P.A.C. No. 258

PUBLIC ACCOUNTS COMMITTEE (1969-70)

(FOURTH LOK SABHA)

HUNDREDTH REPORT

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 73rd Report (Fourth Lok Sabha) relating to Direct Taxes.]

LOK SABHA SECRETARIAT
NEW DELHI
January, 1970/Magha, 1891 (Saka)
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(1969-70)

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INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundredth Report on the Action Taken by Government on the recommendations of the Public Accounts Committee contained in their Seventy-third Report (Fourth Lok Sabha) relating to Direct Taxes.

2. On the 7th June, 1969, an "Action Taken" Sub-Committee was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with the following Members:

1. Shri N. R. M. Swamy—Convener.
2. Shri H. N. Mukerjee
3. Shri K. M. Koushik
4. Shri Tayappa Hari Sonavane
5. Prof. Shanti Kothari
6. Shrimati Sushila Rohatgi

} Members

3. The draft Report was considered and adopted b the Sub-Committee at their sitting held on the 27th December, 1969 and finally adopted by the Public Accounts Committee on the 22nd January, 1970.

4. For facility of reference the main conclusions|recommendations of the Committee have been printed in thick type in the body of the Report. A statement showing the summary of the main recommendations|observations of the Committee is appended to the Report (Appendix).

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

ATAL BIHARI VAJPAYEE,
Chairman,
Public Accounts Committee.

NEW DELHI;
January 24, 1970/*Magha* 4, 1891 (*S*).

CHAPTER I

The Report of the Committee deals with action taken by Government on the recommendations of the Public Accounts Committee contained in their Seventy-third Report (Fourth Lok Sabha) on Direct Taxes, which was presented to Lok Sabha on the 30th April, 1969.

1.2. Action taken notes on all the 80 recommendations contained in the Report have been received. These have been categorised under the following heads:

(i) *Recommendations|Observations that have been accepted by Government*:

S. Nos. 1-2, 3, 4, 5-6, 7, 10, 11, 18, 20, 21-22, 25-26, 28-29, 31, 32, 34-35, 37, 39, 42, 45-46, 47, 48, 50, 51, 52, 53, 54, 56, 57, 59, 62-63, 64-65, 67, 68, 69, 70, 71-72, 73, 74, 76, 77 and 80.

(ii) *Recommendations|observations which the Committee do not desire to pursue in view of the replies of Government*:

S. No. 78.

(iii) *Recommendations|observations replies to which have not been accepted by the Committee and which require reiterations*:

S. No. 8, 33, 55, 58.

(iv) *Recommendations|observations in respect of which Government have furnished interim replies*:

S. Nos. 9, 12-13, 14, 15—17, 19, 23, 24, 27, 30, 36, 38, 40-41, 43, 44, 49, 60, 61, 66, 75 and 79.

1.3. While the Committee are happy that Government have furnished replies to all their observations|recommendations in the Seventy-Third Report (Fourth Lok Sabha) they would like to point out that most of the replies were sent by Government within a short period after the prescribed limit of six months for submission of replies had elapsed. The bunching of the notes sent by Government made it difficult for the Committee to obtain the views of Audit in regard to a number of points arising out of the replies. The Com-

mittee would like Government to ensure that replies to their observations are sent well within six months, so that they could be vetted by Audit before being considered by the Committee.

1.4. The Committee will now deal with action-taken notes on some of the recommendations.

Problem of pending assessments: Need for programming of work—paras 1.21 *and* 1.29 *(S. Nos.* 3 *and* 4).

1.5. In para 1.19 of their Seventy-third Report (Fourth Lok Sabha) the Public Accounts Committee had drawn attention to the increase in the number of assessees with the Income Tax Department. Pointing out the need to rationalise the procedures for assessment and fix priorities for disposal of cases, the Committee made *inter alia* the following observations:

> "1.21 (i) There would not be "much justification", as conceded by the representative of the Ministry of Finance," for continuing with the assessment of small incomes if one finds that the taxation of this group results in minus revenue." Government should therefore arrange for reliable data being collected about the cost of collection in respect of various income brackets *vis-a-vis* revenue realised. This would help to determine which of the present categories of tax-payers should continue to be borne on the tax register and how assessment procedures should be simplified, if the taxation of these categories is not to become a drag on Government revenues."

> "1.29. The Committee note that the number of pending Income-tax assessments as at the end of 1967-68 was 23.30 lakhs, or nearly double the number of pending assessments as at the end of 1963-64. Earlier in the Report, the Committee have drawn attention to the need for the rationalisation of procedures relating to assessments and for a proper scheme of priorities for the disposal of cases, so that the time now devoted to the assessment of small income cases, from which the Exchequer gets very little gain, could be profitably diverted to the examination of business cases which are likely to yield substantial revenue. The data about pendency of assessments involving business income

of over Rs. 25,000 given in this Report would show that the number of pending cases in this category has been going up. The Committee would like this tendency to be arrested through proper programming of the work of assessing officers....".

1.6. In their reply dated 6th November, 1969, the Ministry of Finance have stated as follows:

"The cost of collection relating to the small income cases was estimated by the Working Group of Administrative Reforms Commission on the basis of a dead average, assuming that the time and resources devoted to each case would be just the same, irrespective of the complications which may be involved in the higher income group cases. The Public Accounts Committee were not satisfied with its approach and directed the Government to arrange for reliable data being collected about the cost of collection in respect of various income brackets *vis-a-vis* the revenue realised. Since most of the Income Tax Officers handle cases falling in different income brackets, the Government has not found it possible to separate the cost of collection precisely for each income bracket. What they have done is to proceed on a weighted-average basis, taking one Cat. I case to be equal to 20 Cat. V cases, a Cat. II case as 5 Cat. V cases and so on. On this basis they have found the cost of collection for the different income brackets to be as follows:

Category	Cost of collection for the different Categories		
	1966-67	1967-68	1968-69
I	335	339·80	295·60
II	83·80	84·95	73·90
III	41·90	42·48	36·95
IV	22·35	22·65	19·71
V	16·76	16·99	14·78

The revenue realised from each income bracket cannot be determined with any amount of accuracy, because the statistics are not maintained on this basis. Even the Working Group of the Administrative Reforms Commission had to resort to an estimate in this respect. However, it is clear that the cost of collection for lower income cases (those in Categories III. IV and V) would be only about half of the yield estimated from such cases by the Working Group. Hence it would perhaps not be necessary to eliminate any of the existing category of assessees simply on the score of excessive cost of collection."

1.7. Audit have made the following observation on the weighted-average adopted by the Ministry of Finance for estimating the cost of collection:

"The Ministry have adopted a weighted-average for the disposal of five categories of assessment cases. The basis for this weighted-average is also not clear to Audit. In Ministry's reply it is stated for example that one Category I case is equal to 20 category V cases. This basis also may not give an approximately accurate picture. As an instance an assessment involving computation of large income of loss, though it would be categorised in Category V would nevertheless take more time than an ordinary Category I case in several cases. Conversely a simple company case with more than Rs. 25,000 total income which will take only a few minutes will appear as Category I".

1.8. Regarding the programming of assessment work, the Ministry of Finance have stated *inter-alia* in a note dated 3rd November, 1969 as follows:

"Regarding the pendency of business cases with income of Rs. 25,000 and over, a comparative chart of disposal of Category I cases is annexed. It will show that the disposal of the cases coming under this category during 1968-69 was 28 per cent more than in 1967-68. Even so, the overall pendency has risen due to the addition of new Category

I cases. Efforts are being made to accelerate the clearance of the pending cases involving substantial revenue."

Statement showing Category-wise Disposal and Pendency

Category of cases	Pendency as on 31-3-68	Disposal during 1967-68	1698-69	Pendency as on 31-3-69 (adjusted up (to 31-7-1969)
(1)	(2)	(3)	(4)	(5)
I	1,64,810	1,52,679	1,95,268 [+28% in relation to figures given in Column (3)]	1,94,454 [+18% in relation to figures given in Column (2)]
II	1,62,367	1,29,791	1,75,242	1,64,232
III	3,96,989	3,02,403	4,33,313	3,27,979
IV	12,38,003	13,65,258	18,29,841	7,94,085
V	3,67,481	6,06,423	7,87,618	2,65,589
TOTAL	23,29,650	25,56,554	34,21,282	17,46,339

1.9. In a further note dated 22nd December, 1969, the Ministry of Finance have stated:

"(i) At present, the Income-tax Department classifies assessees according to the following Categories, which broadly follow some income ranges:—

Category I Business cases with income above Rs. 25,000.

Category II Business cases having income between Rs. 15,001 and Rs. 25,000.

Category III Business cases with income between Rs. 7,501 and Rs. 15,000.

Category IV — Business cases with income below Rs. 7,500, non-Government Salary cases above Rs. 18,000 and all cases of refunds under Section 237.

Category V — Government salary cases and non-Government salary cases upto Rs. 18,000 and other assessees.

The yield from each Category can be ascertained accurately, but the cost of collection etc. relating to each such Category will have to be a matter of estimate, because all the expenses are mixed up.

(ii) The category of cases was fixed in 1946 by the then Director of Inspection (Income-tax) on the basis of the experience of the Income-tax Department. Thereafter the then Member Income-tax Reorganisation also made a time and motion study, which did not suggest any change of the standards already adopted.

(iii) A break-up of the number of assessees of each of the five categories, along with the average expenditure per case falling in such categories, has already been furnished by the Ministry in reply to para 1.21 of the P.A.C.'s 73rd Report.

It will be extremely difficult to isolate the assessees of the income ranges indicated by the P.A.C. So, the Ministry is giving below the number of Income-tax cases in the income range of Rs. 5,000 to Rs. 10,000 assessed during the last three years and the approximate revenue realised therefrom, as furnished to the Rajya Sabha on 9th December, 1969 in reply to Unstarred Question No. 1209:

Year	No. of Income-tax cases assessed	Demand raised (In crores of Rs.)
1963-64	4,55,592	9·54
1964-65	5,37,604	13·19
1966-67	7,34,786	20·23

The average expenditure per Category IV case during the financial year 1966-67 was Rs. 22.35 and that on Category III case Rs. 41.90. On this basis, it will perhaps be very fair to estimate the average expenditure per case in the income group of Rs. 5,000 to Rs. 10,000 at Rs. 30. Accordingly the cost of collection on 7,34,786 cases of this category assessed during 1966-67 would come to Rs. 2.20 crores."

1.10. The Committee are not satisfied with the basis adopted by Government for determination of the cost of collection of tax in the various income brackets. A rough and ready assumption has been made about the time required for the completion of assessment of cases falling under different categories. As pointed out by Audit, this assumption may not be borne out by the realities of experience. The Committee desire that the Department should conduct pilot time and motion studies in selected ranges to arrive at the approximate time taken in disposal of each category of cases. The proposed study should also cover the revenue yield from the various slabs of incomes in each category.

1.11. The matter is of something more than academic interest in view of the considerations pointed out by the Committee in their Seventy-Third Report (Fourth Lok Sabha). A reference to the data given in para 1.5 of that report would show that more than three fourths of the assessments in the Department relate to small income cases. It is therefore imperative to determine whether the time and money spent on examination of these cases is worthwhile, having regard to the revenue derived therefrom. A study of the kind suggested would also help Government to come to a considered conclusion on the question whether the present exemption limits are realistically fixed and whether both for reasons of economy and practical administrative convenience, a raising of the limit is called for.

1.12. The data furnished to the Committee also shows that the pendency in category I cases, which relate to the higher income brackets, had risen from 1.64 lakhs as on 31st March, 1968 to 1.94 lakhs as on 31st March, 1969. These are the cases with revenue potentiality which merit greater attention from the Department. The Committee hope that Government will draw up a suitable programme of priorities to ensure that income tax officers devote adequate time to the examination of cases involving larger revenue.

Pendency of assessments and Arrears in collection of Tax Demands of Super Profits tax|Sur-Tax—Paras 1.34—1.35 (*S. Nos.* 5 *and* 6).

1.13. The Committee dealt with the problems of arrears of assessments and tax-demands of Super Profits Tax|Sur-Tax in paragraphs 1.30—1.33 of the Report and made the following observations in paragraphs 1.34—1.35:

> "The Committee note that 516 Super Profits Tax and 3,438 Sur-Tax assessments were pending as on 31st March, 1968. The disposal of these cases is obviously linked with the disposal of the relevant income-tax assessments and the Committee would like concerted steps to be taken for their clearance. The Committee note that the Board expects all the pending Super Profits Tax and Sur-tax assessments to be cleared within the next twelve months, except for those which have to be kept pending for compelling reasons. They would like to watch the position in this regard."

> "From the information furnished by the Department, the Committee note that of demands aggregating Rs. 13.2 crores raised in 1,507 Super Profits Tax and Sur-tax cases finalised in 1967-68, a sum of Rs. 5.35 crores remains to be realised. The Committee would like to be informed of the progress made in the realisation of the balance due."

1.14. In their reply dated 25th November, 1969, the Ministry of Finance have stated as follows:

> "During the period 1st April, 1968 to 30th June, 1969, the pendency of Super Profits Tax assessments was reduced from 516 to 284 cases, but there was actually a slight increase in the number of Sur-tax cases due to the addition of new cases. The position regarding collection also is rather disappointing. In this context, the Ministry feel that it will not be possible to complete Super Profits Tax and Sur-tax assessments by the end of 1969.
>
> The Central Board of Direct Taxes have chalked out the following lines of action about the disposal of the pending SPT and Sur-tax cases, as also the collection against such assessments:
>
> (i) In each Commissioner's charge, where substantial number of SPT and Sur-tax assessments are pending, a Cell of Inspectors will have to be set up for drawing up draft computations in such cases, which are to be processed urgently by the respective Income-tax Officers.

(ii) A short refresher course for the Income-tax Officers, in charge of SPT and Sur-tax cases, as also the Inspectors of the special cells wherever created, will be shortly organised by the Director of Inspection (Income-tax & Audit).

(iii) The respective Range Inspecting Assistant Commissioners are to be made responsible for ensuring the phased disposal of assessments and collection in the SPT and Sur-tax cases; and

(iv) The I.T.Os. are to be asked not to extend freely the dates of payment of SPT and Sur-tax demands."

1.15. The following figures given in the Board's letter dated 21st November, 1969, addressed to the Commissioners of Income-Tax, indicate the position regarding pendency of assessments and arrears in collection of tax demands of Super Profits Tax|Sur-Tax as on 30th June, 1969 *vis-a-vis* 31st March, 1968;

	Pendency of Assessments		Demand in arrears (Crores of Rs.)	
	SPT	Sur-tax	SPT	Sur-tax
31·3 68	516	3,438	13·20	5·35
30·6·69	284	3,555	12·18	11·22

1.16. The Committee observe that the Board had indicated to the Committee in January, 1969 that all the pending Super Profits Tax/ Sur tax assessment cases would be cleared within the next twelve months except those which might have to be kept pending for compelling reasons. The Committee, however, find that the position is still far from satisfactory. While the number of pending Super Profits Tax assessments came down from 516 on 1st April, 1968 to 284 on 30th June, 1969, there was an increase in the pendency of Sur-tax assessments. As regards the arrears in collection of tax demands, even the Ministry have conceded that the position is "disappointing". As against a decrease of 7 per cent. in the Super Profits Tax arrears, the increase in Sur Tax arrears is nearly 110 per cent. The Committee feel that the Board will have to act with greater vigour for the expeditious clearance of arrears.

Pendency of Excess Profits Tax and Business Profits Tax Assessments—Para 1.41 (*S. No.* 7).

1.17. The Committee dealt with the problem of pendency of Excess Profits Tax and Business Profits Tax Assessments in paras 1.36—1.40 of the Report and made the following observation in para 1.41:

> "While the Committee recognise that some progress has been made in the clearance of pending Excess Profits and Business Profits Tax cases, they would like the Department to take steps to ensure that the remaining 71 cases are speedily cleared. According to the target fixed, these cases were to have been cleared by 1st February, 1969. The Committee would like to know whether this has been done."

1.18. In their reply dated 15th November, 1969, the Ministry of Finance have stated as follows:

> "The Ministry regrets that despite best efforts it has not been possible to clear the 71 EPT and BPT cases pending as on 31st July, 1968. The pendency as on 30th June, 1969 was as below:

E.P.T.	B.P.T.	Total
42	14	56

A senior Member of the Central Board of Direct Taxes is personally in touch with the concerned Commissioners about the progress of the pending cases.

The reasons for the pendency of the above mentioned assessments are summarised below:

(i) In some cases the Income-tax assessments originally made were set aside by appellate authorities and reassessment proceedings are still pending.

(ii) The old records are not easily traceable.

(iii) The E.P.T. assessments originally made were set aside by the Income-tax Appellate Tribunal and appeals to higher courts are pending, and

(iv) Some writs are pending against the Income-tax assessments which would form the basis of the E.P.T. assessments.

The difficulties involved in the pending cases are not such as may be solved by even 31st March, 1970. However, the Ministry is making all efforts to clear every case which can be possibly finalised."

1.19. In a further note dated 22nd December, 1969, the Ministry of Finance have stated:

"The position of pendency as on 30th September, 1969 is as under:

	No. of cases	Rupees in lakhs
Excess Profits Tax	52	13·34
Business Profits Tax	14	5·00

Seven Excess Profits Tax cases were added in the West Bengal charge in consequence of the re-opening of Income-tax cases."

1.20. The Committee note that though according to targets originally set, all the 71 pending Excess Profits and Business Profits Tax cases were to be cleared by 1st February, 1969, 56 of the 71 cases continue to be pending. Government have now indicated that the pending cases are not likely to be cleared even by 31st March, 1970, i.e. 14 months after the original target date fixed by the Board. The Committee would like Government to take steps for the clearance of these arrears by 31st December, 1970, at the latest.

Integrated Return for Income-Tax and Wealth Tax Assessments—para 1.50 (*S. No.* 8).

1.21. Pointing out the need to take concerted measures for the clearance of arrears of Wealth Tax assessments, the Committee *inter alia*, made the following observation in para 1.50 of the Report:

"There is need to link Wealth Tax assessment cases with the corresponding income-tax assessments so that 'the quality

of administration of income-tax' could be improved and it could be ensured that tax evasion is curbed. The Committee would, in this connection, like Government to examine the suggestion made by the Working Group of the Administrative Reforms Commission for an integrated return."

1.22. In their reply dated 7th November, 1969, the Ministry of Finance have stated:

"As regards the linking of Income-tax and Wealth-tax assessments, the Government have to state that even now the Income-tax Officers making the Wealth-tax assessments of an assessee invariably refer to his Income-tax assessments for the corresponding period. Besides, it is the practice to put the same I.T.O. in-charge of both the Income-tax and Wealth-tax assessments of the same assessee.

The suggestion of the Administrative Reforms Commission for evolving an intergrated return form for both the Income-tax and Wealth-tax cases is not considered by the Ministry to be quite practicable. The number of Wealth-tax assessees is only about 4 per cent. of the number of Income-tax assessees. An integrated Income-tax-*cum*-Wealth-tax return form would place an unnecessary burden on about 96 per cent of the assessees who are not liable to pay Wealth-tax. Besides, Section 14(2) of the Wealth-tax Act authorises the Wealth-tax Officer to call for a return of net wealth only if the former is of the opinion that the assessee would be assessable to Wealth-tax. When an assessee will obviously not be taxable under the Wealth tax Act, it would not be legally possible for the Wealth Tax Officer to obtain a return of Wealth-tax from him. The Ministry feels that the present system of calling for separate Wealth-tax returns may be allowed to continue."

1.23. In para 1.50 of their Seventy-Third Report (Fourth Lok Sabha) the Committee had suggested the institution of an integrated tax return covering both Wealth Tax and Income Tax so that the quality of tax administration could be improved. Government have stated that Wealth Tax assessees constitute only 4 per cent. of the number of income tax assessees and that an integrated return would place an unnecessary burden on the majority of the assessees. The Committee feel that the difficulty pointed out by

Government could be met if only those assessees who were liable to both Income-tax and Wealth Tax were required to submit an Integrated return. This would also meet the legal difficulty arising out of section 14(2) of the Wealth Tax Act which authorises a Wealth Tax Officer to call for a return of net wealth only if he is of the opinion that the party concerned would be assessable to Wealth Tax. The Committee would like Government to process their suggestion on these lines.

Tax on Income from property—paras 1.56 *and* 1.57 *(S. No.* 9 *and* 10).

1.24. In paras 1.54 and 1.55 of the Report, the Committee took note of the suggestions regarding determination of income from property made in the Final Report on Rationalisation and Simplification of Tax Structure and the Administrative Reforms Commission Working Group Report on Central Direct Taxes administration. They made the following observations in para 1.56 of their Report:

> "The Committee would like Government to examine how the existing system for determination of income from property can be streamlined and improved to ensure that properties are carefully and correctly assessed. In this connection, they would like to invite attention to the suggestion of the Administrative Reforms Commission for the amendment of the Income-tax Act to provide for determination of the annual value of house property on the basis of the annual rentals received or receivable or the municipal valuation, whichever is greater."

1.25. In their reply dated 11th November, 1969, the Ministry of Finance have stated as follows:

> "The Committee's observations are noted. The Administrative Reforms Commission's suggestion is under consideration of the Ministry."

1.26. In their Seventy-Third Report (Fourth Lok Sabha) the Committee had asked Government to examine how the existing system for determination of income from property could be streamlined and improved to ensure that properties are correctly valued. In this context the Committee had drawn attention to the suggestion of the Working Group of the Administrative Reforms Commission for determination of annual values on the basis of rentals or the municipal valuation, whichever is greater. The Committee desire that the examination should speedily be carried out and appropriate action initiated.

Tax on Income from property in Metropolitan cities—Para 1.57 (*S. No.* 103).

1.27. According to a statement furnished by Government the amount of tax on income from property realised in Delhi increased from Rs. 57.48 lakhs in 1962-63 to Rs. 60.62 lakhs in 1964-65. The Committee made the following observation on this in para 1.57 of the Report:

> "From the information furnished by Government, the Committee observe that the number of assessments relating to property income in Delhi has not shown a very perceptible rise over the period 1962-63 to 1964-65. It is well known that there has been a substantial increase in real estate investment in Delhi and other metropolitan cities in the last few years. The Committee would therefore like Government to review the position in all major cities to ensure that the owners of these properties have not escaped tax either on income channelised into these investments or on income accruing from the properties."

1.28. In their reply dated 15th November, 1969, the Ministry of Finance have stated as follows:

> "The P.A.C.'s recommendation, made in this paragraph, concerns house properties constructed in metropolitan areas since 1962-63. The review desired by them would have to be undertaken in all the major cities of India for investigation into the following points:
>
> (1) Whether the owners have declared the existence of these properties in their Income-tax or Wealth-tax returns?
>
> (2) Have the correct amounts of investment in these properties been declared?
>
> (3) Are the amounts invested in the properties fully explained by the declared resources of the owners? If not, the investments in excess of the known resources would have to be treated as the undeclared income of the concerned assessees?
>
> (4) Have the owners declared the correct income from the properties?

