information from the wards which is not being compiled in totality, with the result that the

department though labouring in compilation of date at ward level is not able to feed the same to higher officers.

- (xviii) The Appellate Authorities grant stays for specific period but these continue to hold good for indefinite periods which is in contravention of the rules. This practice needs to be stopped.
- (xix) The dealer/Sales Tax Practitioners are made to come at 10 A.M. in the morning and they have to wait unnecessarily. It is suggested that the cases should suitably be staggered to avoid waiting time and consequent harassment.
- (xx) It is essential that reforms come from within. The department should try to introduce quality circles and or more often brain storming sessions should be held at various level to find out solutions to one or two pointed questions.

APPENDIX II

Statement of Observations and recommendations

Sl. No.	Para No.	Ministry/ Deptt. concerned	Observations & Recommendations
1	2	3	4
1.	1.3	Home Affairs	The Committee hope that final replies in respect of recommendations in respect of which Government have furnished interim replies will be furnished to them after getting the same vetted by Audit.
2.	1.8	-do-	The Committee note that the modified Summary Assessment Scheme introduced in July, 1990 would be applicable to the Registered dealers who return a turnover of Rs. 6 lakhs or less. The Committee hope that with the introduction of the new modified scheme coupled with its faithful implementation, the assessment work would be considerably reduced enabling the Assessing Authorities to devote more attention to the high value cases. The Committee would, however, like the Ministry of Home Affairs to periodically review the scheme with a view to plugging the loopholes, if any, noticed therein in the interest of revenue.
3.	1.12	-do-	With a view to improving not only the efficacy of the Department of Sales Tax but also for increasing revenues to the exchequer the Committee in their Original Report laid special emphasis on augmentation of staff strength and reducing the time limit for assessment of cases from four years to two years. However, keeping in view the heavy pendency of assessment cases, the Committee desired that the

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backlog be first cleared under a time bound Action Plan and thereafter the limitation period of two years be made applicable.

1.13

Home
Affairs

According to Action Taken Notes furnished by the Ministry of Home Affairs although an Action Plan to wipe out the pending arrears has been formulated, the Department has expressed its inability to lay down any precise time limit for clearing huge arrears of assessment cases which is stated to be linked with the availability of Assessing Authorities. The slow pace of clearance of pending cases in the past has also been attributed to paucity of Assessing Authorities. The Committee, however, note that full complement of Assessing Authorities has since been deployed in the Department. The Department is thus left with no excuses but to cope with the mounting arrears effectively and vigorously. The Committee recommend that a firm time schedule should now be laid down for wiping out arrears so as to prepare the ground for initiating legislative measures to reduce the limitation period from four years to two years as already recommended. The Committee would like to be apprised of the action taken in this direction.

5.

1.17

-do-

The Committee would like to be apprised of the precise action taken on each of the recommendations contained in the Report of the Administrative Reforms Department of Delhi Administration on Review of Working of Appellate Authorities in Sales Tax Department. The results of the examination of the question regarding setting up of special courts for disposal of appeal cases should also be made known to the Committee.

1	2	3	4
6.	1.20	Home Affairs	<p>The Committee note that in regard to the computerisation of the system in the Sales Tax Department preliminary demonstration has been held and pilot project commenced in Zone V. The Committee desire that urgent steps be taken to make a thorough appraisal of the pilot project so that the entire system is computerised as early as possible to facilitate the cross-verification of the ST-2 forms of the dealers.</p>
7.	1.23	-do-	<p>Observing the extent of evasion that had taken place in regard to Sales Tax in a number of cases in the past, the Committee in their Original Report favoured stricter watch over the activities of the wilful tax evaders by arming the Sales Tax Authorities with powers to inspect the inventories of the dealers' stocks from time to time subject to a condition that these powers were not used indiscriminately to harass the honest tax payers. According to the action taken note furnished by the Ministry of Home Affairs, provision for inspection of inventories exist in Section 41 of the Delhi Sales Tax Act and these are used whenever necessary. The Committee would like to be apprised of the number of cases in which recourse to these provisions was made during the last 2 years and the outcome thereof.</p>
8.	1.27	-do-	<p>It has been noticed from the action taken note that the Enforcement Branch was able to detect suppression of turnover of more than Rs. 100 crores during the period from 1.4.90 to 31.8.90 in about 88 cases out of 881 inspections. Similarly, in the previous financial year, 55 cases were detected involving suppression of about Rs. 8 crores in terms of turnover. It is, thus, apparent that there is a large scale evasion of sales tax by the dealers by</p>

1**2****3****4**

maintaining bogus books of accounts either by not issuing the cash memo at all or by issuing the duplicate cash memo. While this indicates that the Enforcement Branch should be strengthened to detect all such cases, the need for evolving a system by which the menace of keeping duplicate set of cash memos/books by the dealers can be eliminated, cannot be under-estimated. The Committee hope that suitable steps to evolve a system in this direction would be taken by the Department.

PART II

MINUTES OF THE SITTING OF PAC HELD ON 17 MARCH, 1992.

The Committee sat from 1600 hrs. to 1700 hrs. on 17 March, 1992.

PRESENT

CHAIRMAN

Shri Atal Bihari Vajpayee

MEMBERS

2. Shri Girdhari Lal Bhargava
3. Shri Arvind Netam
4. Shri R. Surender Reddy
5. Shri Pratap Singh
6. Prof. (Dr.) S.P. Yadav
7. Shri Dipen Ghosh
8. Shri Vishvjit P. Singh
9. Shri Ish Dutt Yadav

LOK SABHA SECRETARIAT

1. Shri S.C. Gupta — *Joint Secretary*
2. Smt. Ganga Murthy — *Deputy Secretary*
3. Shri K.C. Shekhar — *Under Secretary*

REPRESENTATIVES OF AUDIT

1. Shri N. Sivasubramanian — Addl. Dy. C&AG (Reports)
2. Shri A.K. Banerjee — Pr. Director Reports (Central)
3. Shri S.C. Anand — Dr. General of Audit (P&T)
4. Shri P.K. Lahiri — Pr. Director (Direct Taxes)
5. Shri P.K. Bandopadhyay — Pr. Director (Indirect Taxes)
6. Shri Dharendra Swarup — Pr. DACR (II)
7. Shri K. Krishnan — Director (Direct Taxes)-I
8. Shri Kulvinder Singh — Director (Direct Taxes)-II
9. Shri K.C. Gupta — Dy. Director
10. Shri Birendra Kumar — Dy. Director (P&T)
11. Shri R. Parthasarthy — Director (Railways)

2. The Committee took up consideration of the following draft Reports:

Draft Report on the recommendations contained in the 161st Report of PAC (8th Lok Sabha) regarding Sales Tax (Delhi Administration).

3. The Committee adopted the draft Report without any modification.

4. The Committee authorised the Chairman to present the Reports to the House after incorporating therein modifications/amendments arising out of factual verification by Audit.

The Committee then adjourned.