The investigations desired by the P.A.C. would be time-consuming, but the Ministry is certain that they will also be rewarding. The first step in this direction has been taken in the Delhi charge where the Commissioner of Income-tax put 15 Inspectors for taking out extracts regarding newly constructed urban properties from the municipal records. They took down the particulars of 12,000 and odd houses. Thereafter, the owners of the properties were all written to, enquiring whether they are assessed to Income-tax and/or Wealth-tax and some 3,000 of them have already sent replies; others are yet to respond. Meanwhile, over 2,500 Wealth-tax returns from new assessees have been received.

The Delhi Commissioner's efforts are proving fruitful. It is expected that when the concerned ITOs. start checking the valuation of the properties deducted, it would be possible to rope in for Income-tax assessments the undeclared investments in such properties.

A Valuation Cell was set up in the Central Board of Direct Taxes in September, 1968. It has now eight property valuation units, two each at Bombay and Calcutta and one each at Delhi, Lucknow, Ahmedabad and Madras. Each unit is headed by an Executive Engineer and the overall control over the units is exercised by a Superintending Engineer taken on deputation from the C.P.W.D. The purpose of setting up of the Valuation Cell was to check up whether the valuation of properties made by assessees is adequate. Up to the end of September, 1969, 228 cases in all had been referred to the Valuation Units, out of which 71 were disposed of. Taking the 71 cases together, the total market value of the properties came to about Rs. 238 lakhs according to the returns filed by the concerned assessees. The corresponding figure, as per the valuations worked out by the Valuation Units, comes to about Rs. 413 lakhs, which is 73 per cent. more than the valuation shown in the returns. The Ministry expects that with persistent probes, the Valuation Cell of the C.B.D.T. will help roping in undeclared investments.

On the basis of the experience of the survey of new properties in the Delhi Commissioner's charge, similar surveys will be undertaken shortly in the other Commissioners' charges."

1.29. In a further note dated 22nd December, 1959, the Ministry of Finance have stated:

> "No time-targeted programme has been drawn up for the Commissioners' charges other than Delhi; but they are being asked to undertake similar surveys immediately after the financial year ends."

1.30. The Committee observe from the data given by Government that the total market value of the properties covered by 71 cases disposed of by the newly-created Valuation Cell of the Board upto the end of September, 1969 came to about Rs. 238 lakhs according to the returns filed by the concerned assessees. The corresponding figures as per the valuations worked out by the Valuation Units came to about Rs. 413 lakhs i.e. **73 per cent more than the valuation shown in the returns. This illustrates the extent to which property values are depressed in tax returns.**

1.31. The Committee note that on the basis of the experience of the survey of new properties in the Delhi Commissioner's Zone, similar surveys will be undertaken shortly in other Commissioners' charges. The Committee trust that Government will draw up a time-targeted programme for the completion of such reviews in all the major cities. They further trust that Government will maintain vigilance in this regard and make periodical investigations to ensure that neither undeclared investments in property nor incomes accruing therefrom escape tax.

Under assessments/over-assessments disclosed in Test audit—paragraphs 2.5—2.7 (*S. Nos.* 15—17)

1.32. In paras 2.5—2.7 of the Report, the Committee observed as follows:

> "The Committee note that a test audit disclosed under-assessment of tax amounting to Rs. 1101.16 lakhs in 9,161 cases during the period 1st September, 1966 to 31st August 1967. Corrective action is still to be taken in 967 of these cases, involving Rs. 167.71 lakhs, while in respect of 84 cases involving Rs. 4.99 lakhs action has become time-barred. The Committee would like corrective action to be speedily finalised. In those cases where action is now precluded by time-bar, the Committee would like Government to examine whether there was any default on the part of the officials concerned, warranting action against them."

"The Committee also note 48 cases involving Rs. 437.63 lakhs, where Audit are of the view that there has been under-assessment the matter is still "under correspondence". The Committee would like these cases to be examined expeditiously and corrective action to be initiated promptly in all cases where it is called for."

"The Committee take a serious view of the over-assessments disclosed in test-audit. In 2,154 such cases involving Rs. 52.77 lakhs, corrective action has been completed, but action is still to be taken in 223 cases involving Rs. 5.57 lakhs."

1.33. In their reply dated 17th November, 1969, the Ministry of Finance have stated:

"The figures of pendency regarding corrective action, as on 15th January, 1969, were furnished to the P.A.C. by the C. & A.G. The Ministry have since obtained from the Audit particulars of the cases reported by them.

2. Of the 967 cases of under-assessment of tax totalling Rs. 167.71 lakhs, as reported by the Audit, it is found that the number of cases involving under-charge of tax of Rs. 10,000 and above was 228; these accounted for the bulk of the reported under-charge of tax. The Ministry have not accepted the objection relating to 42 such cases. A watch on the action taken in the remaining cases will be kept by the Director of Inspection (Income-tax and Audit), whose post has been recently set up.

3. The cases involving under-charge of tax below Rs. 10,000 as reported by the C. & A.G.'s Revenue Audit Parties, are too numerous for the Ministry to watch. Along with these cases are also to be considered the cases of this category detected by the Internal Audit Parties of the Department. Till recently, the prime responsibility for rectificatory action in the cases of this type lay with the respective Income-tax Officers. Since, however, this work tended to be neglected, for ensuring proper follow-up action, Audit Objection Cells were set up in all the functional Ranges, which, amongst themselves, cover cases yielding about 60 per cent of the Direct Taxes budget. Detailed instructions have been issued to these Cells about the procedure to be followed by them.

4. In the non-functional Ranges of IACs, the work regarding the follow-up of Audit objections (raised by both Revenue Audit and Internal Audit) seems to need special attention. The

Director of Inspection (Income-tax and Audit) is being asked to keep a watch on these cases through 12 I.A.Cs (Audit) whose posts also have been newly created for ensuring a planned programme of Internal Audit, as also timely action regarding both Internal Audit and Revenue Audit objections.

5. There were 12 cases involving under-charge of tax of Rs. 10,000 and over, in which action had become barred by time even before Audit raised objections. The amount of revenue involved in these cases is Rs. 3.48 lakhs. 74 of the cases in which no action for rectification was possible, related to cases involving under-charge of tax amounting to less than Rs. 10,000; the aggregate tax involved in these cases was Rs. 1.09 lakhs. In these cases also, action appears to have been time-barred before the Audit objections were raised. In this context, the P.A.C. will perhaps like to re-consider whether the officials responsible for the mistakes need be proceeded against.

The details about the 48 cases are being obtained from the C. & A.G. and the matter under correspondence will be finalised as expeditiously as possible.

Corrective action in respect of cases of over-assessments, is proposed to be taken immediately through the Director of Inspection (Income-tax and Audit)."

1.34. In a further note dated 22nd December, 1969, the Ministry of Finance have stated:

"The position regarding the rectification of cases of under-assessment and over-assessment cannot be readily indicated. The Departmental figures are to be verified with the C. & A.G's and this will take time. It may, however, be mentioned that the Ministry is considering a proposal of sending one of its senior officers from charge to charge to settle long outstanding audit objections. If the Audit agree, one of their representatives also will be associated with this drive."

1.35. In their 73rd Report (Fourth Lok Sabha), the Committee had desired Government speedily to finalise rectificatory action in 967 outstanding cases of under-assessments, involving Rs. 167.71 lakhs and 223 outstanding cases of over-assessment involving Rs. 5.57 lakhs disclosed in Test Audit during the period 1st September, 1966—31st August, 1967. In their reply Government have stated that the position regarding rectification of cases of under-assessment and

over-assessment cannot be readily indicated and that Government were considering a proposal of sending one of its senior Officers from charge to charge to settle long outstanding Audit Objections. As it is now more than two years since these cases of under-assessment/ over-assessment were reported, the Committee desire that necessary rectificatory action should be finalised without any further delay.

1.36. The Committee suggest that Government should maintain a closer liaison with Audit as a standing arrangement so that such cases might be promptly attended to.

Incorrect Computation of depreciation and development rebate— Para 3.64 (*S. No.* 33)

1.37. In paras 3.50—3.59, the Committee considered a case in which the Income-tax Officer had wrongly allowed development rebate and depreciation on intangible assets. Two of the three relevant assessments had been checked by Internal Audit and one by the supervisory officer. In para 3.64, the Committee observed as follows:

> "The Committee note that due to 'an error of judgment' allowance was made for development rebate and depreciation on certain intangible assets of a company, though such allowance was inadmissible in terms of the Act. This resulted in an under-assessment to the tune of Rs. 2.06 lakhs. What is surprising is that this error escaped the notice of Internal Audit who checked two of the three relevant assessments as also of the supervisory officer who had approved one of the assessments."

1.38. In their reply dated 1st December, 1969, the Ministry stated as follows:

> "At the time the assessment was checked by Internal Audit Party, they were required to check only the arithmetical accuracy of the depreciation worked out in an assessment. It was, at that time beyond their province to question whether depreciation should have at all been allowed on what the Income-tax Officer had treated as capital expenditure and whether development rebate should have been allowed by him. I.A.Ps have been instructed to check admissibility or order of depreciation and the rates thereof with effect from 1st August, 1963."

1.39. The Committee were informed by Audit that as per the instructions dated 1st August, 1963, the Internal Audit Parties are not required to check up the admissibility or order of depreciation though the Internal Audit Parties could have detected the mistake while checking whether the depreciation had been calculated at prescribed rates. Even in the enlarged functions prescribed in May, 1969 Instructions for Internal Parties|Chief Auditors, the particular aspect commented upon in the audit para-whether the depreciation allowed by the Income-tax Officer on intangible assets is in order-has not been mentioned.

1.40. In a further note dated 22-12-1969, the Ministry of Finance clarified the position as follows:—

> "There is no specific instruction for checking the admissibility of depreciation on intangible assets, but the Internal Audit Parties are required to check whether depreciation on a particular asset had been calculated with reference to the period of use and also whether the total depreciation allowed exceeded the original cost. In the course of applying these checks, if any mistake was found about the admissibility of the depreciation itself, the Internal Audit Parties would have to comment on it."

1.41. The Committee feel that it is the basic function of Internal Audit Parties to check the admissibility of depreciation while verifying whether depreciation on a particular asset has been calculated with reference to the period of use, etc. Considering that a large number of mistakes in computation of depreciation is reported by Audit year after year, the Committee would like Government to consider whether the question of admissibility of depreciation and development rebate should not be specifically brought within the purview of functions of Internal Audit.

Development Rebate in case of Assets sold to Government—para 3.72 (*S. No.* 36)

1.42. In paras 3.67—3.70, the Committee considered a case in which a new asset in respect of which development rebate had been allowed was subsequently sold by the assessee to a Government undertaking. The development rebate reserve was, however, written back by the assessee in the accounts of the company and utilised for distribution of dividends. In para 3.72, the Committee made the following observation:

> "The Committee would like Government to dispel any impression in the minds of the public that a development

rebate allowed in respect of an asset sold to Government will not be withdrawn even if the party credits to the Profit and Loss account the reserve which he had originally created in order to qualify for the grant of rebate. Another question that Government should consider is whether the party would forfeit the rebate when his entire assets are sold to Government and the reserve cannot stand as such in his books."

1.43. In their reply dated 22-10-1969, the Ministry of Finance have stated:

"The Government is grateful to the suggestions made by the Committee. The points mentioned by the P.A.C. have been clarified by a public circular F. No. 10|59|69-IT(AI), dated 6th August, 1969.

1.44. In a further note dated 22-12-1969, the Ministry of Finance have stated that the point raised in the last sentence of the Committee's recommendation as to whether a party would forfeit the rebate when the entire assets were sold by the party to Government and the reserve cannot stand as such in his books is being examined.

1.45. While the Committee are glad that Government have taken necessary action on the first part of the recommendation, they note that Government are yet to clarify to the public whether a party would forfeit the development rebate when the entire assets are sold to Government and the development rebate reserve cannot stand as such in his books. The Committee trust that Government will take suitable action at an early date.

Mistakes in computation of super-tax—Para 3.112 (*S. No.* 44).

1.46. The Finance Act, 1956 provided for the levy of additional super-tax on companies distributing dividends on ordinary shares in excess of six per cent of their paid-up capital. The additional super-tax was levied by way of reduction of the rebate from super-tax admissible to the companies. If, however, in any year the amount of rebate due was insufficient to absorb the reduction on account of excess distribution of dividends, the unabsorbed portion of rebate was to be carried forward for being set-off against the reliefs available for subsequent years. Cases where the reduction of rebate from super-tax in the circumstances contemplated above was not deducted were pointed out in paragraphs 29, 47 and 44 of

Audit Reports (Civil) on Revenue Receipts, 1963, 1964 and 1966 respectively. Similar mistakes where noticed in three cases accounting for an under-assessment of super-tax of Rs. 7,75,774.

1.47. Commenting upon the above cases, the Committee made the following observations in paragraph 3.112:

> "The Committee note that mistakes in computation of super-tax payable by companies have been occurring year after year. The tax effect of the mistakes pointed out in the present cases (*viz.* Rs. 7,75,744) has been higher than that reported in earlier years. The mistakes occurred in three different charges. All these suggest that assessing officers need to be specifically instructed about the provisions of the law on the subject. In para 11 of their 28th Report (Third Lok Sabha) the Committee had drawn attention to this situation. The Committee note that pursuant to these observations, a review of cases of all companies having an income of Rs. 1 lakh or more has been undertaken. Such a review should cover assessments from 1956-57 onwards as the additional super-tax by way of reduction of the rebate from super-tax admissible to the companies was levied in the Finance Acts, 1956 to 1959. The Committee would like to be informed of the outcome of the review when finalised. They trust that effective action will be taken by Government to ensure that cases of this nature do not recur."

1.48. In their reply dated 14-11-1969, the Ministry of Finance have stated as follows:

> "The observations of the P. A. C. in this paragraph pertain to cases in which super-tax rebate relating to the assessment years 1956-57 to 1959-60 could not be withdrawn in the assessments for those years, because either the rebate admissible was nil or lower than the amount of withdrawable rebate. This could have happened only in cases where the assessee companies had negative income in any of the assessment years 1956-57 to 1959-60. In this context, the Ministry feel that the intention of the P. A. C. was to have a review made of those cases of companies which had suffered losses for the assessment years 1956-57 to 1959-60 and later on started having positive income.
>
> 2. The earliest assessment year for which such a company may have become liable to the withdrawal of super-tax

rebate on its earning a positive income, would be the assessment year 1957-58. Similar liability would arise for any later assessment year in which the company may be assessed on a positive income for the first time after the assessment year 1956-57. This means theoretically that the assessment for all the assessment years after 1956-57 would have to be reviewed for spotting the assessment year in which the liability for withdrawal of super-tax rebate arose. On practical considerations, however, a general review of such magnitude may better be avoided, because:—

(i) Any rectificatory action for the assessment years upto 1963-64 has become time-barred by 31-3-1969; and

(ii) The time and labour involved in a general review on such a scale, would be disproportionately large in relation to the results expected.

It is because of these practical considerations that the Ministry had thought of restricting the scope of the review to the cases of companies which had been assessed for the assessment years 1964-65 to 1967-68 on a total income of Rs.1 lakh or over. (*Vide* paragraph 3.110 of the P.A.C.'s 73rd Report) The work involved even in this restricted review has been quite substantial and the Ministry is yet to receive reports about the review from some of the Commissioners of Income-tax.

3. In view of the difficulties stated in the preceding paragraph, the P. A. C. may perhaps like to wait for the results of the review already under-taken in the different charges of Commissioners of Income-tax, before considering whether the scope of the review should be extended"

1.49. Audit have made the following observations on the Ministry's reply:

"(i) The omission to withdraw the rebate and to calculate the rebate correctly was pointed out in Audit Reports, 1963, 1964, 1966 and 1968. The Ministry, in their reply, have stated that the intention of the P A. C. was to have a review made of those cases of companies which had suffered loss for the assessment years 1956-57 to 1959-60 and later on started having positive income. This presumption does not appear to be correct as the mistake pointed out in Audit not only related to non-withdrawal of super-tax rebate in cases where the assessed income was nil or resulted in a loss during the assessment years 1956-57 to 1959-60 but also relate to omission to effect the reduction even

in cases where there was positive income during the years 1956-57 to 1959-60 and also to mistakes in the calculation of the super-tax rebate to be withdrawn. This would be evident if the cases reported in the following paragraphs are looked into.

Audit Report	*Para* No.
1963	29(a)
1964	47(a) 47(b)
1966	44(a)
1968	49(b)

(ii) To arrive at the exact loss of revenue sustained by Government due to non-reduction of super-tax in assessments in accordance with the provisions of the Finance Act, 1956 to 1959 it would be necessary that all the Companies assessments from 1956 onwards are reviewed.

(iii) It has been stated that time and labour involved in general review on such a scale would be disproportionately large in relation to the results expected. The Ministry would like to reconsider this in view of the cases reported in the Audit Reports so far. Further as the mistakes would have occurred only in company assessments and not in other cases, the proposed review may not throw such a heavy load of work as is made out by the Ministry.

(iv) The Ministry's instructions that the review would be restricted to company cases only with a total income of Rs. 1 lakh or over for the assessment years 1964-65 to 1967-68 would not yield the requried results as, the reduction in rebate could be carried forward to subsequent years for effecting necessary reduction."

1.50. In their Seventy-Third Report (Fourth Lok Sabha) the Committee had desired that a review of all cases of incorrect assessment of additional super-tax of all companies from 1956-57 onwards

should be made. Government have urged the following considerations for restricting the scope of the review to companies with a total income of Rs. 1 lakh or over starting from the assessment year 1964-65:

(1) The time and labour involved in a general review on the scale suggested would be disproportionately large in relation to the results expected; and

(2) Any rectificatory action for the assessment years upto 1963-64 have become time-barred by 31-3-1969.

As regards the first consideration, the Committee see force in the Audit view that, as the mistakes would have occurred only in company assessments, the proposed review may not result in a very heavy burden. As regards the second consideration, the Committee would like Government to examine whether rectificatory action may still not be possible in case of assessments for the years 1960-61 to 1963-64 under section 147 (a) of the Act. On this basis, the Committee would like Government to extend the scope of the review to cover assessments of all the companies from the year 1960-61 onwards.

Over-assessments—Para 4.26 (*S. No.* 55)

1.51. In para 4.26, the Committee observed as follows:

> "In pursuance of the observations of the Public Accounts Committee in their 29th Report, Government had undertaken a review of the appellate orders to determine the extent to which assessments were over-pitched. The Committee note that this review had "not indicated any serious malady" in this regard. The scope of this study was, however, limited by Government to orders passed by Appellate Assistant Commissioners. The Committee desire that Government should also review appellate orders passed by the Tribunals and the Courts. In all cases where appellate authorities have allowed substantial relief and harassment of the assessee is manifest, the Committee would like appropriate action to be taken against erring officers."

1.52. In their reply dated 12th November, 1969, the Ministry of Finance have stated:

> "In this paragraph the P.A.C. have asked the Ministry to review the appellate orders passed by the Tribunals and the Courts, for determining the extent to which assessments made by the ITOs were over-pitched. They have further desired that where appellate authorities have allowed substantial relief

and harassment of the assessee is manifest, appropriate action be taken against the erring officers. The Ministry notice that a similar recommendation is contained in paragraph 1.23 of the PAC's 76th Report (1968-69), in which they considered the action taken on their 17th and 29th Reports. The said paragraph reads as below:

> "The Committee would like Government to look critically into cases of over-pitched assessments in important revenue circles like Calcutta, Bombay, Madras and Delhi, where the Income-tax Tribunals, High Courts and the Supreme Court have passed strictures against such assessments during the last three years or where assessments made by the Income-tax Officers have been reduced by either Rs. 50,000/- or 25 per cent of the originally assessed tax. Apart from taking deterrent action against officials held responsible for indulging in vexatious taxation, Government should analyse the cases and issue general guidelines for the information and use of Income-tax Officers."

The PAC's recommendations seem to have been based on the following generally prevailing impressions about the nature of Income-tax assessments:

> (i) The difference between the assessed income and returned income is often due to vexatious additions made by the ITOs.
>
> (ii) The I.T. Appellate Tribunals, High Courts and the Supreme Court have passed strictures against some of these assessments during the last three years.

The Ministry would like to first clarify the position regarding these impressions, before coming to the recommendation made in para 4.26 of the 73rd Report.

At the outset, it may be stated that so far as the Ministry is aware, no strictures regarding over-pitching of assessments have been passed by the Tribunals, High Courts or the Supreme Court during a period of four years upto September, 1968. The PAC's attention has already been invited to this fact under the Ministry's D.D. No. 3|10|68-II (Audit) dated 11th November, 1968 (*Vide* p. 48 of the PAC's 76th Report. On the question of whether vexatious additions to the income returned by assessees are generally prevalent, the Ministry have had nearly

8500 appellate orders test-checked by a committee comprising three senior officers of the Income-tax Department which found that 35.5 per cent of the assessments had been confirmed and reliefs exceeding 50 per cent of what the appellants asked for had been allowed in about 33 per cent cases. The Committee found that though the interference by the appellate authorities often reflected an honest difference of opinion, maturer judgement of the AACs and availability of appellate decisions or evidence which were not available to the ITOs, quite a considerable percentage of interference was due to omissions and commissions on the part of the ITOs, which could well have been avoided. Instructions have already been issued by the CBDT cautioning the ITOs of such pitfalls [*Vide* copy of the Board's* F. No. 50|322|68-IT-J(II), dated 6th February, 1969, enclosed]. In this connection it would be pertinent to refer to a persistent difficulty in framing proper Income-tax assessments. It happens not infrequently that the assessees withhold at the assessment stage some evidence which they produce for the first time before the Tribunal or even the AAC, who are naturally not seized of all the material facts for checking the proper worth of those pieces of evidence. With a wider background about a particular case the concerned ITO would have been in a position to assess the worth of the evidence but this is what many of the assessees wish to avoid. A decision is bound to suffer from internal weakness of the situation and that is what assessees under expert advices plan for. In these circumstances the Income-tax Officer often becomes helpless in so far as he cannot ignore the item, nor can he come to a correct decision.

Now, coming to the question of the review of the appellate orders passed by the Appellate Tribunals and the Courts, the Ministry would like to place the following facts for the consideration of the PAC:

(i) The orders of the Appellate Assistant Commissioners are the first appellate orders on the assessments made by the ITOs. As such, the problem of over-pitched assessments can best be spot-lighted from a study of the AAC's orders.

(ii) The Appellate Assistant Commissioners are senior officers of the Department, with fairly long assessment experience, who are free from executive interference. It is

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rather unlikely that any blatant and manifest over-assessment will escape their notice and it will be noticed for the first time before the I.T. Appellate Tribunal.

(iii) The High Courts and the Supreme Court are not at all concerned with questions of fact; they only give their ruling on questions of law. It is, therefore, most unlikely that any instance of manifest over-assessment would be detected by them.

In view of what has been stated above, the Ministry would suggest that the PAC may kindly wait and watch the results of the action taken by the CBDT on the basis of a study of the AAC's orders."

1.53. The instructions dated 6th February, 1969 issued by the Central Board of Direct Taxes read as follows:

"The Action Taken Sub-Committee of the P.A.C. having adversely commented on the problem of over-assessments, the Board constituted recently a Committee consisting of Shri S. Narayan, OSD and S|Shri W. A. Khan and P. N. Sewake, D.Ds.I for conducting from this angle a pilot study of the orders passed during 1967-68 by 2 AACs each from the Punjab, U.P. and Delhi CIT charges. The Committee's report has been received; although the study was confined to only selected AACs' ranges from 3 Commissioners' charges, the results of the pilot study can generally be considered as applicable to all the charges.

2. Out of nearly 8,500 appellate orders studied by the Committee, it was found that only about 3,000 assessment orders (35.5 per cent) were confirmed, while about 5,000 orders (60 per cent) were subjected to relief (excluding assessments interfered with but not amounting to relief). A further analysis of the 5,000 and odd assessments subjected to relief showed that in about 2,800 cases (56 per cent) more than 50 per cent of the relief sought for had been allowed by the AACs.

3. It is true that a percentage of interference reflected honest difference of opinion, maturer judgment of the AACs or availability of appellate decisions and evidence which were not before the ITOs but quite a considerable percentage of interference was due to omissions and commissions on the part of the

ITOs, which could well have been avoided. Some of these typical omissions and commissions listed by the Committee are indicated below:—

(i) The ITOs seem to be in the habit of making comparatively petty additions without any reason or with utterly inadequate reasons.

(ii) In cases of retailers where it was obviously not possible to keep quantitative stock tally, additions had been made to the trading accounts without giving justification or quoting parallel cases and no care was taken to see whether the additions fitted in logically with a proper arithmetically correct reconstruction of the trading account.

(iii) The ITOs seem to be in the habit of making additions for supposedly inadequate drawings for household expenses without giving any reasons or without trying to analyse the expected normal household expenses under different heads, correlating them with the size and the needs of the family.

(iv) Cash credits are sometimes added with only superficial enquiry and probe into their source and ownership without pursuing these enquiries to an extent which could ensure their being sustained in appeal.

(v) The ITOs are sometimes not realistic and practical in their approach in the matter of allowing bad debts written off in the books; mere absence of legal action against the debtors should not be over-emphasized, particularly when the amounts involved are small making it not worthwhile for the assessee to incur legal expenditure, once he was satisfied that nothing further could be realized.

(vi) The ITOs have sometimes a tendency to make additions in manufacturers' cases, on account of shortages, wastages, low yields, etc. without building up a reasonably strong case on these points and without giving adequate opportunity to the assessee for elucidating reasons and then meeting them.

(vii) In the case of companies, the ITOs sometimes tinker unduly with the remuneration of the Directors even when they are apparently not large nor unreasonable.

(viii) The provisional share income from firms is sometimes taken by the ITOs not as returned by the assessee but on estimate which is not a correct course.

4. The Commissioners are requested to bring the above noted shortcomings to the notice of the ITOs so that these are avoided. The Commissioners and IACs should also constantly impress upon the ITOs the imperative need for making balanced, well-reasoned and realistic assessments. These aspects of assessment work should be particularly looked into during inspection of ITOs' work and the defaulting officers be pulled up and adversely commented wherever called for. This matter could also be borne in mind and necessary corrective action by way of advice or admonition taken, when the adverse appellate orders are scrutinised in the Commissioner's Office."

1.54. The Committee observe that out of nearly 8,500 appellate orders passed by Appellate Assistant Commissioners studied by a Departmental Study Team, nearly 5,000 orders (60 per cent) were found to have been subjected to relief (excluding assessments interfered with but not amounting to relief). A further analysis of 5,000 odd assessments subjected to relief showed that in about 2,800 cases (56 per cent of the assessments) more than 50 per cent of the relief sought for had been allowed by the Appellate Assistant Commissioners. According to the Study Team's findings, while a percentage of interference reflected honest difference of opinion, maturer judgment of the Appellate authorities or availability of appellate decisions and evidence which were not before the Income-tax Officers, "quite a considerable percentage of interference was due to omissions and commissions on the part of the Income-tax Officers which could quite well have been avoided." In the light of these findings, the Committee feel that over-assessments continue to be a serious problem in the Department.

1.55. In their Seventy-Third Report (Fourth Lok Sabha), the Committee had also suggested a study of over-pitched assessments in important revenue circles in the light of judgements of Tribunals and the Courts. The Committee note that Government have not initiated a study on these lines on the ground that "any blatant and manifest over-assessments" are not likely to be "noticed for the first time" by Tribunals and that the Courts are concerned only

with questions of law. The Committee are unable to accept this reasoning. Questions of law cannot be considered in isolation from questions of fact. The Committee would therefore like to reiterate their suggestions in para 4.26 of their Seventy-Third Report (Fourth Lok Sabha).

1.56. The Committee note that the Board of Direct Taxes have instructed the Commissioners to ensure that the tendency to make vexatious additions should be particularly looked into during inspection of Income-tax Officer's work and, wherever necessary, the defaulting officers pulled up. The Committee trust that these instructions would be strictly implemented. They also hope that the Ministry will keep the position under constant watch and, if necessary, take such further steps as may become necessary to curb the tendency to over-pitch demands, which the Committee have deprecated in successive Reports on Direct Taxes.

Searches and Seizures—Para 5.21 (*S. No.* 58)

1.57. In para 5.21 the Committee observed as follows:

> "The Committee would also like to point out that very wide powers are now available under the Act to make searches and seizures. It is, therefore, imperative that these are exercised very judiciously, as a wrong search or seizure, besides causing harassment to assessees, could do incalculable harm to their prestige and standing. The Committee note that Government are contemplating the issue of suitable instructions on this point. They would like action in this respect to be speedily taken. The Committee would also like Government to examine whether the power to order searches and seizures should be more precisely defined. The authority of search and seizure may be invoked where it may reasonably be expected to lead to the discovery of concealed income of, say, Rs. 1 lakh or more. Such a provision would constitute an automatic safeguard against the utilisation of power of search and seizure, where the officer concerned is himself not sure of the necessity of such action but has to yield to the pressure of informers in the nature of blackmail. The Committee would like Government to examine whether some suitable enactment on this line is possible and advisable."

1.58. In their reply dated 24th July, 1969, the Ministry of Finance have stated as follows:

> "The question of ensuring that the wide powers now available under the Income-tax Act to make searches and seizures

are exercised every judiciously has been carefully considered by the Ministry. It has been found that the number of searches undertaken by the Department has been declining year after year. Thus, in 1964, the number was 397, in 1965-66 306, in 1966-67 189, in 1967-68 198 and in 1968-69 (upto 28th February, 1969) 60 only. It has also been noticed that the searches made so far have been largely successful, the infructuous ones being very few viz., 4 in 1964-65, 13 in 1965-66, 3 each in 1966-67 and 1967-68 and 2 in 1968-69. The successful searches have resulted in the detection of a large number of cases in which various tax evasion devices had been employed e.g., introduction of unaccounted money as Hundi loans or borrowings from some so-called firms which were non-existent, spurious book entries in accounts in collusion with third parties etc. As such, the Ministry feel that the powers of searches and seizures are being exercised quite judiciously.

Instructions already exist that the Commissioners of Income-tax should use great care to avoid causing harassment to the public while exercising the powers of searches and seizures (*vide* copy of the Board's instructions contained in their F. No. 15|142|64-IT(Inv), dated the 28th August, 1964—Circular No. 23D(XL-64) of 1964).

The recommendations of the P.A.C. have been carefully considered by the Ministry upto the stage of the Deputy Prime Minister. Laying down of a monetary limit, such as Rs. 50,000|-, has not been considered feasible for various reasons. Thus a search is undertaken when the information regarding an assessee having some secreted assets or books of account or incriminating documents is considered fairly reliable; at this stage the amount of concealment is largely a matter of opinion. An attempt at precise determination of the likely amount of concealment would necessarily cause delay in taking the decision and detract from the effectiveness of search which depends upon the secrecy and speed with which it is executed. Searches have, in fact, led to the discovery of secreted assets for the purpose of recovery of tax, as also evidence for prosecution. Besides, laying down monetary limits in the statute may also give rise to a lot of writs and litigation. Accordingly, it has been considered undesirable to issue any such administrative instructions or to introduce any enactment in this respect."

1.59. In para 5.21 of their Seventy-Third Report (Fourth Lok Sabha), the Committee had suggested that the power to order searches and seizures should be more precisely defined. The Committee observe that Government have not accepted the suggestions made by the Committee in this regard. One of the arguments advanced by

Government for not accepting the recommendation of the Committee is that at the time a search is undertaken, the amount of concealment is a matter of opinion and an attempt at precise determination of the likely amount of concealment would necessarily cause delay in taking the decision and detract from the effectiveness of the search. The Committee do not see much force in this argument for the following reasons:

(i) It is not the suggestion of the Committee that the exact amount of concealment should first be ascertained. What the Committee desired was that the power of search may be invoked where it may reasonably be expected to lead to a discovery of concealed income of say Rs. 1 lakh or more.

(ii) When an information is lodged before the Income tax authorities about concealment of assets or books of account, the Commissioner has to form an opinion under section 132 of the Income tax Act that the person whose premises are to be searched is in possession of money, bullion, etc., representing either wholly or partly income or property which has not been disclosed for the purposes of the Income tax Act. If he has information regarding such money or bullion, he could certainly form an opinion about the valuation thereof viz. whether it is in excess of Rs. 50,000 or Rs. 1 lakh, as the case may be.

(iii) In a note furnished by Government and reproduced in para 5.5 of the Seventy-Third Report (Fourth Lok Sabha), it has been stated that "normally searches are not authorised by the Commissioner of Income-tax unless the amount of concealment suspected was Rs. 50,000 or above or substantial tax evasion was reported."

1.60. The Committee would suggest that if it is not feasible to write any precise monetary limits into law for fear that it may provoke unnecessary litigation, Government should at least issue executive instructions to the Commissioners to follow a suitable norm, so that infructuous searches are not resorted to.

Prosecutions in cases of searches and seizures—Para 5.22 (*S. No.* 59)

1.61. In para 5.22 of the Report, the Committee observed as follows:

"The Committee note that out of 926 cases in which searches and seizures were carried out, prosecutions have been launched

only in 8 cases, of which two have been compounded. The Committee would like Government to take prompt follow up action in all such cases with a view to their earlier finalisation."

1.62 In their reply dated 27.10.1969, the Ministry of Finance have stated as follows:

"The Committee's observations have been noted for guidance.

2. The reasons why in all search cases prosecution is not launched are as follows:

Prosecution is possible only if evidence available even after a search is such that a criminal charge can be brought home with reasonable certainty. Evidence good enough for assessment is not so for prosecution. Only on proper evaluation of material and evidence gathered as a result of searches that prosecutions are launched. Information collected during searches have motivated assessees to come clean with the department and have influenced them to a great extent to come up with disclosures u|s 271(4A). However, settlements u|s 271(4A) automatically preclude prosecution. This apart, Department has maintained its policy of prosecution in cases where nature of evidence justified the action.

3. The Government is anxious to see that the assessments in which searches and seizures have been carried out are expeditiously disposed of and in cases where prosecutions have been launched the Government is keen to get these cases finalised as early as possible."

1.63. One of the reasons given by Government for not launching prosecutions in all search cases is that the information collected during searches has influenced the assessees to come with disclosures under section 271(4A) of the Act, and that settlements under this section preclude prosecution. The Committee do not consider this a valid ground as benefit under section 271(4A) is available only when the disclosures are "voluntary" and "in good faith". In cases where searches have been carried out and disclosures have subsequently been made, the disclosures cannot be said to be either "voluntary" or "in good faith". The Committee, therefore, feel that where a search has brought to light incriminating evidence, the Department should lose no time in launching a prosecution.

Pendency of Appeals—Para 5.32 (S. No. 60)

1.64. In para 5.32 of the Report, the Committee mane the following observation regarding pendency of appeals:

> "The Committee are greatly concerned over the heavy pendency of cases with Appellate Assistant Commissioners. The number of such cases which at the end of June, 1964 was 84,736 increased to 2,00,928 as at the end of June 1968. The Committee note that certain additional posts were sanctioned in the Department to cope with increasing work in this respect, but due to various reasons the posts could not be filled up till recently. The Committee also note that steps are being taken by the Department to clear the backlog of pending appeals. They hope that as a result work will be "fairly current" by March, 1970 as expected by Government. The Committee expect that Government will keep the matter under constant and continuous watch."

1.65. In their reply dated 14.11.1969, the Ministry have stated as follows:

> "The Ministry shares the concern expressed by the P. A. C. about the heavy pendency of appeals with Appellate Assistant Commissioners. Even with the addition of 30 AACs to the strength of 148 obtaining till 1967-68, it has not been possible to arrest the rise in the number of pending appeals. The position of the pendency of appeals before the AACs during the last three years 1966-67 to 1968-69 and the first five months of the current year, April to August, 1969 is indicated below:

Year	Opening balance of pending appeals	Institution during the period	Disposal during the period	Closing Balance	No. Of A.A. Cs.
1966-67 . . .	1,58,884	1,96,288	1,94,080	1,61,092	148
1967-68 . . .	1,61,092	2,09,336	1,84,217	1,86,211	148
1968-69 . .	1,86,211	2,16,691	1,94,424	2,08,478	178
1-4-69 to 31·8·69 .	2,08,478	91,750	87,559	2,12,669	178
Corresponding figures upto August, 1968 . . .		(87,004)	(68,332)		

Though the above figures suggest a progressive increase in the number of appeals pending, the correct position is that in recent months the pendency has been going down at the rate of about 9,000 appeals per month. The following figures would speak for themselves:

Month	*Pendency at the end of the month*
June, 1969	2,30,789
31·7·69	2,21,501
31·8·69	2,12,669

The Ministry notice, however, that even with the added disposal of 9,000 cases per month, the arrears as on 31. 3. 69, can be wiped out in a minimum period of 27 months. It will, therefore, be necessary for the Ministry to revise its earlier estimate that the work will be fairly current by March, 1970.

Alarmed at the apparent set-back in the pendency position regarding appeals the Ministry had the reasons investigated into. The following trends, some contributing to the reduction of appeals and the others to their addition, were detected:

(1) The time-limit for completion of pending assessments has been reduced from 4 years to 2 years and other measures like the Small Income Scheme introduced to accelerate the pace of disposal of assessments. As a result, considerably larger number of assessments than in the past are being made now. This is happening not only in small income cases which are disposed of in a summary manner and give rise to few appeals, but also in higher income cases involving contentious points.

(2) More ITOs have been posted for bringing the assessments uptodate. 200 ITOs (Class II) have been put on duty only in October, 1969.

(3) The percentage of appeals filed in relation to the assessments completed has declined from 8 per cent in 1966-67 and 1967-68 to 6 per cent in 1968-69.

(4) For reducing the institution of appeals further, a pilot study was conducted by some senior officers of the

Department for spotlighting the avoidance omissions and commissions on the part of ITOs and on the basis of the study instructions have been issued for the avoidance of such pitfalls. This step is also expected to eliminate appeals in many cases.

(5) The rate of disposal by AACs has been stepped up from 104 in 1968-69 to 118 during the first five months of the current year.

The Ministry feel that despite the fall in the rate of filing of appeals and a distinct improvement in the rate of disposal by AACs, it will not be easy to clear the tremendous load of appeals created by the reduction of the time-limit for completion of assessments from 4 years to 2 years. For coping with this extra load, a further increase in the number of AACs may be the only solution. This aspect of the problem is under their active consideration."

1.66. The Committee cannot help expressing concern over the alarming position in regard to pendency of appeals. They observe that in spite of increase in the number of Appellate Assistant Commissioners from 148 to 178, the number of appeals pending rose from 2,00,928 as on 30.6.1968 to 2,12,669 as on 31.8.1969. The Government had earlier stated that the position would be "fairly current" by March, 1969 but the indication now is that a period of at least 27 months would be required to clear the pending appeals. A further increase in the number of Appellate Assistant Commissioners is also under contemplation to cope with the extra load of appeals caused by the filing of new cases.

1.67. The Committee would like to suggest that Government should collect further data about the pending appeals. An analysis of pending appeals categorywise should be carried out to determine in which income-bracket the appeals fall and the extent of relief sought. This would help Government to decide to what extent the creation of more posts would be justified.

1.68. In the ultimate analysis, any lasting improvement in the position can be brought about by eliminating perfunctory assessments through proper scheduling of work of the assessing officers rather than increasing the posts.

Pendency of Revision Petitions—Para 5.33 (*S. No.* 61)

1.69. In para 5.33, the Committee made the following observations:

> "The Committee would also like to point out that the number of revision petitions pending with Commissioners increased from 4,760 as at the end of June, 1965 to 7,234 as at the end of September, 1968. The Committee would like steps to be taken to bring down the number of outstanding revision petitions."

1.70. In their reply dated 17th November, 1969 the Ministry of Finance have stated:

> "The Ministry themselves are concerned about the steady rise in the number of revision petitions, as indicated by the following figures:

Date	*No. of revision petitions pending*
30·9·68.	7,234
31·3·69	7,947
30·6·69	9,085
30·9·69	9,601

The reasons for the increase are the following:—

(i) Because of the accelerated pace of disposal of assessments, the rate of institution of revision petitions is going up. Thus, in each of the first five months of 1969-70, the institutions were more than in the corresponding months of the preceding year. The aggregate excess in these five months was 677 cases.

(ii) Due to the addition of various new items of work at the Commissioner's level and the drives regarding accelerated disposal of assessments, collection and refund, pressure of work on the Commissioners is becoming heavier.

(iii) Following the Supreme Court decision in the case of Dwarka Nath *vs.* I.T.O. (57 ITR 349) the Commissioners of Income-tax are now required to give a hearing to the assessees filing revision petitions, before these can be rejected.

The Ministry is considering some administrative measures, such as, the creation of a few posts of Additional Commissioners of Income-tax, who could take over some functions relieving the Commissioners of their extra burden."

1.71. The Committee are concerned over the growing pendency of revision petitions. The number of such petitions which was 7,234 at the end of September, 1968 rose to 9,601 by the end of September, 1969—an increase of nearly 33 per cent in just one year. The Committee would like the Ministry to take concrete measures to bring down the number of pending revision petitions.

CHAPTER II

RECOMMENDATIONS|OBSERVATONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendations

The Committee observe that the number of assessees on record increased from 12,00,367 as on 31st March, 1962 to 27,01,733 on 31st March, 967. This sharp increase in the number of assessees without a corresponding increase in the man-power resources of the Income-tax Department has resulted in substantial accmulation of assessments, apart from "perfunctory assessments leading to endless litigations, Audit criticisms and irritation to assessees."

As pointed out by the Working Group of the Administrative Reforms Commission, it is "neither possible nor desirable" to tackle the problem of mounting assessments just by augmenting the strength of assessing officers and ministerial staff. A better course would be "to rationalise the procedures relating to completion of assessments and fix proper priorities in regard to the disposal of existing and arrears cases and the extent and the extent of scrutiny to be exercised before accepting the returns of income for the various categories of assessees." The Small Income Cases Assessment Scheme introduced by Government is from this point of view a step in the right direction. The Committee would like Government closely to watch the working of the Scheme, with a view to considering to what extent its scope could be extended, consistently with the need to stop tax evasion.

The Committee would like to commend the following other suggestions to Government to tackle the problem of mounting assessments:

(i) There would not be "much justification," as conceded by the representative of the Ministry of Finance, "for continuing with the assessment of small incomes if one finds that the taxation of this group results in minus revenue." Government should therefore arrange for reliable data being collected about the cost of collection in respect of various income brackets *vis-a-vis* revenue realised. This

would help to determine which of the present categories of tax payers should continue to be borne on the tax register and how assessment procedures should be simplified, if the taxation of these categories is not to become a drag on Government revenues.

(ii) To enable assessing officers to devote their time effectively to assessment work Government may examine how far they can be divested of routine jobs, by alternative arrangements on the lines suggested by the Study Group of the Administrative Reforms Commission.

(iii) All cases which have been closed N. A.' (non-assessment cases) for the past three years may be struck off the tax register "unless there is information on record that they are likely to have taxable revenue or unless there are any proceedings pending in respect of these cases."

[*S. Nos.* 1, 2 *and* 3—*Paragraphs* 1.19, 1.20 *and* 1.21]

Action Taken

It is true that the increase in the number of assessees has put in a great strain on the existing resources of the Income-tax Department, which cannot possibly be expanded proportionally with the increase in the workload. The Government have, however, tried to rationalise the work in the Department through two main schemes, one for the accelerated disposal of small income cases and the other for the functional division of work to divest the assessing officers of their routine functions. That these steps have proved effective will be evident from the fact that while the number of cases pending on 31st March, 1968 was 23,29,650, the pendency as on 31st March, 1969 came down to 17,46,339, a fall by nearly 25 per cent.

The Government have been closely watching the working of the Small Income Scheme and feel that it is being run properly without detriment to revenue. Through a provision in the Income-tax Amendment Bill, 1969, the Government is trying to assume discretionary powers for the disposal of such assessments, so that the tempo of disposal or such cases is further accelerated.

1.21: (i) The cost of collection relating the the small income cases was estimated by the Working Group of the Administrative Reforms Commission on the basis of a dead average, assuming that the time and resources devoted to each case would be just the same, irrespective of the complications which may be involved in

the higher income group cases. The Public Accounts Committee were not satisfied with its approach and directed the Government to arrange for deliable data being collected about the cost of collection in respect of various income brackets *vis-a-vis* the revenue realised. Since most of the Income Tax Officers handle cases falling in different income brackets, the Government has not found it possible to separate the cost of collection precisely for each income bracket. What they have done is to proceed on a weighted-average basis, taking one Cat. I case to be equal to 20 Cat. V cases, a Cat. II case at 5 Cat. V cases and so on. On this basis they have found the cost of collection for the different income brackets to be as follows:

Category	*Cost of collection for the different Cat. s.*		
	1966-67	1967-68	1968-69
I	335	339·80	295·60
II	83·80	84·95	73·90
III	41·90	42·48	36·95
IV	22·35	22·65	19 71
V	16·76	16·99	14·78

[Vide details in the annexed sheet]

The revenue realised from each income bracket cannot be determined with any amount of accuracy because the statistics are not maintained on this basis. Even the Working Group of the Administrative Reforms Committee had resort to an estimate in this respect. However, it is clear that the cost of collection for lower income cases (those in Categories III, IV and V) would be only about half of the yield estimated from such cases by the Working Group. Hence it would perhaps not be necessary to eliminate any of the existing category of assessees simply on the score of excessive cost of collection.

(ii) The Government have already introduced the Functional Scheme under which the assessing officers have been divested of routine jobs like collection, administration and statistics. Under this Scheme, the Inspecting Assistant Commissioner functions as a Group Supervisor exercising personal judgment about the priority of cases. That the Functional Scheme has succeeded in rationalis-

ing work will be evident from the following figures regarding the disposal and collection in the functional and non-functional charges:

Type of charge	*Disposal of assessments*			*Collection*		
	1967-68	1968-69	Increase %	1967-68	1968-69	Increase %
Functional	8,65,356	11,98,497	38·5	24,399	26,715	9·5
Non-fuuctional	16,91,198	21,93,480	29·7	17,171	17,770	3·5

The Government have been watching the progress of the Functional Scheme, which is now being tried in 98 units, covering about 48 per cent of the existing strength of officers, who are responsible for collecting about 60 per cent of the budget.

(iii) All efforts are being made to weed out the infructuous cases. The following are the figures of the cases struck off the General Index Register during the years 1965-66 to 1968-69:

Financial Year	*No. of cases struck off the C.I.R*
1965-66	45,449
1966-67	96,959
1967-68	1,33,416
1968-69	1,38,842

[*Ministry of Finance (Department of Revenue) O.M. No. F. No. 17|3|69-IT (Audit) dated 8th Nov. 1969*].

COST OF COLLECTION OF DIFFERENT CATEGORIES OF CASES

1966-67 f.y.

Category	No. of cases disposed of	Conversion factor	No. of cases converted to Cat. V.	Average expenditure per case failing in different cats. s.
I	1,33,067	20	26,61,340	335/20
II	1,19,654	5	5,98,270	83/80
III	2,87,992	2·5	7,19,980	41/90
IV	11,96,757	1⅓	15,95,676	22/35
V	6,80,596	1	6,80,596	16/76
TOTAL	24,18,066	2·587	62,55,862	

Expenditure during the year 1966-67—Rs. 10,48,41,475/- Expenses per Cat. V. case disposed of—Rs. 16/76

1967-68 f.y.

I.	1,52,679	20	30,53,380	339/80
II.	1,29,791	5	6,48,965	84/95
III.	3,02,403	2	7,56,008	42/48
IV.	13,65,258	1⅓	18,20,324	22/65
V.	6,16,423	1	6,06,423	16/99
TOTAL	25,56,554	2·693	68,85,090	

Expenditure in 1967-68 f.y. Rs. 11,69,70,149/-

Expenses per Category *case disposed of Rs. 16/99

1968-69 f.y.

Category	No. of cases disposed of	Conversion factors	No. of cases converted to Category V	Agverage expenditure per case falling in different Categories.
I.	1,95,268	20	39,05,360	295/60
II.	1,75,242	5	8,76,210	73/90
III.	4,33,313	2	10,83,282	36/95
IV.	18,29,841	1⅓	24,39,788	19/71
V.	7,87,618	1	7,87,618	14/78
TOTAL	34,21,282	2·657	90,92,258	

Expenditure in 1968-69 f.y.

Rs. 13,43,49,500|-

[Final appropriation figures]

Expenses per category V Case disposed of—Rs. 14.78.

Further information sought by the Action Taken Sub-Committee

(i) Please state whether the Board have any proposal to effect a change in the basis of statistics maintained in the Department so as to give a fairly accurate indication of the yield from, and cost of collection of, taxes on income in each income-bracket.

(ii) Please state on what basis the above weighted average has been arrived at. Has any time and motion study been carried out to determine the approximate time taken for the disposal of cases specified in each Category.

(iii) Please give a rough idea of the yield from, and cost of collection of, taxes during the last three years on incomes—

(a) upto Rs. 7,500;

(b) upto Rs. 10,000; and

(c) Upto Rs. 12,500.

(iv) Please state whether Government have drawn up any programme for the gradual extention of the Functional Scheme.

Government's Reply

(i) At present, the Income-tax Department classifies assessees according to the following Categories, which broadly follow some income ranges:—

Category I	Business cases with income above Rs. 25,000.
Category II	Business cases having income between Rs. 15,001 and Rs. 25,000.
Category III	Business cases with income between Rs. 7,501 and Rs. 15,000.
Category IV	Business cases with income below Rs. 7,500 non-Government Salary cases above Rs. 18,000 and all cases of refunds under Section 237.
Category V	Government salary cases and non-Govt. salary cases upto Rs. 18,000 and other assessees.

The yield from each Category can be ascertained accurately, but the cost of collection etc. relating to each such Category will have to be a matter of estimate, because all the expenses are mixed up.

(ii) The category of cases was fixed in 1946 by the then Director of Inspection (Income-tax) on the basis of the experience of the Income-tax Department. Thereafter the then Member Income-tax Reorganisation also made a time and motion study, which did not suggest any change of the standards already adopted.

(iii) It is regretted that the information cannot be furnished in exactly the same form as asked for. A break-up of the number of assessees of each of the five categories, along with the average expenditure per case falling in such categories, has already been furnished by the Ministry in reply to para 1.21 of the P.A.C.'s 73rd Report.

It will be extremely difficult to isolate the assessees of the income ranges indicated by the P.A.C. So, the Ministry is giving below the number of Income-tax cases in the income range of Rs. 5,000

to Rs. 10,000 assessed during the last three years and the approximate revenue realised therefrom, as furnished to the Raja Sabha on 9.12.69 in reply to Unstarred Question No. 1209:

Year	No of Income-tax cases assessed	Demand raised (In crores of Rs.)
1963-64	4,58,592	9·54
1964-65	5,37,604	13·19
1966-67	7,34,786	20·23

The average expenditure per Category IV case during the financial year 1966-67 was Rs. 22.35 and that on Category III case Rs. 41.90. On this basis, it will perhaps be very fair to estimate the average expenditure per case in the income group of Rs. 5,000 to Rs. 10,000 at Rs. 30. Accordingly the cost of collection on 7,34,786 cases of this category assessed during 1966-67 would come to Rs. 2.20 crores.

(iv) The number of functional units is being gradually increased. Their present strength is 98.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|1|69-*IT (Audit) dated* 22-12-69].

Recommendation

The Committee note that the number of pending Income-Tax assessments as at the end of 1967-68 was 23.30 lakhs, or nearly double the number of pending assessments as at the end of 1963-64. Earlier in the Report, the Committee have drawn attention to the need for the rationalisation of procedures relating to assessments and for a proper scheme of priorities for the disposal of cases, so that the time now devoted to the assessment of small income cases, from which the Exchequer gets very little gain, could be profitably diverted to the examination of business cases which are likely to yield substantial revenue. The data about pendency of assessments involving business income of over Rs. 25,000 given in this Report would show that the number of pending cases in this category has been going up. The Committee would like this tendency to be arrested through proper programming of the work of assessing officers. The Committee note that the working Group of the Administrative Reforms Commission have made a number

of useful suggestions for bringing down the number of pending assessments. The Committee would like particularly to draw attention to the following suggestions:

(i) Fixing of timelimits for assessments which have been reopened, for posting cases for hearing and for the issue of assessment orders.

(ii) Dispensing with provisional assessments. The Committee would like to be apprised of the Action taken by the Government pursuant to the foregoing suggestions.

[S. No. 4—Paragraph 1.29]

Action Taken

The Ministry invites the attention of the Public Accounts Committee to the former's reply to paras 1.20 and 1.21 of the P.A.C.s 73rd Report, in which the following matters have been discussed:

(i) Rationalisation of the procedures of assessment;

(ii) Drawing up a proper scheme of priorities for the disposal of cases; and

(iii) Diversion of resources for examination of business cases, which are likely to yield substantial revenue.

2. Regarding the pendency of business cases with income of Rs. 25,000 and over, a comparative chart of disposal of Category I cases is annexed. It will show that the disposal of the cases coming under this category during 1968-69 was 28 per cent more than in 1967-68. Even so, the overall pendency has risen due to the addition of new Category I cases. Efforts are being made to accelerate the clearance of the pending cases involving substantial revenue.

3. Regarding the other matters covered by para 1.29 of the PAC's 73rd Report, the Ministry have taken the following steps:

(a) *Fixing a time-limit for reopened assessments*

By the Income-Tax Amendment Bill, 1969 a time-limit of 2 years from the end of the financial year in which assessments were reopened under Sec. 146 or set aside by the appellate or revisionary authorities is being fixed for the completion of such assessments.

(b) *Time-limit for posting cases for hearing and for issue of assessment orders*

Since all assessments from the assessment year 1969-70 onwards will have to be completed within two years from the end of the relevant assessment year, no separate time-limits are being fixed for the different stages of such assessment proceedings.

(c) *Dispensing with provisional assessments*

The Income-tax Amendment Bill, 1969 seeks to delete the provision for making provisional assessment for raising an interim demand.

[*Ministry of Finance (Department of Revenue) D.O. F. No. 17|12|69-IT (Audit) dated 3-11-69*].

ANNEXURE

Statement Showing Categorywise disposal and Pendency

Category of cases	Pendency as on 31-3-68	Disposal during		Pendency as on 31-3-69 (adjusted up to 31-7-1969)
		1967-68	1968-69	
(1)	(2)	(3)	(4)	(5)
I . . .	1,64,810	1,52,679	1,95,268 [†28% in relation to figures given in column (3)].	1 94,454 [†18% in relation to figures given in clolumn (2).]
II . . .	1,62,367	1,29,791	1,75,242	1,64,232
III . .	3,96,989	3,02,403	4,33,313	3,27,979
IV . . .	12,38,003	13,65,258	18,29,841	7,94,085
V . . .	3,67,481	6,06,423	7,87,648	2,65,589
TOTAL . .	23,29,650	25,56,554	34,21,282	17,46,339

Further information sought by the Action Taken Sub-Committee

(i) Please state whether, as recommended by the Public Accounts Committee, Government have fixed proper priorities in regard to disposal of existing and arrear cases.

(ii) Please indicate the precise steps taken or proposed to be taken to accelerate the clearance of pending cases involving substantial revenue (i.e., cases involving incomes of Rs. 25,000 and *above).*

Has any programme been drawn up in this regard?

Government's Reply

(i) As has already been stated in the Ministry's reply to para 1.21(ii) of the P.A.C.'s 73rd Report, the Inspecting Assistant Commissioners in the "functional units" exercise personal judgment about the priority of cases. In the Ranges which do not come under the Functional Scheme, it is the Inspecting Assistant Commissioner who, in consultation with his ITOs, fixes the orders of priority. The Board consider that it will not be advisable for them to fix any order of priorities, ignoring local conditions, about which the IACs have better knowledge.

(ii) The steps which have been taken are as follows:

(a) Increase in the number of ITOs in the Companies and Central charges, where the concentration of Category I cases is maximum.

(b) For better supervision and quicker decision, the number of IACs in charge of the Central Circles has been increased.

(c) For prompt attention to Super Profit Tax and Sur Tax cases, which form a sizeable proportion of the higher category cases, some cells manned by specially trained Inspectors are being set up in the large revenue-yielding Circles. They will now be processing the cases and putting them up for action by the concerned ITOs.

(d) The Commissioners of Income-tax, Bombay and Calcutta, who have a very large number of pending Category I cases, have been asked to keep a personal watch on the disposal of Category I cases.

[*Ministry of Finance (Deptt. of Revenue) D.O.F. No.* 17|1|69-*FT (Audit) dated* 22-12-69].

Recommendation

The Committee note that 516 Super Profits Tax and 3,438 Sur-tax assessments were pending as on 31st March, 1968. *The disposal of these cases is obviously linked with the disposal of the relevant income-tax assessments and the Committee would like concerted steps to be taken for their clearance.* The Committee note that the Board expects all the pending Super Profits Tax and Sur-tax assessments to be cleared within the next twelve months, except for those which have to be kept pending for compelling reasons. They would like to watch the position in this regard.

From the information furnished by the Department, the Committee note that of demands aggregating Rs. 13.2 crores raised in 1,507 Super Profits Tax and Sur-tax cases finalised in 1967-68, a sum of Rs. 5.35 crores remains to be realised. The Committee would like to be informed of the progress made in the realisation of the balance due.

[S. Nos. 5 and 6—Paragraphs 1—34 and 1.35]

Action taken

During the period 1. 4. 1968 to 30. 6. 1969, the pendency of Super Profits Tax assessments was reduced from 516 to 284 cases, but there was actually a slight increase in the number of Sur-tax cases due to the addition of new cases. The position regarding collection also is rather disappointing. In this context, the Ministry feel that it will not be possible to complete Super Profits Tax and Sur-tax assessments by the end of 1969.

2. The Central Board of Direct Taxes have chalked out the following lines of action about disposal of the pending SPT and Sur-tax cases, as also the collection against such assessments:

(i) In each Commissioner's charge, where substantial number of SPT and Sur-tax assessments are pending, a Cell of Inspectors will have to be set up for drawing up draft computations in such cases, which are to be processed urgently by the respective Income-tax Officers.

(ii) A short refreshers course for the Income-tax Officers in charge of SPT and Sur-tax cases, as also the Inspectors of the special cells wherever created. will be shortly organised by the Director of Inspection (Income-tax & Audit).

(iii) The respective Range Inspecting Assistant Commissioners are to be made responsible for ensuring the phased disposal of assessments and collection in the SPT and Surtax cases; and

(iv) The I.T.O.s are to be asked not to extend freely the dates of payment of SPT and Sur-tax demands.

A copy of the Board's Instruction No. 131 dated 21-11-1969 on matter is enclosed herewith.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|13|69-*IT (Audit) dated* 25-11-69].

F. No. 17|13|69-IT (Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 21st Nov. 1969.

From

Shri S. Bhattacharyya,

Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sub: Super Pdofits Tax and Sur-tax cases—Disposal of assessments and collection of taxes in—

Sir,

Your attention is invited to the Board's Instruction No. 116 (letter of even number dated 8. 10. 69) on the subject.

2. In January, 1969, the Board had held out hopes to the Public Accounts Committee that pending S.P.T. and Sur-tax assessments, except those which would have to be kept pending for compelling

reasons, would be cleared by December, 1969. The following statistics recently collected from the different Commissioner's charges however indicate that it will be impossible to reach the target at the present rate of disposal:

	Pendency of assessments		Demand in arrears (Crores of Rs.)	
	SPT	Sur-tax	SPT	Sur-tax
31·3·68	516	3,438	13·20	5·35
30·6·69	284	3,455	12·18	11·22

The figures relating to the different charges are given in an annexure.

3. The Board desire that the following steps should be urgently taken for liquidating the pendency of the S.P.T. and Sur-tax cases, as also the collection against such assessments:

(i) In each Commissioner's charge, where a substantial number of S.P.T. and Sur-tax assessments are pending, a Cell of Inspectors should be set up for drawing up draft computations in such cases which would have to be processed urgently by the respective Income-tax Officers.

(ii) A short refreshers course for the Income-tax Officers in charge of the S.P.T. and Sur-tax cases, as also the Inspectors of the special Cells wherever created, should be organised in each Commissioner's charge. The Director of Inspection (Income-tax and Audit) will shortly be issuing instructions as how to organise the course and he will also provide the necessary literature to the Commissioners.

(iii) The respective Range IACs should be made responsible for ensuring a phased disposal of assessments and collection in the S.P.T. and Sur-tax cases.

(iv) The concerned Income-tax Officers are to be asked not to extend freely the dates for payment of S.P.T. and Sur-tax demands made on assessees. In every case involving

a request for stay of demand by more than Rs. 10,000, prior permission of the concerned I. A. C. should be taken before allowing an extension.

4. The Board desire to be intimated by 29-12-69 about the action taken by you.

Yours faithfully,

(S. Bhattacharyya)

Secretary, Central Board of Direct Taxes

ANNEXURE

Statement showing the pendency S.P.T. and Sur-tax as on 30-6-1969

Sl. No.	C.I.T.'s charge	Super Profits Tax		Sur-tax	
		No. of cases	Amount (Rs. in thousands)	No. of cases	Amount (Rs. in thousand
1	2	3	4	5	6
1.	Andhra Pradesh	—	—	5	32
2.	Assam	1	4	2	—
3.	Mysore	7	95	28	83
4.	Bombay City	91	10,54	1,064	14,87
5.	Bombay City-II				
6.	Bombay City-III				
7.	Bombay (C)	6	12,86	146	—
8.	Calcutta (C)	16	4,95	204	—
9.	Delhi-I	1	2,51	41	16
10.	Delhi-II	—	2,86	30	1,85
11.	Delhi (C)	6	5,01	53	—
12.	Gujarat(I)	14	1,34	165	—
13.	Gujarat(II)				
14.	Kanpur	2	14,32	23	80
15.	Kerala	3	1,25	10	6
16.	Lucknow	—	—	23	—
17.	Madras-I	4	6,20	214	5,38

1	2	3	4	5	6
18.	Madras-II	4	3,60	271	26,75
19.	Madras (C)	—	2,95	61	1,35
20.	Madhya Pradesh	1	3.13	49	94
21.	Orissa	—	—	2	—
22.	Patna	—	2,03	2	—
23.	Poona	—	1,87	48	21 55
24.	Punjab	1	—	10	20
25.	Rajasthan	—	27	15	1,93
26.	West Bengal I				
27.	WestBengal-II	126	45,14	1,089	35,26
28.	West Bengal-III				
	TOTAL	284	121,32	3,555	1,12,25

Recommendation

While the Committee recognise that some progress has been made in the clearance of pending Excess Profits and Business Profits Tax cases; they would like the Department to take steps to ensure that the remaining 71 cases are speedily cleared. According to the target fixed, these cases were to have been cleared by 1st February, 1969. The Committee would like to know whether this has been done.

(Sr. No. 7—— Paragraph 1.41)

Action taken

The Ministry regrets that despite best efforts it has not been possible to clear the 71 EPT and BPT cases pending as on 31st July, 1968. The pendency as on 30th June, 1969 was as below:

E. P. T.	B. P. T.	Total
42	14	56

A senior Member of the Central Board of Direct Taxes is personally in touch with the concerned Commissioners about the progress of the pending cases.

2. The reasons for the pendency of the above mentioned assessments are summarised below:

(i) In some cases the Income-tax assessments originally made were set aside by appellate authorities and re-assessment proceedings are still pending.

(ii) The old records are not easily traceable,

(iii) The E.P.T. assessments originally made were set aside by the Income-tax Appellate Tribunal and appeals to higher courts are pending, and

(iv) Some writs are pending against the Income-tax assessments which would form the basis of the E. P. T. assessments.

The difficulties involved in the pending cases are not such as may be solved by even 31st March, 1970. However, the Ministry is making all efforts to clear every case which can be possibly finalised.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|15|69-*IT (Audit)* dated 15-11-69].

Further information sought by the Action Taken Sub-Committee

Please indicate the latest position regarding clearance of pending Excess Profits Tax and Business Profits Tax cases.

Government's reply

The position of pendency as on 30th September, 1969 is as under:

	No. of cases	*Rupees in lakhs*
E. P. T.	52	13·34
B. P. T.	14	5·00

Seven EPT cases were aded in the West Bengal charge in consequence of the reopening of Income-tax cases.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|1|69-*IT (Audit) dated* 22-12-1969].

Recommendation

Form the information furnished by Government, the Committee observe that the number of assessments relating to property income in Delhi has not shown a very perceptible rise over the period 1962-63

to 1964-65. It is well-known that there has been a substantial increase in real estate investment in Delhi and other metropolitan cities in the last few years. The Committee would therefore like Government to review the position in all major cities to ensure that the owners of these properties have not escaped tax either on income channelised into these investments or on income accruing from the properties.

[*S. No.* 10—*Paragraph* 1.57]

Action taken

The P.A.C.'s recommendation, made in this paragraph, concerns house properties constructed in metropolitan areas since 1962-63. The review desired by them would have to be undertaken in all the major cities of India for investigation into the following points:

(1) Whether the owners have declared the existence of these properties in their Income-tax or Wealth-tax returns?

(2) Have the correct amounts of investment in these properties been declared?

(3) Are the amounts invested in the properties fully explained by the declared resources of the owners? If not, the investments in excess of the known resources would have to be treated as the undeclared income of the concerned assessees.

(4) Have the owners declared the correct income from the properties?

2. The investigations desired by the P.A.C. would be time-consuming, but the Ministry is certain that they will also be rewarding. The first step in this direction has been taken in the Delhi charge where the Commissioner of Income-tax put 15 Inspectors for taking out extracts regarding newly constructed urban properties from the municipal records. They took down the particulars of 12,000 and odd houses. Thereafter, the owners of the properties were all written to, enquiring whether they are assessed to Income-tax and/or Wealth-tax and some 3,000 of them have already sent replies; others are yet to respond. Meanwhile, over 2,500 Wealth-tax returns from new assessees have been received.

3. The Delhi Commissioner's efforts are proving fruitful. It is expected that when the concerned ITOs start checking the valuation

of the properties deducted, it would be possible to rope in for Income-tax assessments the undeclared investments in such properties.

4. A Valuation Cell was set up in the Central Board of Direct Taxes in September, 1968. It has now eight property valuation units, 2 each at Bombay and Calcutta and one each at Delhi, Lucknow, Ahmedabad and Madras. Each unit is headed by an Executive Engineer and the overall control over the units is exercised by a Superintending Engineer taken on deputation from the C.P.W.D. The purpose of setting up of the Valuation Cell was to check up whether the valuation of properties made by assessees is adequate. Up to the end of September, 1969, 228 cases in all had been referred to the Valuation Units, out of which 71 were disposed of. Taking the 71 cases together, the total market value of the properties came to about Rs. 238 lakhs according to the returns filed by the concerned assessees. The corresponding figure, as per the valuations worked out by the Valuation Units, comes to about Rs. 413 lakhs, which is 73 per cent more than the valuation shown in the returns. The Ministry expects that with persistent probes, the Valuation Cell of the C.B.D.T. will help roping in undeclared investments.

5. On the basis of the experience of the survey of new properties in the Delhi Commissioner's charge, similar surveys will be undertaken shortly in the other Commissioners' charges.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|58|69-*IT (Audit) dated* 15-11-1969.]

Further information sought by the Action Sub-Committee

Please state whether any time-targetted programme for completing the review of house properties has been drawn up for charges other than Delhi.

Government's Reply

No time-targetted programme has been drawn up for the Commissioners' charges other than Delhi; but they are being asked to undertake similar surveys immediately after the financial year ends

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|1|69-*IT (Audit) dated* 22-12-1969.]

Recommendations

The Committee cannot help expressing their concern over the increase in "effective arrears" of income-tax from Rs. 244.67 crores as

on 31st March, 1966 to Rs. 320.87 crores as on 31st March, 1967. The provisions of the Act contain built-in safeguards against accumulation of arrears which the Committee feel should be purposefully enforced, so that the problem of arrears could be effectively tackled. In this connection the Committee would like Government to consider the adoption of the following preventive steps to avoid accumulation of arrears:

(i) Tax on dividends and salaries statutorily deductible at source constitute a major portion of the total tax realisation. Elsewhere in this Report, the Committee have drawn attention to instances of failure to remit taxes deducted at source. The departmental machinery should be geared to check compliance with the provisions of law in this regard.

(ii) Advance tax which is collected also accounts for a major portion of the tax realisations. The Department should work out an arrangement to ensure that advance tax notices are duly issued and collections watched.

(iii) "The real and serious reason for heavy arrears", as pointed out by the Working Group of Administrative Reforms Commission, "is the tendency on the part of many Income-tax Officers to delay assessments till the end of the financial year and make cumulative assessments for more than one year, particularly in big assessment cases, resulting in piling up huge demands which naturally the assessee is unable to discharge". This tendency should be firmly checked and the assessment work spaced out evenly over the year.

(iv) The Department should also firmly curb any tendency on the part of assessing officers to over-pitch assessments, as these result in needless inflation of demands and arrears. The Committee had already drawn attention to this problem in para 1.27 of their 17th Report (Fourth Lok Sabha) and they hope that the matter will be kept under constant study.

[*Serial No.* 11—*Paragraph* 1.80]

Action Taken

(i) and (ii) The Government is grateful for the valuable suggestions made by the P.A.C. and is keen that proper steps as per the provisions of the law, for strictly enforcing the recovery of the taxes, are taken. Instructions already exist for launching prosecutions in cases of failure to deduct tax at source and remit the same to the Government (copy enclosed). Copies of instructions dated 26th March, 1968 and 15th November, 1962 regarding issue of notices for payment of advance tax are also enclosed.

(iii) The assessing officers' work is closely watched by the Inspecting Assistant Commissioners and the Commissioners of Income-tax and necessary directions are issued where it is noticed that the disposal of cases per month is not uniform, which may lead to heavy disposal of cases in the last months of February and March. Instructions have already been issued to Income-tax Officers to avoid accumulation of arrears of assessments by proper phasing of their programme. A copy of the instructions is enclosed.

(iv) Regarding assessments which are on the higher side, without proper justification a watch is kept by the Commissioners of Income-tax. While evaluating the work of an officer, if such tendency is noticed, this is taken note of by the reporting officers. A copy of the instructions issued in this regard is enclosed. (Annexure).

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|59|69-*IT (Inv.) dated* 28-10-1969].

F. No. 3/3/68-IT(Audit)

GOVERNMENT OF INDIA

Central Board of Direct Taxes

New Delhi, the 8th October, 1968.

From

Shri M. N. Rahman,

Under Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUB: *Recommendations of the Public Accounts Committee in their 17th Report* (1967-68) *in Para* 1.9—

I am directed to append below the recommendation of the Public

Accounts Committee in their 17th Report (1967-68) in Para 1.9 and to request that it may please be ensured that the Income Tax Officers plan their programme in such a way that assessment of cases involving large income is not crowded into the last month and the last week of the financial year.

Para 1.9:

"The Committee would like to draw special attention to the fact that the total value of assessments completed in the last month (March) of the financial year 1965-66 represented approximately 29 per cent of the total value of assessments completed. Further, nearly 40 per cent of the value of assessments in the last month were completed in the last seven days of March each year. This is clearly indicative of the fact that the Department is not planning its work properly and that a large number of cases are rushed through in the last month and indeed in the very last week of financial year. The Committee would like Government to take effective measures to ensure that Income Tax Officers plan their programme in such a way that assessment of cases involving large incomes is not crowded into the last month and the last week of the year."

Yours faithfully,

Sd/- M. N. Rahman,

Under Secretary, Central Board of Direct Taxes.

F. No. 4/7/68-IT (Inv.)

GOVERNMENT OF INDIA

Central Board of Direct Taxes,

New Delhi, the 29th January, 1969.

From

The Secretary,

Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUB: *Prosecution for non-deduction of tax at source and for not crediting the tax to Government—Provisions of Part B—Deduction at source in Chapter XVII—*

Reference is invited to Board's circular letter F. No. 58/35/67-IT (Inv.) dated 23-3-1967 regarding the above, wherein it has been emphasised that prosecution should be resorted to under section 276(b) and 276(d) of the Income-tax Act, 1961 for offences mentioned therein. Since cases of this type do not normally present any difficulty in the matter of launching prosecutions, instructions were issued to the Commissioners to go ahead with prosecutions in such cases without the Board's prior administrative approval.

[*Vide* Board's circular letter F. No. 4/3/68-IT(Inv.) dated 3-2-1968].

2. The reports so far received indicate that the progress achieved in this regard is not up to the expectations of the Board. The provisions of section 276B, inserted by the Finance Act, 1968 should also be availed of to the maximum possible extent. Under these provisions the punishment for default in deducting the tax or for failure to pay the tax deducted has been extended to rigorous imprisonment which may extend to six months. All cases of continuing defaults or new defaults after 1-4-1968 should be carefully examined and action to prosecute the defaulters under section 276B should be taken wherever necessary.

3. In this connection it may also be brought to your notice that recently in a case of prosecution under section 276(b) and 276(d) of the Income-tax Act, 1961, conviction has been secured not only against the Principal Officer but also the Managing Director of company. As the prosecution of the Directors is likely to have a much better effect, action for the prosecution of the Directors should also be taken wherever the circumstances justify such action.

4. In some of the cases decided by courts recently, a part of the fines imposed has been directed to be made over to the Department to cover the legal expenses. We must invariably request the court to order the payment of at least a part of the fine to the department to cover the expenses incurred by it in prosecuting the defaulters.

5. In this connection it may be noted that successful prosecutions launched in Bombay and Madras charges during the recent past have greatly stopped up the receipts from deductions at source. I am, therefore, directed to request you that there should be no hesitency in taking resort to prosecutions, wherever necessary, in the light of the above instructions. Reference is also invited to Board's letter F. No. 4|73|68-IT(Inv.) dated 12-12-1968, wherein a monthly

report in this regard is required to be furnished to Director of Inspection (Investigation), who in turn will consolidate and furnish it to Board.

6. The above instructions may please be brought to the notice of all the officers in your charge.

Yours faithfully,

Sd|- E. K. LYALL,
Secretary, Central Board of Direct Taxes.

Copy forwarded to:—

1. Director of Inspection (Investigation), New Delhi.

2. Director of Inspection (Intelligence), New Delhi(Bombay|Calcutta & Madras.

Sd|- E. K. LYALL,
Secretary, Central Board of Direct Taxes.

F. No. 50|322|68-ITJ (2).
GOVERNMENT OF INDIA
Central Board of Direct Taxes,
New Delhi, the 6th February, 1969|
17th Magha, 1890 (Saka)

From

Shri S. K. Lall,
Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUB: *P.A.C's observations on over-assessments—Pilot study of the problem—Defects noticed—Instructions regarding—*

The Action Taken Sub-Committee of the P.A.C. having adversely commented on the problem of over-assessments, the Board constituted recently a Committee consisting of Shri S. Narayan, OSD and

S|Shri W. A. Khan and P. N. Sewake, D. Ds: L for conducting from this angle a pilot study of the orders passed during 1967-68 by 2 AACs each from the Punjab, U.P. and Delhi CIT charges. The Committee's report has been received; although the study was confined to only selected AACs' ranges from 3 Commissioners' charges, the results of the pilot study can generally be considered as applicable to all the charges.

2. Out of nearly 8,500 appellate orders studied by the Committee, it was found that only about 3,000 assessment orders (35.5 per cent) were confirmed, while about 5,000 orders (60 per cent) were subjected to relief (excluding assessments interfered with but not amounting to relief). A further analysis of the 5,000 and odd assessments subjected to relief showed that in about 2,800 cases (56 per cent) more than 50 per cent of the relief sought for had been allowed by the AACs.

3. It is true that a percentage of interference reflected honest difference of opinion, maturer judgment of the AACs or availability of appellate decisions and evidence which were not before the ITOs but quite a considerable percentage of interference was due to omissions and commissions on the part of the ITOs, which could well have been avoided. Some of these typical omissions and commissions listed by the Committee are indicated below:—

(i) The ITOs seem to be in the habit of making comparatively petty additions without any reason or with utterly inadequate reasons.

(ii) In cases of retailers where it was obviously not possible to keep quantitative stock tally, additions had been made to the trading accounts without giving justification or quoting parallel cases and no care was taken to see whether the additions fitted in logically with a proper arithmetically correct reconstruction of the trading account.

(iii) The ITOs seem to be in the habit of making additions for supposedly inadequate drawings for household expenses without giving any reasons or without trying to analyse the expected normal household expenses under different heads, correlating them with the size and the needs of the family.

(iv) Cash credits are sometimes added with only superficial enquiry and probe into their source and ownership without pursuing these enquiries to an extent which could ensure their being sustained in appeal.

(v) The ITOs are sometimes not realistic and practical in their approach in the matter of allowing bad debts written off in the books; mere absence of legal action against the debtors should not be over-emphasized, particularly when the amounts involved are small making it not worthwhile for the assessee to incur legal expenditure, once he was satisfied that nothing further could be realized.

(vi) The ITOs have sometimes a tendency to make additions in manufacturers' cases, on account of shortages, wastages, low yields, etc. without building up a reasonably strong case on these points and without giving adequate opportunity to the assessee for elucidating reasons and then meeting them.

(vii) In the case of companies, the ITOs sometimes tinker unduly with the remuneration of the Directors even when they are apparently not large nor unreasonable.

(viii) The provisional share income from firms is sometimes taken by the ITOs not as returned by the assessee but on estimate which is not a correct course.

4. The Commissioners are requested to bring the above noted shortcomings to the notice of the ITOs so that these are avoided. The Commissioners and IACs should also constantly impress upon the ITOs the imperative need for making balanced, well-reasoned and realistic assessments. These aspects of assessment work should be particularly looked into during inspection of ITOs' work and the defaulting officers be pulled up and adversely commented wherever called for. This matter could also be borne in mind and necessary collective action by way of advice or admonition taken, when the adverse appellate orders are scrutinised in the Commissioner's Office.

Yours faithfully,

Sd|- S. K. LALL,

Secretary, Central Board of Direct Taxes.

Copy to:—

1. All Directors of Inspection.
2. O.S.D. (Shri S. Narayan).
3. *Bulletin Section (3 copies).*
4. *All Officers and Sections in the Direct Taxes Wing.*

Timely issue of notices for payment of advance-tax.

At the meeting of the Direct Taxes Advisory Committee held in October, 1962, it was brought to notice that demand for payment of advance tax under the provisions of section 207 of the Income-tax Act, 1961, is not made by the Income-tax Officers well in advance of the due date for payment thus causing inconvenience to the assessees in making the payment by the due date. The Board desire that the importance of issuing timely notices for payment of advance tax should once again be impressed upon the Income-tax Officers. The Commissioners of Income-tax should ensure that the notices of demand for payment of advance tax are issued and served on the assessees in time, preferably a fortnight before the due date for payment, so that the assessees get adequate time to arrange the payment.

2. Care should also be taken to see that the demand notice is accompanied by the estimate form and as many challans as the number of instalments in which the advance tax is required to be paid so that the assessees may not have to spend time in obtaining these forms.

3. The Board desire that the above instructions should be brought to the notice of all the officers.

[*Circular No.* 35 (115) *of* 1962 *dated* 15-11-1962]
(*Page* 519 *of CBDT Bulletin*)

Section 18(A) (1)—Delay in issuing notices under—Avoidance of—

It has been observed that the instructions for the prompt issue of notices under section 18A(1) given on pp. 263—265 of the Office Manual, Vol. II Section II, are not being followed strictly in many Income-tax Offices. In view of the mounting arrears of tax, the Board desire that Commissioners of Income-tax should make sure that notices in all cases, including cases in which the first instalment is due on 15th September, are actually served before the end of May. In preparing notices for advance tax, cases involving a

demand of one thousand rupees or more should be given priority. No notice should be issued in cases where the net demand of advance tax is less than rupees two hundred.

[Letter F. No. 12(8)-IT|57, dated 26-3-1968]

(Page 573 of CBDT Bulletin)

Recommendation

The Committee trust that action will be finalised quiekly. The Committee have in the past and elsewhere in this report stressed the need to curb the tendency of assssing officers to over-pitch assessments. The Committee trust that this question will receive the continuous attention of the Board.

[*Serial No.* 18—*Paragraph* 2.8]

Action taken

The PAC's attention is invited to the Ministry's reply to para 4.26. (S. No. 55).

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17/62/69-*IT (Audit) dated* 17-11-69.]

Recommendation

The Committee observe that the Income-tax Officer, instead of disallowing the inadmissible deduction of £ 12,123 on account of interest on tax dues and adding it back to the book profits, deducted it from the book profits, thereby reducing the assessable income by £24,246. Another mistake made by the Income-tax Officer was to assess the amount of £12,123 which was actually an expenditure item as income under 'other sources of income'. The cumulative result of the two mistakes was under-assessment of tax to the tune of Rs. 1,05,066 and excess payment of interest to the tune of Rs. 5,078. While the Committee note that the short levy of Rs. 1.05 lakhs has since been recovered, they cannot help observing that the short levy was caused by negligence on the part of the officials concerned. It is regrettable that the mistake should have occurred in a Central Circle where the number of assessments expected to be completed is comparatively less than in other Circles. The Committee would like the Board to take these matters and the enquiries more seriously. The Board should issue detailed instructions as to the checks it wants its officers to exercise to avoid such mistakes in assessment.

[*Serial No.* 20—*Paragraph* 3.7]

Action Taken

Observations made by the Public Accounts Committee are noted. In this case, the Income-tax Officer erred in treating a debit item as an item of credit in the P&L Account and instead of disallowing an inadmissible deduction, deducted this from the assessable income. This error was not due to ignorance but apparently due to lack of sufficient care in making the arithmetical computations. The Board have therefore issued general instructions to the officers for exercising more care in securing arithmetical accuracy of the computation of income and taxes. A copy of these instructions dated 24th October, 1969 is enclosed. In view of the instructions issued by the Board, it is hoped such mistakes may not occur in future.

[*Ministry of Finance (Department of Revenue), F. No. 17|5|69-IT (Audit), dated 3rd November, 1969*].

F. No. 17|5|69-I.T. (Audit)

GOVERNMENT OF INDIA

Central Board of Direct Taxes

New Delhi, the 24th October, 1969.

From

Shri Balbir Singh,
Secretary,
Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT.—*Public Accounts Committee—Irregularities noticed by the Audit Parties of the C. & A. G.—Observation made by the Committee in their 73rd Report, 1968-69.*

I am directed to say that it has been brought to the notice of the Board, by the Audit, that an Income Tax Officer erred in treating a debit item which, was inadmissible for I.T. purposes, as an item of credit in the Profit and Loss Account. This resulted in underassessment of tax. The Board are of the view that the nature of the error is such that it cannot but be due to gross negligence on the part of the Income Tax Officer. There can be absolutely no justification for such lapses and the Public Accounts Committee have rightly commented upon adversely in their 73rd Report for 1968-69.

The Board would like to emphasize that mistakes such as disallowances discussed in the body of the order but omitted from determination of total income, mistakes in transporting figures or in totals or omissions to disallow obvious items such as Reserves, etc. can not be allowed to recur. They would therefore once again like to impress upon the Officers that they should exercise the utmost care in regard to arithmetical accuracy of the computation of income and taxes. Negligence has no justifiable defence.

Yours faithfully,

BALBIR SINGH,
Secretary,
Central Board of Direct Taxes.

Copy to:—

(1) All Officers and Sections in the C.B.D.T.
(2) Directorate of Inspection (I.T.)|(Inv.)|R.S. & P.
(3) Bulletin Section, D.I.(R.S. & P.) (3 copies).
(4) A.D.I. (Shri M. P. Vasistha)|S.O. (Coord. Cell).
(5) Shri P. B. Venkatasubramaniam, Joint Secretary and Legal Adviser, Ministry of Law, New Delhi.
(6) The Comptroller & Auditor General, New Delhi (25 copies).

Recommendation

(i) The Committee note that though the amount of Super-tax payable by the assessee was correctly computed at Rs. 1,99,267|-, the figure was erroneously taken at Rs. 1,19,267|- at the time of calculation of the total tax demand in the assessment form. This shows that before issuing the demand notice, the Income-tax authorities had not subjected the tax calculation in the assessment order to a proper check.

(ii) The Committee regret that though the mistake was pointed out by the Internal Audit in October, 1966, notice for its rectification was issued only in April, 1967—i.e. after a lapse of nearly six months. With a view to avoiding unnecessary delay in the recovery of tax dues, the Committee desire that corrective action should be initiated by the Department soon after the errors in assessment come to notice.

(*S. Nos.* 21 *to* 22, *Paragraphs* 3.13—3.14).

Action Taken

(i) The observations of the P.A.C. have been noted. The Ministry regrets the failure to check the tax calculation in this case.

(ii) The Board has already issued instructions that there should be no delay in taking corrective action in respect of mistakes pointed out by the Revenue Audit or by the Internal Audit. A copy of the instructions is enclosed.

[*Ministry of Finance (Department of Revenue) D.O. File No.* 17|14|69-*IT (Audit), dated* 14-11-1969].

F. No. 5|3|68-IT (Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 31st August, 1968.

From

Shri S. Bhattacharyya,
Secretary,
Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT.—*Internal Audit Parties—Delayed Audit—cases where no rectification is possible.*

It has come to the Board's notice that delay in taking up Audit sometimes makes it impossible to rectify the mistakes that are detected, due to the expiry of the limitation period. Instances where the mistakes were detected within time but timely action for rectification was not taken have also been reported. Such delays defeat the very purpose of setting up the Internal Audit Parties.

2. The Board, therefore, desire that the Internal Audit Parties should take up the checking of assessments, particularly those involving large revenue, soon after the assessments have been completed. For ensuring timely action regarding the mistakes pointed out by the Revenue Audit Parties, the Board have already pres-

cribed a Register under their F. No. 83|71|65-IT(B) dated the 19th February, 1966. A similar register should be used by the Chief Auditors for a follow-up action of the Internal Audit cases as well.

Yours faithfully,

Sd|S. BHATTACHARYYA,
Secretary,
Central Board of Direct Taxes.

Recommendation

The Committee note that allowance for entertainment expenditure in certain assessments was made in three different Commissioners' charges without regard to the relevant limits stipulated in the Act. This indicates that the implications of the relevant provisions were not clear to the assessing officers.

The Committee note that Internal Audit have been asked in the course of their work to check deductions on account of entertainment expenditure. Government also propose to strengthen Internal Audit and introduce a Manual of Internal Audit. The Committee trust that these arrangements would guard against such mistakes going undetected.

(*S. Nos.* 25 *and* 26, *Paragraphs* 3.26 *and* 3.27)

Action taken

The observations of the Committee have been noted. In view of the scope of the Internal Audit Parties having been extended, it is hoped that such mistakes will not go undetected in future.

2. Instructions were issued drawing attention of the Officers to Board's Circular No. 4-D(XLVII—23) of 1968 dated the 6th February, 1968 clarifying the provisions of Section 37(2) of the Income-tax Act, 1961. Copies of these instructions are enclosed.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|1|68-*IT* (*Audit*), *dated* 1-12-69].

F. No. 17/7/69-IT(Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 3rd October, 1969.

From

Shri M. N. Rahman,
Under Secretary,
Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT.—*Entertainment allowance—Deduction to be allowed in the case of companies u/s 37(2)—Instructions regarding.*

In Para 3.26 of their 73rd Report, the Public Accounts Committee have observed as under:—

> "The Committee note that allowance for entertainment expenditure in certain assessments was made in three different Commissioners' charges without regard to the relevant limits stipulated in the Act. This indicates that the implications of the relevant provisions were not clear to the assessing officers".

2. In this connection, the attention of the Income-tax Officers may please be drawn to Board's Circular No. D. 4(XLVII-23) of 1968 dated 6th February, 1968 clarifying the provisions of section 37(2) of the Income-tax Act, 1961. The Board desire that deductions on account of entertainment expenditure should be allowed in the case of companies in strict accordance with the provisions of the law.

Yours faithfully,

Sd./- M. N. RAHMAN,
Under Secretary,
Central Board of Direct Taxes.

No. Cir. Jud. (Cent)/67-68/137

OFFICE OF THE COMMISSIONER OF INCOME-TAX DELHI (CENTRAL)

New Delhi, the 28th March, 1968.

A copy of Board's Circular F. No. 10/51/67-I.T.(AI) dated 6th

February, 1968 is forwarded to all ITOs|IACs in this charge for information and necessary action.

M. R. JHATTA,
Income Tax Officer (Hqrs.),
for Commissioner of Income Tax.

All ITOs|IACs.

CIRCULAR NO. 4-D (XLVII-23) OF 1968

SUBJECT.—*Entertainment allowance paid by companies to their employees—Whether to be treated as entertainment expenditure incurred by the company for the purpose of Section 37 (2)—Instructions regarding.*

A reference is invited to the Board's circular No. 12-D (LVIII-35) of 1967 dated the 19th July, 1967, in which instructions were issued that, where a company pays an amount, to its employees, as entertainment allowance, it should be aggregated with the other entertainment expenditure incurred directly by the company, for applying the limits prescribed in Section 37(2) of the Income Tax Act, 1961.

2. The matter has been reconsidered, and the Board are advised that it would not be correct in law to treat entertainment allowance granted by the company to its employees as entertainment expenditure, for purposes of Section 37(2), in all cases. A distinction has to be made between an entertainment allowance paid by a company to its employee as forming part of his remuneration and an expenditure on entertainment incurred by the company itself through its employee. If the allowance does not form part of the employee's remuneration but is spent by the employee on entertainment on behalf of the company, such amount has to be aggregated with the entertainment expenditure incurred by the company direct, for the purpose of the ceiling referred to in Section 37(2). Similarly, where an employee is allowed to operate an expense account for the purpose of entertainment of the customers of the company, the expenses through such an account should be included in the entertainment expenses of the company for purpose of applying the limits prescribed in Section 37(2). On the other hand, where any entertainment allowance, as such, is paid to an employee of the company, as a part of his remuneration, the amount of such allowance should not be included in the entertainment expenses of the company for

the purpose of Section 37(2). To this extent, instructions on this subject contained in para 36 of Board's circular No. 15-D of 1961 dated the 30th May, 1961, are modified.

3. The instructions contained in Board's circular No. 12-D of 1967 dated the 19th July, 1967, are withdrawn.

Recommendation

The Committee are surprised to learn that an assessment should have been made by the Income-tax Officer on the basis of a provisional return which, as the Chairman of the Central Board of Direct Taxes conceded, was "no return at all". The provisional return showed a loss of Rs. 1.44 lakhs for 1960-61 which turned out to be inflated. It is a matter for regret that this mistake could not be detected during the assessment for the subsequent year when the Income-tax Officer was expected to verify and tally the opening balances shown in the accounts accompanying the return with the closing balances shown in the previous year's accounts. Nor did the Department notice the mistake when the assessment was revised by another Income-tax Officer who was investigating some escaped income of the assessee. The assessee himself filed a final return for the assessment year 1960-61 on 19th November, 1965 and 8th March, 1966, showing a loss of Rs. 47,384, but the Income-tax Officer failed to take notice of the mistake even at this stage.

The Committee cannot but conclude that this is a case of gross carelessness at every stage. The Committee would like Government to impress on the Officers concerned the fact that they have been grossly negligent and should be warned to be careful while the Government itself should ensure proper vigilance.

[*Serial Nos.* 28 *and* 29—*Paragraph* 3.34 *and* 3.35]

Action Taken

The explanations of the Officers responsible for the lapse have been obtained and they have been warned to be more careful in future.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|1|69-*IT (Audit), dated* 29-11-1969].

Recommendation

The Committee observe that, due to what the Department had admitted to be carelessness, there was in this case short levy of Rs. 12,442 which has not so far been recovered. The Committee trust that efforts will be made by the Department to recover this amount.

(*S. No.* 31, *Paragraph* 3.43).

Action taken

The extra tax of Rs. 12,442|- was collected in July, 1969.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|22|69-*IT (Audit), dated* 3-11-69].

Recommendation

The Committee regret that despite instructions given by the Board in 1963 as to what should be reckoned as capital for purposes of the levy of Super Profits Tax 'provision' made by certain companies for taxation, dividend etc. was reckoned as part of capital. This resulted in depressing the amount of profits in these cases and a consequential under-assessment of tax, which has since been recovered. The Committee trust that the Board will take adequate steps to safeguard against the recurrence of such under-assessments, by ensuring that instructions issued by them are strictly complied with by assessing officers.

(*S. No.* 32, *Paragraph* 3.49).

Action taken

The attention of the Commissioners of Income-tax has been drawn to the dissatisfaction expressed by the PAC in this respect and they have been asked to see that the existing instructions of the Board are followed strictly by the officers in their respective charges. A copy of the Board's letter F. No. 17|17|69-IT(Audit) dated 15th November, 1969 is enclosed.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|17|69-*IT (Audit), dated* 17*th November,* 1969.]

F. No. 17|7|69-IT(Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 15th November, 1969.

From

Shri R. R. Khosla,
Secretary,
Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

Subject.—Super Profits Tax Act, 1963—Computation of capital—Instructions regarding.

I am directed to invite a reference to the Board's Circular No. 1-D(SPT) of 1963 dated the 28th October, 1963 wherein detailed instructions regarding certain administrative and technical matters relating to super profits tax were issued and to say that a large number of audit objections involving substantial revenue have come to the notice of the Board for failure on the part of the officers to follow the above instructions, especially in the matter of computation of capital. This aspect has also been the subject matter of adverse comment by the Public Accounts Committee. The Board desire that you should ensure that the instructions contained in the Board's Circular referred to above are strictly followed by the officers in your charge with a view to avoiding recurrence of such mistakes in future.

Yours faithfully,
R. R. KHOSLA,
Secretary,
Central Board of Direct Taxes.

Recommendations

Over the years Audit have been repeatedly bringing to notice mistakes in computation of depreciation and development rebate. The Committee would in this connection like to invite attention to the date at page 162 of this Report. The Committee had also drawn attention to this matter in para 1.68 of their 46th Report (Third Lok Sabha) and in pursuance of the observations in that Report, a special review of the assessments was also made. It is, however, apparent that the position has not been substantially remedied. Basically it would appear that the provisions in the Act in regard to depreciation and development rebate need to be rationalised. The

Committee note that in regard to depreciation, the Working Group of the Administrative Reforms Commission had, in the interests of rationalisation, suggested replacement of existing rates by consolidated rates on an industry-wise basis, in consultation with trade, professional bodies etc. The report on 'Rationalisation and Simplification of Tax Structure' also draws attention to the fact that certain items of capital expenditure though "necessary and legitimate" are not being reckoned while determining profits, resulting in the incidence of taxation becoming "uneven in unintended ways" and in the process discouraging "enterprise and growth".

The Committee would like Government to consider expeditiously these and other suggestions made for the rationalisation of the provisions of the Act bearing on depreciation and development rebate so that a relatively simple and equitable dispensation could be worked out.

(*Serial Nos.* 34 *and* 35 *and Paras* 3.64, 3.65 *and* 3.66 *of Appendix II to the* 73*rd Report,* 1968-69).

Action taken

The Income-tax (Fourth Amendment) Rules, 1969 have since been published in the Gazette containing draft rules replacing the existing rates of depreciation by consolidated rates on an industry-wise basis. The rules have been published at draft stage, for eliciting public opinion. These rules will be brought into force in due course after taking into account the suggestions received. A provision is also proposed to be introduced in the Income-tax Act for amortisation of certain intangible capital expenses, *vide* clause 8 of the Taxation Laws (Amendment) Bill,, 1969.

[*Ministry of Finance* (*Department of Revenue*) *D.O. F. No.* 17|16| 69-*IT* (*Audit*), *dated* 1*st December,* 1969].

Recommendation

The Committee note from the information furnished by Audit that the failure to withdraw the demand has resulted in an under-assessment of Rs. 25,000 in 1965-66.

(*S. No.* 37, *Paragraph* 3.73).

Action taken

As a result of the revision of assessment in this case, there was no tax effect, as the business loss originally computed was reduced.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|6|69-*IT (Audit), dated 22nd October,* 1969].

.. .. **Recommendation** .. ..

The Committee observe that there was an omission on the part of an assessing officer to take cognizance of intimation received from another officer who assessed the company's income, as a result of which relief originally allowed to an assessee shareholder on dividend income derived from that company turned out to be excessive. The Committee note that the amount has since been recovered. In the Committee's opinion, the case underlines the need for a coordinated approach to assessments. The Committee would like to be informed whether action has been taken to rectify the excess relief given to other shareholders of the company.

(*S. No.* 39, *Paragraph* 3.83).

Action taken

The Committee's observations have been noted.

Action has been taken to rectify excess relief given to other shareholders of the company.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|21| 69-*IT* (Audit), *dated* 14*th November,* 1969.]

Recommendation

The Committee note that under the Income-tax Act, 1961 as it stood prior to its amendment in 1965, a company in which 50 per cent or more of the equity capital was held by another company in which the public were substantially interested was not itself to be treated as a company in which the public were substantially interested. In two cases, however, this principle was not applied with the result that there was an under-assessment of tax of Rs. 2.37 lakhs. It is regrettable that this mistake should have occurred in both the cases after Government had clearly explained the implications of the old provisions while amending the Act in 1965, and in one case the mistake had occurred even after the Board had issued instructions for the review of assessments in the light

of para 45(a) of Audit Report on Revenue receipts, 1966. This is yet another instance where the Committee find the assessing officers had not familiarised themselves with the provisions of the law that they had to apply in the course of their work.

(*S. No.* 42—*Paragraph* 3.100).

Action taken

Observations of the Committee have been noted.

[*Ministry of Finance* (*Department of Revenue*) *D.O. F. No.* 17|26|69-*IT* (*Audit*), *dated 6th November*, 1969].

Recommendations

While the Committee note that the entire amount of short-levy in this case has been recovered they cannot help observing that the short levy was caused by negligence on the part of the assessing officer. There are standing instructions from the Board that the list of shareholdings of a company should be verified before deciding the status of a company for purposes of assessment. These instructions were not followed by the assessing officer who relied on the fact that the shares of the assessee company were quoted on the Stock Exchange. As admitted by the Chairman of the Central Board of Direct Taxes, this was no basis for holding the company as one in which the public were substantially interested. It is regrettable that the Inspecting Assistant Commissioner who checked the assessment order also failed to notice the omission. The Committee note that, to obviate the recurrence of mistakes of this nature, necessary instructions have been issued by the Board. The Committee trust that these will be strictly followed.

Elsewhere in the Report, the Committee have drawn attention to other mistakes that occurred in Company Circles This suggests that the Board would have specially to examine the position in regard to these Circles in order to ascertain whether staff posted in these Circles need 'in service' training to enable them to discharge their duties effectively.

[*S. Nos.* 45 *and* 46—*Paragraphs* 3.123 *and* 3.124].

Action taken

The recommendations made by the Committee have been noted.

In the light of the recommendations made by the Committee, a scheme has been evolved to give 'in service' training to staff

posted in Company Circles to enable them to discharge their duties effectively and efficiently. Accordingly, a short course of training has been drawn up. This year the training is being held in the month of October, 1969. The training course will be arranged by the Commissioners of Income-tax in their respective charges.

[*Ministry of Finance (Department of Revenue) D.O. F. No. 17|9|69-IT (Audit)*, 29-11-69.]

Recommendation

(i) The Committee note that there was an under-assessment of Rs. 7.75 lakhs in this case for the years 1961-62, 1962-63 and 1963-64. They observe that while the bulk of the under-assessment was due to the failure to make the additions on account of the undisclosed stock of the company, under-assessment to the extent of Rs. 2,73,755 was due to the incorrect allowance of development rebate. It is not clear how the development rebate could be allowed when the company had created the necessary reserve of 75 per cent that was required to qualify for rebate.

(ii) Another aspect of the case is that even though the assessee was a company, the assessments were not checked by Internal Audit as required. It has been stated that as Internal Audit Parties do not check bank statements, the omission that occurred in the course of assessment might not have come to notice even if the Internal Audit had carried out a check. The Committee would like Government to consider the feasibility of suitably extending the scope of functions of Internal Audit so as to make it an effective instrument for checking the accuracy of assessments.

[*S. Nos. 47 and 48—Paragraphs* 3.134 & 3.135]

Action taken

(i) For the assessment year 1963-64, no development rebate was actually allowed; what was done is to carry forward the development rebate computed for the year. For this purpose it was not necessary to create a development rebate reserve under the Board's circular No. 8-D/1968 dated 14-7-1968. The fact that this circular had since been superseded by later instructions escaped the Income-tax Officer's notice.

(ii) The scope of the scrutiny of the Internal Audit Parties has been very substantially enlarged under the Board's Instructions

issued in May 1969 [*vide* F. No. 5|4|69-IT-(Audit), a copy of which has been annexed to the Ministry's reply to paragraph 2.9 of the P.A.C. 73rd Report].

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|28|69-*IT (Audit), dated* 13-10-69].

Recommendation

The Committee regret that due to omission to follow the provisions of the law in regard to rebate on donations made to the National Defence Fund, there was an over-assessment in two successive years to the extent of Rs. 89,187. The over-assessment also escaped the notice of Internal Audit which had checked the case. The Committee note that the amount has since been refunded. The Committee trust that the Board will ensure that greater care is shown by the assessing officers in future.

[*S. No.* 50—*Paragraph* 4.5]

Action taken

The observations of the Committee are noted. It is regretted that the assessing officer was not careful enough to indicate in the assessment order that the limit of exemption, as per provisions of law, did not apply to the contributions made to the National Defence Fund.

There was a failure also on the part of the Internal Audit Party in not having checked up this point. The officer responsible for this mistake has retired. The official working in the Internal Audit Party, who failed to detect this mistake has been warned to be more careful in future.

As desired by the P.A.C., in order to ensure greater care in allowing proper rebate in respect of such contributions, the Board has issued instructions to the assessing officers *vide* Instruction No. 77, F. No. 36/33/67-IT(AI) dated 10-7-69 (copy enclosed).

From the assessment year 1968-69 straight deduction is allowed in respect of such contributions and it is hoped that such mistakes may not occur in future.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17/1/ 69-*IT (Audit) dated* 29-11-69]

F. No. 36/33/67-IT (AI)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 10th July, 1669.

From

Shri J. C. Kalra,
Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—*Rebate/deduction on donations made to the National Defence Fund.*

Section 80-G (2) enumerates the various Funds to which the contributions made are eligible for relief in the hands of the doners. Sub-section (4) of section 80-G prescribes the monetary limits up to which the donations qualify for relief. These limits are, however, not applicable in the case of the following:—

(i) The National Defence Fund set up by the Central Government;

(ii) The Jawaharlal Nehru Memorial Fund referred to in the Deed of Declaration of Trust adopted by the National Committee at its meeting held on the 17th day of August 1964; and

(iii) The Prime Minister's Drought Relief Fund.

2. It has been brought to the notice of the Board that in some cases the normal ceiling provided in section 80-G (4) [old section 88 (3)]has been applied by the Income-tax Officers even in the case of donations given to the National Defence Fund even though under law, no such ceiling is applicable in the case of these donations. This resulted in considerable over-assessment and was adversely commented upon even by the P.A.C. in their 73rd Report, 1968-69.

3. The Board desire that instructions should be issued to the assessing officers to be careful so that mistakes of the type referred to in the preceding para are not repeated.

Yours faithfully,

Sd|- J. C. KALRA,

Secretary, Central Board of Direct Taxes

Recommendation

The data given in this section of the Report shows that over-assessments have over the years substantially increased. The Committee would in this connection like to invite attention to their observations in paragraphs 2.39 and 2.40 of their 29th Report (Fourth Lok Sabha). As these over-assessments result in penalising assessees for no fault of theirs, the Committee would like effective steps to be taken by the Board for their elimination.

[*S. No.* 51—*Paragraph* 4.6]

Action taken

Necessary instructions have been issued in our letters Nos. 50/322/68-IT(J) dated 6-2-69 and 15/9/68-IT(Audit) dated 6-11-68 to the Commissioners of Income Tax for ensuring that over-assessment do not occur. A copy of these instructions is enclosed.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17/27/69-*IT (Audit) dated* 6-11-69]

CENTRAL BOARD OF DIRECT TAXES

F. No. 15|9|68-IT Audit) *New Delhi, the 6th November,* 1968.

From

The Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income Tax.

Sir,

SUB: *Public Accounts Committee—Implementation of the recommendations—Paras* 2.52 *and* 2.53—*Over-assessment.*

I have to invite your attention to the following observations|

recommendations made by the Public Accounts Committee in paras 2.52 and 2.53 of their 29th Report, 1967-68.

"2.52. The Committee find that for the period 1962-63 to 1965-66, there were as many as 4522 cases involving over-assessment of tax by Rs. 15.56 lakhs detected by the Internal Audit where no action has been taken so far by the Department. The Committee consider that it is equally, if not more, important in excess of taxes due is refunded without delay to the parties concerned.

2.53. The Committee find that the number of cases of over-assessment brought to notice by Internal Audit has risen from 7401 involving Rs. 16.43 lakhs in 1963-64 to 14.457 involving Rs. 83.75 lakhs in 1966-67".

2. The figures quoted by the Public Accounts Committee are based on the reports furnished by you to the Director of Inspection (Income-tax). The Board feel concerned at the slow pace of rectifications of mistakes pointed out by the Internal Audit parties and desire that immediate steps may be taken to rectify the mistakes of over-assessments pointed out by Internal Audit Parties. In every Commissioner's charge, the Chief Auditor, or the I.A.C. (Audit), as the case may be, should ensure that mistakes pointed out by the I.A.Ps. are rectified within a period of three months of the communication of such mistakes.

Yours faithfully,

Sd|- S. BHATTACHARYYA,
7-11-68

Secretary, Central Board of Direct Taxes.

Copy forwarded to:—

DI (IT) |DI (RS&P) |DI (Investigation).

Recommendation

The Committee note that due to a failure on the part of the assessing officer to follow the procedure for determining tax liability in respect of profits and gain from past life insurance business, a non-resident company was over-assessed for eight consecutive assessment years. It is regrettable that this should have occurred, though the provisions of the Finance Act, 1960 were quite explicit on the procedure to be followed in this regard. It is also a matter for concern that the Internal Audit Party which had checked two of the

assessments overlooked the mistake. Over-assessments of this nature, apart from inconveniencing assessees, will detract from the Department's standing in the public eye. The Committee hope that effective action will be taken to put a stop to such over-assessments.

[*S. No.* 52—*Paragraph* 4.12]

Action taken

The Public Accounts Committee's recommendations have been noted and instructions have been issued to the Commissioners of Income Tax on 25-7-69 (copy enclosed).

[*Ministry of Finance* (*Department of Revenue*) *D.O. F. No.* 17/33/69-*IT* (*Audit*) *dated* 29-11-69]

No. 17/33/69-IT (Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the July 25, 1969.

From

Shri S. Bhattacharyya,
Deputy Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income Tax.

SUBJECT:—*Assessment of non-resident companies on their income from life insurance business—Failure to apply concessional rates of Super-tax for the assessment years* 1958-59 *to* 1964-65 (*Income-tax for the assessment year* 1965-66 *onwards*).

In para 4.12 of their 73rd Report, 1968-69, the P.A.C. have commented on the over-assessment made in the case of several non-resident insurance companies carrying on business of life insurance in India. Super-tax at the concessional rates applicable to the Life Insurance Corporation of India was to be levied on these concerns for the assessment years 1958-59 to 1964-65 and thereafter concessional rates of Income-tax as applicable to the Life Insurance Corporation. Since, however, the non-resident companies in question had been carrying on life insurance business in India on a very

limited scale and their business consisted of only servicing old policies, there being no new ones after the setting up of the Life Insurance Corporation, the Income-tax Officers assessing them were in doubt whether life insurance business was at all being carried on by them. This doubt should have been dispelled after the issue of the Board's letter F. No. 4(23)-62/TPL dated 28-9-62, a copy of which is enclosed.

2. The Board desire that copies of their instructions dated 28-9-62, referred to in the preceding paragraph, may please be circulated to all the ITOs in your jurisdiction, who might be assessing insurance companies and the ITOs concerned should be asked to be careful to avoid the mistakes of the nature commented on by the P.A.C.

Yours faithfully,
Sd|- S. BHATTACHARYYA,
25-7-69.
Deputy Secretary, Central Board of Direct Taxes.

Copy to:—

(1) All Officers and Sections in the Central Board of Direct Taxes.

(2) Directorate of Inspection (I.T.)/(Inv.)/(R.S.&P.).

(3) Bulletin Section D.I. (R.S.&P.) (3 copies).

(4) A.D.I. (Shri M. P. Vasistha)/S.O. (Coord. Cell).

(5) Shri P. B. Venkatasubramaniam, Jt. Secretary and Legal Advisor, Ministry of Law, New Delhi.

(6) The Comptroller & Auditor General, New Delhi (20 copies).

Sd|- S. BHATTACHARYYA,
Secretary, Central Board of Direct Taxes.

Copy of letter No. 4(23)-62/TPL dated 28-9-62 from Shri S. K. Ghatak, Under Secretary, Central Board of Revenue, to Commissioner of Income-tax, Bombay-1.

SUBJECT:—*Finance Act,* 1960—*Section* 2(3) *L.I.C. Rates—Super-tax—Life Insurance Companies other than L.I.C.—Applicability of—Board's Circular No.* 12(*LXXVI*-37) *D of* 1960.

I am directed to invite a reference to your letter No. J-40-260/61 dated the 19th January, 1962 on the subject mentioned above.

2. The matter has been considered in consultation with the Ministry of Law. An extract of the Law Ministry's note in the matter is enclosed. In view of the position under the law as explained by that Ministry, Life Insurance companies running as closed portfolios, as referred to by you would be considered to be carrying on life insurance business as contemplated in section 2(3) of the Finance Act, 1960.

3. In the circumstances, if the appeal filed before the Tribunal in the case of M|s. Manufacturers' Life Insurance Co. of Canada relates only to the question of applicability of section 2(3) of the Finance Act, 1960, it may be withdrawn.

Recommendation

The Committee note that the interest amounting to Rs. 2,39,833/- has since been refunded to the assessee company on the advance tax of Rs. 15 lakhs deposited by it. The Committee would have felt happier if the amount due as interest had been ordered to be paid when the original orders for refunding the advance were passed on finalisation of the assessment. The Committee would like Government to impress upon the Income-tax authorities that interest due should be paid to assessees promptly.

[*S. No.* 53—*Paragraph* 4.16]

Action taken

Necessary instructions on the subject have since been issued in our letter F. No. 5/65/69-IT(AII) dated 4-7-69 to the Commissioner of Income-tax, Bangalore, with copies endorsed to all Commissioners of Income-tax. A copy of the letter is enclosed for information.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17/34/69-*IT (Audit) dated* 18-11-69]

F. No. 5/65/69-ITA2

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 4th July, 1969.

From

The Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income Tax,
Bangalore.

SUBJECT:—*Payment of interest on advance tax—Recommendation of the PAC in 73rd Report, 1968-69.*

Sir,

In para 4.16 of their Report, 1968-69, the Public Accounts Committee in the case of M/s. Mysore State Road Transport Corporation have observed as under:

> "The Committee note that the interest amounting to Rs. 2,39,833 has since been refunded to the assessee company on the advance-tax of Rs. 15 lakhs deposited by it. The Committee would have felt happier if the amount due as interest had been ordered to be paid when the original orders for refunding the advance were passed on finalisation of the assessment. The Committee would like Government to impress upon the Income-tax authorities that interest due should be paid to assessees promptly."

The Board desire that the Income-tax Officers should pay the amount of interest due on advance tax, along with the refund of the excess advance tax, to the assessees and Inspecting Assistant Commissioners should check this point occasionally.

Yours faithfully,
Sd|- J. C. KALRA,
Secretary, Central Board of Direct Taxes.

Recommendation

The Committee disapprove of the tendency to over-pitch demands as a safe line, leaving the assessee to get redress by way of appeal. They need hardly stress that this tendency, apart from not bringing any gain to revenue, adversely affects public relations, leads to unnecessary litigation, adds to the work of the Department and causes delay in collection. The Committee note in this connection that some of the witnesses appearing before the Administrative Reforms Commission Working Group have considered over-assessments as a major reason for Income-tax arrears. The Committee also take note of the impression in the mind of these witnesses that the tendency to over-assess has been encouraged by the Department's failure to take cognisance of over-assessments even after the fact of such over-assessment had become evident by huge reductions on appeal. While the Committee grant that, in view of the complicated nature of the law, genuine mistakes may sometimes occur, they strongly deprecate the

tendency of making "thoughtless additions" without proper scrutiny of the accounts. The Committee desire that this tendency should be firmly curbed. They trust that effective steps will be taken by the Board in this behalf.

[*S. No.* 54—*Paragraph* 4.25]

Action taken

The P.A.C. had commented on the same matter in para 2.54 of their 29th Report (1967-68). The Ministry's reply thereto may kindly be referred to.

2. Attention is also invited to the Ministry's reply to para 1.80 (iv) of the PAC's 73rd Report (1968-69) in which the Committee has been intimated about the steps taken to secure "balanced, well-reasoned and realistic assessments".

3. In view of these steps, it is hoped that the number of mistakes leading to over-assessments will get considerably reduced.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17/43/69-*IT (Audit) dated* 3-11-69]

Recommendation

In para 2.55 of their 29th Report (Fourth Lok Sabha), the Committee had observed that it is the moral duty of Government to refund the excess tax collected erroneously or illegally without pleading limitation. They have been informed by the Ministry that, under the existing instructions, the Commissioners of Income-tax refer time-barred cases of over-assessment to Government who advise them to waive limitation and allow refunds in all suitable cases. The Committee are glad to note Government's instructions and hope that these would be followed in the letter and spirit.

[*S. No.* 56—*Paragraph* 4.27]

Action taken

The Committee's observations have been noted. A copy of the Board's instructions dated 16-10-1965 is enclosed.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17/1/69-*IT (Audit) dated* 29-11-69]

F. No. 29/95/65-IT (A-II)

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 16th October, 1965

From

Shri G. R. Hegde,

Secretary, Central Board of Direct Taxes

To

All Commissioners of Income Tax.

SUBJECT:—*Grant of relief to assessees—Cases where rectification is barred by time.*

Sir,

Representations are often received from assessees seeking relief which would have been granted to them had the claim not become time-barred. It has been decided that as a measure of improving public relations Government should authorise waiving of the time-limit for the purpose of rectification of assessments where relief is due to assessees. Since the relief will necessarily be of an extra-statutory nature it will be confined to cases where there has been a clear case of over-assessment on account of mistakes in tax calculation or mistakes in computation of total income. Cases which would involve exercise of discretion as well as cases where it may be possible to have more than one opinion regarding the admissibility of the claim on merits, will be excluded. Rectification of only those mistakes which could have been rectified under section 35 of the old Act or under sections 154 or 155 of the Income-tax Act, 1961 had the claim been made in time, will be considered. Since relief in such cases will be extra statutory it can only be granted by the Government.

2. While forwarding representations from assessees, Commissioners should therefore specifically state whether they come within the scope of the concessions stated above and whether time-limit may be authorised to be waived by Government. In order to enable the Board to obtain sanction of the Government, full particulars of the case, indicating the amount of tax involved, should be furnished.

Yours faithfully,

Sd|- G. R. HEGDE,

Secretary, Central Board of Direct Taxes.

Copy to:

1. All Directors of Inspection.

2. Officers and Sections in the Direct Taxes Wing.

3. The Comptroller & Auditor General of India (with 20 copies) with reference to his U.O. No. 2868-Rev. Audit/28964 dated the 28th September, 1965.

Recommendation

The Committee are concerned over the inordinate delay in finalising assessment/reassessment in cases in which searches or seizures have been carried out. As on 31st August, 1968, 365 out of 926 cases in which searches and seizures had been carried out between April 1964 and August 1967 were awaiting finalising. The Committee have already drawn attention to the need to have the assessment expeditiously finalised in cases of this type in para 1.108 of their Seventeenth Report (Fourth Lok Sabha). The Committee would like Government to impress upon the assessing officers the need to be prompt in dealing with these cases. Lack of promptitude might possibly also entain avoidable interest liability to Government under Section 132(A) of the Act.

[*S. No.* 57—*Paragraph* 5.20]

Action taken

The Board receives quarterly reports from the Commissioners of Income Tax in all such cases. After reviewing the progress made, instructions are issued in individual cases to achieve their expeditious disposal.

The recommendations of the Committee have been noted for compliance.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17/31/69-*IT* (*Audit*) *dated* 29-10-69]

Recommendation

The Committee note that out of 926 cases in which searches and seizures were carried out, prosecutions have been launched only in 8 cases, of which two have been compounded. The Committee would like Government to take prompt follow up action in all such cases with a view to their earlier finalisation.

[*S. No.* 59—*Paragraph* 5.22]

Action taken

The Committee's observations have been noted for guidance.

2. The reasons why in all search cases prosecution is not launched are as follows:—

> Prosecution is possible only if evidence available even after a search is such that a criminal charge can be brought home with reasonable certainity. Evidence good enough for assessment is not so for prosecution. Only on proper evaluation of material and evidence gathered as a result of searches that prosecutions are launched. Information collected during searches have motivated assessees to come clean with the department and have influenced them to a great extent to come up with disclosures u/s 271(4A). However, settlements u/s 271(4A) automatically precludes prosecution. This apart, Department has maintained its policy of prosecution in cases where nature of evidence justified the action.

3. The Government is anxious to see that the assessments in which searches and seizures have been carried out are expeditiously disposed of and in cases where prosecution have been launched the Government is keen to get these cases finalised as early as possible.

[*Ministry of Finance (Department of Revenue) D.O. F. No. 17/31/69-IT (Audit) dated 27-10-69.*]

Recommendations

The Committee are concerned over the inordinate delay in the disposal of cases of penalty proceedings pending under the Income-tax Act, 1922. As on 31-3-1967, 7,316 cases relating to 1961-62 or even earlier years were pending, the penalty involved being Rs. 3.66 crores; 975 of these cases related to the assessment year 1951-52 or earlier years.

The Committee note that the number of pending penalty proceedings as on 31-3-68 is 12,410. These cases involved a penalty of Rs. 1.24 crores. The Committee, however, consider the position to be still unsatisfactory. Apparently, the absence of any time-limit for finalisation of penalty proceedings has created a feeling of complacency in the Department in this regard. The Committee would like to point out that, notwithstanding the absence of a time-limit, the Courts

have been of the view that there should be no delay in the finalisation of the proceedings. The ruling given by the Allahabad High Court in Ramkrishan Vs. Commissioner of Income-tax, U.P., is an instance in point. The Committee note that Government have recently taken steps to fix time-limits for the disposal of pending cases and asked for reports of progress made in disposal. The Committee hope that as a result the situation will improve and that, in the process of disposal, the older cases will get priority.

[*S. No. 62 and 63—Paragraphs* 5.43 & 5.44]

Action taken

The observations of the Committee have been noted.

2. Instructions have been issued for the expeditious disposal of the penalty proceedings pending under 1922 Act (copy enclosed).

3. From the reports received it is seen that the pending penalty proceedings under the old Act have been considerably reduced from 7316 as on 31-3-67 to 3267 as on 1-4-69.

[*Ministry of Finance (Department of Revenue) D.O. F. No. 17/36/69-IT (Audit) dated* 29-11-69]

F. No. 7/12/68-IT (Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 16th January, 1969

From

The Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—*Penalty proceedings pending under the* 1922 *Act—Expeditious disposal of—Instructions regarding—.*

Please refer to the Board's Circular D.O. letter No. 58/99/67-IT (Inv) dated 6-2-1968 requesting you to personally look into the pendency of these cases.

2. From the reports received in connection with para 61 of the Audit Report, 1968, it has been observed by the Board that there has

been no appreciable progress in the disposal of these pending cases. As against*—— cases reported as pending as on 31-3-1967, only*—— cases are reported to have been disposed of by 31-3-1968, leaving a balance of*——. Since this aspect has attracted the attention of the Audit also the Government will come in for severe criticism if this huge pendency is allowed to continue for long.

3. I am, therefore, directed to request that you should prescribe a time limit for the disposal of all these pending cases and watch their progress through a monthly statement which you may prescribe for this purpose. This should be one of the items to be covered by your inspection of the Inspecting Assistant Commissioner's offices. The Board should be kept informed about the progress achieved in this respect half-yearly. The first report should be sent by 15-4-1969 covering the period upto 31-3-1969.

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

Yours faithfully,
Sd|- E. K. LYALL,
Secretary,
Central Board of Direct Taxes.

*as per statement enclosed.

F. No. 7/12/68-IT (AUDIT) dated 16-1-1969.

Commissioner's charge	Pending as on 31-3-1967	31-3-1968	Disposal
Andhra Pradesh	448	362	86
Assam	155	@	
Bihar & Orissa	26	@	
Bombay City-I	303	218	84
Bombay City-II	313	300	13
Bombay City-III	586	493	93
Bombay (Central)	137	92	45
Calcutta (Central)	139	118	21
Delhi	391	292	99
Delhi (Central)	141	96	45

	1	2	3
Gujarat I & II	264	165	99
Kerala	120	81	39
Madhya Pradesh	1,402	903	499
Madras I & II	32	20	12
Mysore	42	29	13
Madras (Central)	31	24	7
Poona	279	66	213
Punjab	542	312	230
Rajasthan	353	@	..
Utter Pradesh	325	309	16
Utter Pradesh-II	193	133	60
West Bengal-I, II & III	891	547	344

@Details not yet received.

Recommendations

The Committee note that during the year under review, 254 companies had neither deducted tax at sources nor furnished the statement under Section 37(2). The number of companies which deducted the tax at source but did not remit the tax deducted was 254. 1815 companies did not file the prescribed statement under Sec. 38(2). All this indicates that the position regarding deduection of tax from dividends, their remittance into treasury and filing of prescribed returns need to be kept under continuous watch. The Committee have been informed that the Board had issued necessary instructions to Commissioners after the introduction of Section 276B was effect from 1-4-1968. The Committee trust that the Department will keep a constant watch and make use of their powers under Section 276B to enforce prompt remittance of the tax deducted by companies and to secure timely submission of the prescribed returns.

The Committee also observe that tax amounting to Rs. 141 lakhs deducted at source was not remitted. The Committee would like to be informed of the position regarding recovery of the tax and penalties levied.

[*Sl. Nos.* 64 & 65—*Paragraphs* 5.53 & 5.54].

Action taken

The observations made by the Committee have been noted.

2. The number of companies that had neither deducted tax at source nor furnished any statement under Section 37(2) reported at 254, as on 31-3-67, were reduced to only 13 by 31-3-68.

3. The amount of tax deducted but not remitted was Rs. 141 lakhs as on 31-3-1967. This figure as on 31-3-68 was Rs. 48 lakhs.

4. The Government is keen that prosecutions are launched in the cases of defaulting companies and a statement furnished in this respect already figures at paragraph 5.50 of the PAC's 73rd Report. The statistics regarding the penal action u|s 276 and 276A, as on 1-3-69, are furnished below:

	1965-66	1966-67	1967-68	1968-69	Total
1. No. of complaints filed	8	—	26	268	302*
2. Convictions	8	—	19	135	162
3. Acquittals	—	—	—	12	12
4. Withdrawals .	—	—	—	4	4
5. Compositions .	—	—	—	1	1
6. Pending before Courts	—	—	7	116	123

*The number of cases involved is only 64.

[*Ministry of Finance (Department of Revenue) D.O. F. Nos.* 17|60|69 & 17|61|69-IT (Audit) dated 12-11-69].

Recommendation

The Committee observe that the category of companies known as 'companies in which the public are not substantially interested' was introduced in the tax statute in 1930 to prevent avoidance of super-tax payable by an individual by forming 'controlled companies'. At that time there was a marked difference between the tax payable by an individual and that payable by a company and the statute sought to cover cases of individuals attempting to avoid super-tax through the constitution of controlled companies by bringing in the concept of 'companies in which public are not substantially interested'. The disparity between the tax payable by an individual and that payable by a company does not now exist in that measure, with private companies having been progressively

subjected to higher rates of taxation. Besides, the number of 'companies in which the public are not substantially interested' is rather small. Moreover, it would appear that the criteria laid down in the Act for determination of this category of companies "are complicated and incapable of correct application." It, therefore, requires consideration whether, in the changed context, this category of companies can be dispensed with under the Act. If revenue considerations require its retention, the Committee would like Government to consider whether the statute could be simplified to retain the essence of control on the lines suggested by the Working Group of the Administrative Reforms Commission.

[*S. No. 67—Paragraph* 5.63].

Action taken

The Government are grateful to the Public Accounts Committee for the recommendations. Section 2 (18) of the Income-tax Act, 1961, defining "a company in which the public are not substantially interested" has already been amended *vide* clause 3 of the Finance Act, 1969. The amendment is intended to simplify the criteria for identifying the companies in which the public are substantially interested.

2. Prior to the amendment of Section 2(18) of the Income-tax Act, as stated at (1), one of the tests laid down for determining whether a company was one in which the public are substantially interested was whether not less than 50 per cent of its equity capital had been beneficially held throughout the relevant accounting year by Government, a statutory corporation, any other company in which the public are substantially interested (or a wholly owned subsidiary of such a company) or by members of the public (excluding any director of the company or a closely-held company). Another test was that the equity shares of the company were dealt with in any recognised stock exchange in India at any time during the relevant accounting year or were freely transferable by the shareholders to other members of the public. A further test to be satisfied was that affairs of the company or shares carrying more than 50 per cent of its total voting power were at no time during the relevant accounting year, controlled or held by 5 or fewer persons. In applying this last test, a person, his relatives and nominees were all treated as single person. Under the definition as amended all these tests, which were difficult to apply, have been eliminated in the case of a public company whose equity shares are listed in a recognised stock exchange in India. Such a company will be treated as "a company in which the public are substantially

interested." The old tests (other than the one relating to the shares of the company being the subject matter of dealings in a recognised stock exchange in India) will now have to be applied only in the case of a public company whose equity shares are not listed in a recognised stock exchange in India. The new provisions have been made effective from 1-4-1970.

3. The number of closely-held companies is much larger than that of widely-held companies and closely held companies are subjected to tax at higher rates than widely-held companies. (This is apart from the levy of additional tax under Section 104). From this it will be appreciated that the category of companies in which the public are not substantially interested has to continue.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|41|.69-*IT (Audit), dated* 6-11-69].

Recommendations

The para 1.120 of their 17th Report (Fourth Lok Sabha), the Committee had stressed the need for ensuring that refunds are made by the Income-tax Department expeditiously in all pending cases. The Committee note that the number of refund claims outstanding between one and two years has come-down from 429 on 31.3.67 to 103 as on 31.3.68. The Committee trust that efforts will continue to be made by Government not only to liquidate old pending claims but to ensure the settlement of new claims within the time-limits pescribed in the Act.

The Committee are not happy over the delay in refunding moneys due to assessees as a result of appellate decisions. As on 31.3.1967, there were 5,050 such cases, 1,220 of them pending for more than one year. As a result of the delay in making the refunds, Government had to pay interest amounting to Rs. 15,000 in five cases. The Committee would urge Government to take effective measures to ensure settlement of refund claims under Section 244 within the prescribed time-limit.

[*S. Nos.* 68 *and* 70—*Paragraphs* 5.73 & 5.79].

Action taken

The following steps have been taken by the Ministry for ensuring the expeditious disposal of refund cases and the payment of interest in cases of delayed refund:

(i) Instructions have been issued to the Commissioners of Income-tax drawing their attention to the P.A.C.'s recommendations contained in paras 5.73, 5.74 and 5.79 of their 73rd Report. They have been asked to assure that refunds are granted within the time-limit prescribed under Section 243(a) and, in case the said limit is exceeded, interest is allowed whether or not assessees asked for it. [A copy of the Board's Instruction No. 108, dated 8-9-69 is enclosed].

(ii) Inspecting Assistant Commissioners have been asked to specifically comment on whether an ITO has delayed the issue of refunds and whether interest on the delayed refunds has been paid. For this purpose, the "proforma" Inspection Report has been amended.

(iii) A brochure on the interest liability of the Government and how to calculate such interest has been issued by the Directorate of Inspection (R.S.&P.). A copy of the same is enclosed.

[*Ministry of Finance* (*Department of Revenue*) D.O.F. *No.* 17|44|67-*IT* (*Audit*), *dated* 4-11-69].

No. 5|99|69-ITA2

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 8th September, 1969.

From

Shri J. C. Kalra,
Secretary, Central Board of Direct Taxes.

To

All the Commissioners of Income-tax.

SUBJECT: *Refunds—Expeditious disposal of—Recommendations of the P.A.C. made in their 73rd Report 1968-69—Implementation of—*

Sir,

I am directed to refer to Board's Circular letter F. No. 5|31|68-IT (A. II), dated 24-9-68 wherein you have been advised that sustained efforts should be made to have the refunds issued expeditiously.

2. In paras 5.73, 5.74 and 5.79 of their 73rd Report, 1968-69 which relate to refunds, the Public Accounts Committee have made the following recommendations:

(i) Old refund claims should be liquidated.

(ii) The time-limit prescribed in the Income Tax Act for settlement of refund claims should be adhered to.

(iii) It should be ensured that interest is paid on delayed refunds whether the assessee claims it or not.

(iv) It should be ensured that refund claims under Section 244 are settled within the prescribed time-limit.

3. The above recommendations may please be impressed upon the Income-tax Officers working in your charge. As recommended by the Public Accounts Committee, refunds should invariably be granted within the time-limit prescribed u|s 243(a) and efforts should be made to issue the refunds expeditiously in all cases. Commissioners should also ensure payment of interest on refunds to assessees in all cases where it is payable whether the assessees have claimed it or not, and also to take effective steps to ensure settlement of refund claims under Section 244 within the prescribed time-limit.

Effective machinery for implementation of the above Instructions should be devised as this aspect is not getting full attention of Commissioners of Incometax and Inspecting Assistant Commissioners at present. The Inspecting Assistant Commissioners may keep this aspect in view while inspecting the Income Tax Officers' work.

Yours faithfully,

Sd|- Secretary, Central Board of Direct Taxes.

Further information sought by the Action Taken Sub-Committee

Please indicate the latest position regarding:—

(i) cases of refunds outstanding between 1 and 2 years;

(ii) cases of refunds outstanding for two or more years.

Government's Reply

Only 16 refund applications were pending as on 1-7-69; 12 of these were outstanding between 1-2 years and 4 for more than 2 years.

[*Ministry of Finance (Department of Revenue)* D.O.F. *No.* 17|1|69-*IT (Audit), dated* 22-12-69].

Recommendation

The Committee note that, though refunds cases amounting to Rs. 2.99 crores were made in 88,836 cases during the period 1st April, 1966 to 31st March, 1967, no interest was paid to the assessees in any of these cases. The Committee would like Government to examine whether interest due in terms of the Act was denied in any of these cases where refunds were made after expiry of the time-limits laid down in the Act. During evidence, the Government representatives promised to conduct a review in this regard and furnish a report to the Committee by May, 1969. The Committee would like to await this report. The Committee would, in this connection, like to reiterate their recommendation in para 1.121 of their 17th Report (Fourth Lok Sabha) that Government should ensure payment of interest on refunds to assessees in all cases where it is payable whether the assessees have claimed interest or not.

[*S. No.* 69—*Paragraph* 5.74].

Action taken

As desired by the P.A.C., the Directorate of Inspection (R.S. & P.) Income-tax made a test check of refund cases in four Commissioners' charges. They picked up 306 cases in the districts which had a comparatively heavy pendency of old refund cases at the commencement of 1966-67 and which came to be disposed of that year or later. The test check revealed that refunds had been, by and large, settled within time and in most of the cases where refund had been delayed beyond the normal time-limit, the liability to pay interest did not arise because the assessees had some income other than dividend and interest on securities. In such cases the liability would have arisen only if the refunds were issued beyond the period of three months from the date of determination of the total income. Only in nine cases no interest have been paid, of these 8 cases involved interest of less than Rs. 20 and only in one case the interest payable amounted to Rs. 269. The cases have been brought to the notice of the concerned authorities.

Instructions have ben issued to the Commissioners of Income-tax, reiterating the Ministry's direction that refund should be allowed irrespective of whether or not the assessees have claimed it *vide* Instruction No. 108 issued under the Board's F. No. 5/99/69-IT(A. II), dated 8th September, 1969, a copy of which has been enclosed with the Ministry's reply to paragraphs 5.73 and 5.79.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|1|69-*IT (Audit), dated* 22-12-1969].

Further information sought by the Action Taken Sub-Committee

What precise action has been taken on the suggestion of P.A.C. that interest should be paid on belated refunds.

Government's Reply

A copy of the Board's Instruction No. 108 dated 8th September, 1969 has already been enclosed with the Ministry's reply to Paras 5.73 and 5.79 (S. Nos. 68 and 70) of the P.A.C.'s 73rd Report.

[*Ministry of Finance (Department of Revenue) D. O. F. No.* 17|1|69-*IT (Audit), dated* 22-12-1969].

Recommendations

The Committee are concerned over the heavy increase in the number of cases of non-levy /incorrect levy of penal interest. As against 327 cases of non-levy/incorrect levy reported in the Audit Report, 1963, the number of cases of non-levy/incorrect levy reported in the Audit Report, 1968 was 2064. The amounts involved in the two years were Rs. 5 lakhs and Rs. 40.48 lakhs respectively. The Committee had drawn attention to this position in paragraph 2.129 of their 29th Report (Fourth Lok Sabha). The recurrence of such cases suggests the need to streamline the existing procedures. The Committee would in this connection like the Ministry to examine the suggestion made by the Working Group of the Administrative Reforms Commission in their Report on the Central Direct Taxes Administration for interest calculations to be made with reference to complete months rather than days and for rounding off calculations. This would help considerably to simplify the work.

Work would also be simplified if the varying rates of interest now in existence for different kinds of default could be rationalised and tabulators used for purposes of calculation.

[*S. Nos.* 71 & 72—*Paragraphs* 5.85 & 5.86].

Action taken

The Ministry have decided to accept the suggestion of the Working Group, referred to in paragraph 5.85 Clauses 66(b), 78, 84 and 88 of the Income-tax Amendment Bill seek to empower the Central Board of Direct Taxes to make rules of procedure for calculating interest chargeable from and payable to assessees under the various

direct taxes Acts. This rule will include a provision for the rounding off to whole months the period for which the interest is to be calculated and also specify the circumstances in which and the extent to which petty amounts of interest chargeable from assessees may be ignored.

The rates of interest now in force for different kinds of defaults and also on interest payable on excess demand etc. have been generally fixed @ 9 per annum, under the different direct taxes Acts. All types of interest under the Income-tax Act are being sought to be fixed at 9 per cent under clause 67 of the Income-tax Amendment Bill, 1969.

The Commissioners of Income-tax have been delegated powers for purchasing tabulators according to the requirements of the respective charges.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|42|69-*IT (Audit), dated* 12-11-1969].

Recommendation

(i) The Committee note that the Board have instructed Income-tax Officers to ensure that interest for delayed submission of return, chargeable under section 139 of the Income-tax Act, 1961, is invariably charged at the time of original assessment. They also note that some further instructions are proposed to be issued by the Board. The Committee trust that these will be issued at an early date. To ensure that levy of interest in such cases does not escape notice, the Committee would suggest that a prominent indication should be given by means of a label or rubber stamp to the effect that the return had been received after the prescribed date and that penal interest is chargeable.

(ii) The Committee note that penal interest amounting to over Rs. 31,000 in two of the four cases has not yet been recovered. They would like efforts to be made by the Department to recover this amount at an early date.

[*S. No.* 73—*Paragraph* 5.90].

Action taken

(i) As suggested by the P.A.C. necessary instructions have been issued, a copy of which is enclosed.

(ii) The recovery position in the 2 cases is shown in the annexure enclosed.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|46|69-*IT(Audit), dated* 3-11-1969].

F. No. 17/46/69-IT(Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

Dated the 17th September, 1969.

From:

Shri S. Bhattacharyya,

Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—*Income-tax returns received after the dates prescribed under section* 139(1)—*Charging of interest*—*Rubber stamping of returns.*

In paragraph 5.90 of their 73rd Report, the Public Accounts Committee have recommended that the returns submitted by assessees after the date prescribed under section 139(1) should be promptly marked to indicate that the return is a delayed one and that penal interest is chargeable.

2. The Board consider the recommendation to be very useful and desire that henceforth all income-tax returns, which have been received after the last permissible date till which these can be accepted without charging interest (*viz.*, 30th September in some cases and 31st December, in others) should be rubber-stamped to indicate the following particulars:—

(i) Due date for filing return.

(ii) Date as extended by Income Tax Officer.

(iii) Interest chargeable from . . .

3. When the return is placed in the file of the relevant assessment year, the order sheet should also be rubber-stamped and identical entries made as in the return.

4. It is expected that the procedure indicated above would eliminate the possibility of the Department not charging interest on delayed returns. The Board desire that immediate steps be taken for implementing the decision.

5. The receipt of this letter may kindly be acknowledged.

Yours faithfully,

(S. BHATTACHARYYA),

Secretary, Central Board of Direct Taxes.

ANNEXURE

Name of the assessee	Assessment year	Interest to be realised	Remarks
		Rs.	
(a) M/S Dhun Investors (P) Ltd.	1962-63	17, 195.	Additional demand raised has not been recovered so far as origional demands are outstanding in this case and recovery certificates have been issued for the same. As regards the additional demand recovery certificates will be issued in time and interest under section 220 (2) will also be levied.
(b) Shri R. M. Mehta.	1962-63	15,097	Additional demand of Rs. 15,097 raised was subsequently reduced to Rs. 6,866 as a result of order under section 251. This was recovered on 10-7-1969.

Recommendations

The Committee note that the omission to levy interest according to the provisions of the Law had led to an under-charge of over Rs. one lakh in the present case. It was urged in extenuation that the Income-tax Officer had to complete 33 assessments in the month of March. This is indicative of the fact that spacing of work in the Department needs to be improved.

[*S. No. 74—Paragraph 5.95*].

Action taken

The Committee's observations have been noted. A copy of the instructions issued to the Commissioners to instruct the Income-tax Officers to plan their programme in such a way that assessment of cases involving large income is not crowded into the last month and last week of the financial year is enclosed.

[*Ministry of Finance (Department of Revenue) D.O. F. No. 17/4/69-IT(Audit), dated* 6-11-1969].

F. No. 3/3/68-IT(Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 8th October, 1968.

From

Shri M. N. Rahman,
Under Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUB:—*Recommendations of the Public Accounts Committee in their 17th Report* (1967-68) *in Para* 1.9—

I am directed to append below the recommendation of the Public Accounts Committee in their 17th Report (1967-68) in Para 1.9 and to request that it may please be ensured that the Income Tax Officers plan their programme in such a way that assessment of cases involving large income is not crowded into the last month and the last week of the financial year.

Para: 1.9:

"The Committee would like to draw special attention to the fact that the total value of assessments completed in the last month (March) of the financial year 1965-66 represented approximately 29 per cent of the total value of assessments completed. Further, nearly 40 per cent of the value of assessments in the last month were completed in the last seven days of March each year. This is clearly indicative of the fact that the Department is not planning

its work properly and that a large number of cases are rushed through in the last month and indeed in the very last week of financial year. The Committee would like Government to take effective measures to ensure that Income Tax Officers plan their programme in such a way that assessment of cases involving large incomes is not crowded into the last month and the last week of the year."

Yours faithfully,

Sd/- M. N. RAHMAN,

Under Secretary, Central Board of Direct Taxes

Recommendations

(i) The Committee note that, due to a mistake on the part of the Income-tax Officer in giving effect to the High Court's order, there was an under-charge of tax to the tune of Rs. 2,40,291. It was obviously not correct to have made the rectification order without having gone through the relevant records.

(ii) The Committee also observe that, though in terms of instructions issued by the Board, pursuant to the recommendation of the Public Accounts Committee (1963-64), the Income-tax Officer should have taken the prior approval of the Inspecting Assistanct Commissioner in this case before giving effect to the Appellate order, the revised assessment was made without such approval. The Committee take a serious view of this. They desire that the Board should ensure that the instructions issued by them pursuant to the Committee's recommendations are strictly complied with.

[*Serial Nos.* 76-77 *and Para* 5.105-5.106].

Action taken

(i) The Ministry regrets the mistake.

(ii) The Commissioner of Income-tax has informed the Central Board of Direct Taxes that their instructions requiring the I.A.C.'s prior approval for giving effect to the appellate order were lost sight of in the heavy pressure of work in March, 1965, when the assessment order was revised on the basis of the Tribunal's order u/s 66 (5), dated 24th December, 1964.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|2|69-*IT (Audit), dated* 6-11-1969].

Recommendation

The Committee have not made recommendations/observations in respect of some of the paragraphs of the Audit Report (Civil) on Revenue Receipts, 1968. They expect that the Department will nonthe-less take note of the discussion in the Committee and take such action as is found necessary.

(*S. No.* 80 —— *Paragraph* 16).

Action taken

The observations made by the Committee have been noted for compliance.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17/20/69-*I.T.(Audit), dated* 13-10-1969].

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF GOVERNMENT

Recommendation

Another feature of the case is that though the High Court had passed the order on the case on 26th March, 1964, the Income-tax Officer got a copy of the Judgment after a lapse of about 19 to 20 months. It is not clear to the Committee why a copy of the Judgment was not made available to the Income-tax Officer earlier. The Committee desire that copies of decisions of the relevant appellate authorities should be procured by the assessing officers without delay in order to finalise assessments correctly.

(*Serial No.* 78 *Paragraph* 5.107).

Action taken

It has since been brought to the notice of the Ministry that a copy of the High Court's order dated 26th March, 1964 was made available to the Department on 15th June, 1964, but the Tribunal passed a separate order u|s 66(5), incorporating the High Court's ruling only on 12th November, 1964. Under the rules, the Income-tax Officers cannot take action outright on the basis of the High Court's rulings. They have to await the Tribunal's orders u/s 66(5) communicating the High Court's ruling on the question of law referred to it.

[*Ministry of Finance (Department of Revenue) D O. F. No.* 17|2|69-*IT (Audit), dated* 6-11-1969].

CHAPTER IV

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

Recommendation

The Committee find the position in regard to pending Wealth-tax assessments rather unsatisfactory as at the end of March, 1967, 74,232 cases involving Rs. 5.26 crores were pending, over a fifty of these for more than two years. The Committee feel that concerted action for the clearance of these cases is called for. There is also need to link these cases with the corresponding Income-tax assessments so that "the quality of administration of Income-tax" could be improved and it could be ensured that tax evasion is curbed. The Committee would, in this connection, like Government to examine the suggestion made by the Working Group of the Administrative Reforms Commission for an integrated return.

(*Sl. No.* 8 —— *Paragraph* 1.50).

Action taken

The Ministry have noted the concern expressed by the Public Accounts Committee about the large pendency of Wealth-tax assessments. They too are keen that the pending Wealth-tax assessments are liquidated as early as possible. Accordingly, the Central Board of Direct Taxes have instructed the Commissioners of Income-tax that no Wealth-tax assessments for the assessment year 1967-68 and earlier years should be allowed to be carried forward beyond 31st March, 1970, unless it is with the prior concurrence of the concerned Inspecting Assistant Commissioner. Instructions have also been issued, urging the reduction of total tax demand by the end of 1969-70 to at least 50 per cent of the arrears as on 1st April, 1969. [Vide the Board's F. No. 17/19/69-WT, dated 17th June, 1969 and F. No. 15/61/68-IT(Audit) dated 26th August, 1969, copies of which are enclosed.]

As regards the linking of Income-tax and Wealth-tax assessments, the Government have to state that even now the Income-tax Officers making the Wealth-tax assessments of an assessee invariably refer

to his Income-tax assessments for the corresponding period. Besides, it is the practice to put the same I.T.O. in-charge of both the Income-tax and Wealth-tax assessments of the same assessee.

The suggestion of the Administrative Reforms Commission for evolving an integrated return form for both the Income-tax and Wealth-tax cases is not considered by the Ministry to be quite practicable. The number of Wealth-tax assessees is only about 4 per cent of the number of Income-tax assessees. An integrated Income-tax-cum-Wealth-tax return form would place an unnecessary burden on about 96 per cent of the assessees who are not liable to pay Wealth-tax. Besides, Section 14(2) of the Wealth-tax Act authorities the Wealth-tax Officer to call for a return of net wealth only if the former is of the opinion that the assessee would be assessable to Wealth-tax. When an assessee will obviously not be taxable under the Wealth-tax Act, it would not be legally possible for the W.T.O. to obtain a return of Wealth-tax from him. The Ministry feels that the present system of calling for separate Wealth-tax returns may be allowed to continue.

[*Ministry of Finance*)*Department of Revenue*) *D.O. F. No.* 17|11-A| 69-*IT* (*Audit*), *dated* 3-11-69].

F. No. 17/19/69-W.T.

GOVERNMENT OF INDIA

Central Board of Direct Taxes

New Delhi, the 17th June, 1969.

From the Secretary, Central Board of Direct Taxes to all Commissioners of Income-tax and Controllers of Estate Duty.

Subject:—Delay in completion of Wealth-tax, Gift-tax and Estate Duty assessments.

The Board have received representations that the assessments under Wealth Tax Act, Gift Tax Act and Estate Duty Act are usually delayed by the assessing officers, for, there is no statutory time-limit for completing such assessments. It has been pointed out as an example that some Wealth-tax assessments relating to the assessment year 1957-58 are still pending.

2. The Board are much concerned about the pendency of the Wealth-tax, Gift-tax and Estate Duty assessments and desire that immediate action be taken on the lines indicated below:—

(i) All the Wealth-tax and Gift-tax assessments which are pending for the assessment years 1964-65 and earlier, should be completed before 30th September, 1969. Similarly, the pending Wealth-tax and Gift-tax assessments upto assessment year 1966-67 should be completed before 31st December, 1969. For watching the progress of such cases, the Inspecting Assistant Commissioners should obtain a monthly report regarding them.

(ii) No Wealth-tax and Gift-tax assessments for the assessment year 1967-68 and earlier years should be allowed to be carried forward to the next financial year *i.e.* 1970-71, without the prior concurrence of the Inspecting Assistant Commissioner in the individual cases.

(iii) The Deputy Controllers of Estate Duty should carefully watch the disposal of old estate duty assessments and ensure that no assessment is kept pending for more than three years from the date of death of the concerned persons. If, for any special reasons, an assessment cannot be finalised within three years, the Deputy Controller should personally review the progress made in the case every month.

3. The Commissioners of Income-tax and the Controllers of Estate Duty should take immediate steps to ensure that the above instructions are scrupulously followed by the assessing officers.

Yours faithfully,
Sd/- S. BHATTACHARYYA,
Secretary, Central Board of Direct Taxes.

F. No. 15/61/68-I.T.(Audit)
GOVERNMENT OF INDIA
Central Board of Direct Taxes,
New Delhi, the 26th August, 1969.

From

Shri Balbir Singh,
Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—*Expeditious collection of arrear demands—Wealth-tax, Estate Duty and Gift-tax.*

The Board have noticed with great concern that the Commissioners of Income-tax do not give adequate attention to the liquidation of arrear Estate Duty, Wealth-tax and Gift-tax demands. The Publice Accounts Committee have also commented adversely on the mounting arrears of such demands. The arrear demands as on 30th June, 1969 were as under:—

Estate Duty	Rs. 6.38 crores
Wealth-tax	Rs. 7.96 "
Gift-tax	Rs. 1.81 "

While the Board appreciate that the concentration of the Commissioners is mainly bestowed on liquidation of Income-tax arrear demands, it is not possible to justify such a large accumulation of arrears of Estate Duty, Wealth-tax and Gift-tax demands. The Board therefore desire that the Commissioners should undertake a concerted effort to reduce such arrears by the end of the current financial year to at least 50 per cent of the arrears as on 1st April, 1969. Action taken in this direction may kindly be intimated to the Board by 31st October, 1969.

Yours faithfully,

Sd/- BALBIR SINGH,
Secretary, Central Board of Direct Taxes.

Further information sought by the Action Taken Sub-Committee

Please indicate the latest position regarding clearance of pending Wealth Tax assessment cases.

Government's Reply

The Ministry's reply to para 1.50 of the P.A.C.'s 73rd Report was sent only on 3rd November, 1969 in which the latest position has

been indicated. The only additional information which can be furnished now is that upto 30th November, 1969, the Wealth-tax collected works out to 9½ crores against 14 crores budgeted for the whole year.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|1|69-*IT (Audit), dated* 22-12-69].

Recommendation

The Committee note that due to "an error of judgment "allowance" was made for development rebate and depreciation on certain intangible assets of a company, though such allowance was inadmissible in terms of the Act. This resulted in an under-assessment to the tune of Rs. 2.06 lakhs. What is surprising is that this error escaped the notice of Internal Audit who checked two of the three relevant assessments as also of the supervisory office who had approved one of the assessments.

[*Sl. Nos.* 33 *and Para* 3.64 *of Appendix II to the* 73*rd Report*, 1968-69].

Action taken

At the time the assessment was checked by the I.A.P., they were required to check only the arithmetical accuracy of the depreciation worked out in an assessment. It was, at that time beyond their province to question whether depreciation should have at all been allowed on what the Income-tax Officer had treated as capital expenditure and whether development rebate should have been allowed by him. I.A.P.s have been instructed to check admissibility or order of depreciation and the rates thereof with effect from 1st August, 1963.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|16-69-*IT (Audit), dated* 1-12-69].

Further information sought by the Action Taken Sub-Committee

Please state whether, under the instructions referred to in the last sentence of Government's reply, the I.A.P.s (Internal Audit Parties) are competent to comment upon the admissibility of depreciation allowed by an I.T.O. on intangible assets. A copy of the instructions may also be furnished.

Government's Reply

There is no specific instruction for checking the admissibility of depreciation on intangible assts, but the Internal Audit Parties are required to check whether depreciation on a particular asset had been calculated with reference to the period of user and also whether the total depreciation allowed exceeded the original cost. In the course of applying these checks, if any mistake was found about the admissibility of the depreciation itself, the Internal Audit Parties would have to comment on it. Extracts from the relevant circular are enclosed.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|1|69-*IT (Audit) dated* 22-12-69].

Recommendation

In pursuance of the observations of the Public Accounts Committee in their 29th Report, Government had undertaken a review of the appellate orders to determine the extent to which assessments were over-pitched. The Committee note that this review had "not indicated any serious malady" in this regard. The scope of this study was, however, limited by Government to orders passed by Appellate Assistant Commissioners. The Committee desire that Government should also review appellate orders passed by the Tribunals and the Courts. In all cases where appellate authorities have allowed substantial relief and harassment of the assessee is manifest, the Committee would like appropriate action to be taken against erring officers.

[*Sl. No.* 55 —— *Paragraph* 4.26].

Action taken

In this paragraph the P.A.C. have asked the Minister to review the appellate orders passed by the Tribunals and the Courts, for determining the extent to which assessments made by the ITOs were over-pitched. They have further desired that where appellate authorities have allowed substantial relief and harassment of the assessee is manifest, appropriate action be taken against the erring officers The Ministry notice that a similar recommendation is contained in paragraph 1,23 of the PAC's 76th Report (1968-69), in which they considered the action taken on their 17th and 29th Reports. The said paragraph reads as below:

> "The Committee would like Government to look critically into cases of over-pitched assessments in important revenue

circles like Calcutta, Bombay, Madras and Delhi, where the Income-tax Tribunals, High Courts and the Supreme Court have passed strictures against such assessments during the last three years or where assessments made by the Income-tax Officers have been reduced by either Rs. 50,000 or 25 per cent of the originally assessed tax. Apart from taking deterrent action against officials held responsible for indulging in vexatious taxation, Government should analyse the cases and issue general guidelines for the information and use of Income-tax Officers."

2. The PAC's recommendations seem to have been based on the following generally prevailing impressions about the nature of Income-tax assessments:

(i) The difference between the assessed income and returned income is often due to vexatious additions made by the ITOs.

(ii) The I.T. Appellate Tribunals, High Courts and the Supreme Court have passed strictures against some of these assessments during the last three years.

The Ministry would like to first clarify the position regarding these impressions, before coming to the recommendation made in para 4.26 of the 73rd Report.

3. At the outset, it may be stated that so far as the Ministry is aware, no strictures regarding over-pitching of assessments have been passed by the Tribunals, High Courts or the Supreme Court during a period of four years upto September, 1968. The PAC's attention has already been invited to this fact under the Ministry's D.O. No. 3/10/68-IT (Audit), dated 11th November, 1968 [vide p. 48 of the PAC's 76th Report]. On the question of whether vexatious additions to the income returned by assessees are generally prevalent, the Ministry have had nearly 8500 appellate orders test-checked by a committee comprising three senior officers of the Income-tax Department which found that 35.5 per cent of the assessments had been confirmed and reliefs exceeding 50 per cent of what the appellants asked for had been allowed in about 33 per cent cases. The Commitee found that though the interference by the appellate authorities often reflected an honest difference of opinion, maturer judgment of the AACs and availability of appellate decisions or evidence which were not available to the ITOs, quite a considerable percentage of interference was due to the omissions and commissions on the

part of the ITOs, which could well have been avoided. Instructions have already been issued by the CBDT cautioning the ITOs of such pitfalls [vide copy of the Board's F. No. 50/322/68-IT-J(II), dated 6th February, 1969, enclosed]. In this connection it would be pertinent to refer to a persistent difficulty in framing proper Income-tax assessments. It happens not infrequently that the assessees withhold at the assessment stage some evidence which they produce for the first time before the Tribunal or even the AAC, who are naturally not seized of all the material facts for checking the proper worth of those pieces of evidence. With a wider background about a particular case the concerned ITO would have been in a position to assess the worth of the evidence but this is what many of the assessees wish to avoid. A decision arrived at on the basis of incomplete data/evidence is bound to suffer from internal weakness of the situation and that is what assessees under expert advices plan for. In these circumstances the Income-tax Officer often becomes helpless in so far as he cannot ignore the item, nor can he come to a correct decision.

4. Now, coming to the question of the review of the appellate orders passed by the Appellate Tribunals and the Courts, the Ministry would like to place the following facts for the consideration of the PAC:

(i) The orders of the Appellate Assistant Commissioners are the first appellate orders on the assessments made by the ITOs. As such, the problem of over-pitched assessments can best be spot-lighted from a study of the AAC's orders.

(ii) The Appellate Asstt. Commissioners are senior officers of the Department, with fairly long assessment experience, who are free from executive interference. It is rather unlikely that any blatant and manifest over-assessment will escape their notice and it will be noticed for the first time before the I.T. Appellate Tribunal.

(iii) The High Courts and the Supreme Court are not at all concerned with questions of fact; they only give their ruling on questions of law. It is, therefore, most unlikely that any instance of manifest over-assessment would be detected by them.

5. In view of what has been stated above, the Ministry would suggest that the PAC may kindly wait and watch the results of the action taken by the CBDT on the basis of a study of the AAC's orders.

[Ministry of Finance (Department of Revenue) F. No. 17|35|69-IT (Audit), dated 12-11-69].

F. No. 50/322/68-ITJ(2)

GOVERNMENT OF INDIA

Central Board of Direct Taxes,

New Delhi, the 6th February, 1969.

17th Magha 1890 Saka.

From

Shri S. K. Lall,
Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—P.A.C.'s observations on over-assessments—Pilot study of the problem—Defects noticed—Instructions regarding—

The Action Taken Sub-Committee of the P.A.C. having adversely commented on the problem of over-assessments, the Board constituted recently a Committee consisting of Shri S. Narayan, OSD and S/Shri W. A. Khan and P. N. Sewake, D. Ds. I for conducting from this angle a pilot study of the orders passed during 1967-68 by 2 AACs each from the Punjab, U.P. and Delhi CIT charges. The Committee's report has been received; although the study was confined to only selected AAC's ranges from 3 Commissioners' charges, the results of the pilot study can generally be considered as applicable to all the charges.

2. Out of nearly 8,500 appellate orders studied by the Committee, it was found that only about 3000 assessment orders (35.5 per cent) were confirmed, while about 5,000 orders (60 per cent) were subjected to relief (excluding assessments interfered with but not amounting to relief). A further analysis of the 5,000 and odd assessments subjected to relief showed that in about 2,800 cases (56 per cent) more than 50 per cent of the relief sought for had been allowed by the AACs.

3. It is true that a percentage of interference reflected honest difference of opinion, maturer judgment of the AACs or availability of appellate decisions and evidence which were not before the ITOs but quite a considerable percentage of interference was due to omissions and commissions on the part of the ITOs, which could well have been avoided. Some of these typical omissions and commissions listed by the Committee are indicated below:—

(i) The ITOs seem to be in the habit of making comparatively petty additions without any reason or with utterly inadequate reasons.

(ii) In cases of retailers where it was obviously not possible to keep quantitative stock tally, additions had been made to the trading accounts without giving justification or quoting parallel cases and no care was taken to see whether the additions fitted in logically with a proper arithmetically correct reconstruction of the trading account.

(iii) The ITOs seem to be in the habit of making additions for supposedly inadequate drawings for household expenses without giving any reasons or without trying to analyse the expected normal household expenses under different heads, correlating them with the size and the needs of the family.

(iv) Cash credits are sometimes added with only superficial enquiry and probe into their source and ownership without pursuing these enquiries to an extent which could ensure their being sustained in appeal.

(v) The ITOs are sometimes not realistic and practical in their approach in the matter of allowing bad debts written off in the books; mere absence of legal action against the debtors should not be over-emphasized, particularly when the amounts involved are small making it not worthwhile for the assessee to incur legal expenditure, once he was satisfied that nothing further could be realized.

(vi) The ITOs have sometimes a tendency to make additions in manufacturers' cases, on account of shortages, wastages, low yields, etc. without building up a reasonably strong case on these points and without giving adequate opportunity to the assessee for elucidating reasons and then meeting them.

(vii) In the case of companies, the ITOs sometimes tinker unduly with the remuneration of the Directors even when they are apparently not large nor unreasonable.

(viii) The provisional share income from firms is sometimes taken by the ITOs not as returned by the assessee but on estimate which is not a correct course.

4. The Commissioners are requested to bring the above noted shortcomings to the notice of the ITOs so that these are avoided. The Commissioners and IACs should also constantly impress upon the ITOs the imperative need for making balanced, well-reasoned and realistic assessments. These aspects of assessment work should be particularly looked into during inspection of ITOs' work and the defaulting officers be pulled up and adversely commented wherever called for. This matter could also be borne in mind and necessary collective action by way of advice or admonition taken, when the adverse appellate orders are scrutinised in the Commissioner's Office.

Yours faithfully,

Sd/- S. K. LALL,

Secretary, Central Board of Direct Taxes.

Recommendation

The Committee would also like to point out that very wide powers are now available under the Act to make searches and seizures. It is, therefore, imperative that these are exercised very judiciously, as a wrong search or seizure, besides causing harassment to assessees, could do incalculable harm to their prestige and standing. The Committee note that Government are contemplating the issue of suitable instructions on this point. They would like action in this respect to be speedily taken. The Committee would also like Government to examine whether the power to order searches and seizures should be more precisely defined. The authority of search and seizure may be invoked where it may reasonably be expected to lead to the discovery of concealed income of, say, Rs. 1 lakh or more. Such a provision would constitute an automatic safeguard against the utilisation of power of search and seizure, where the officer concerned is himself not sure of the necessity of such action but has to yield to the pressure of informers in the nature of blackmail. The Committee would like Government to examine whether some suitable enactment on this line is possible and advisable.

(S. No. 56 Paragraph 5.21)

Action taken

The question of ensuring that the wide powers now available under the Income-tax Act to make searches and seizures are exercised very judiciously has been carefully considered by the Ministry. It has been found that the number of searches undertaken by the Department has been declining year after year. Thus, in 1964, the number was 397, in 1965-66 306, in 1966-67 189, in 1967-68 198 and in 1968-69 (upto 28th February, 1969) 60 only. It has also been noticed that the searches made so far have been largely successful, the infructuous ones being very few *viz.*, 4 in 1964-65, 13 in 1965-66, 3 each in 1966-67 and 1967-68 and 2 in 1968-69. The successful searches have resulted in the detection of a large number of cases in which various tax evasion devices had been employed *e.g.*, introduction of unaccounted money as Hundi loans or borrowings from some so-called firms which were non-existent, spurious book entries in accounts in collusion with third parties etc. As such, the Ministry feel that the powers of searches and seizures are being exercised quite judiciously.

2. Instructions already exist that the Commissioners of Income-tax should use great care to avoid causing harassment to the public while exercising the powers of searches and seizures [*vide* copy of the Board's instructions contained in their F. No. 15/142/64-IT(Inv.), dated the 28th August, 1964—Circular No. 23D (XL-64) of 1964].

3. The recommendations of the P.A.C. have been carefully considered by the Ministry up to the stage of the Deputy Prime Minister. Laying down of a monetary limit, such as Rs. 50,000, has not been considered feasible for various reasons. Thus a search is undertaken when the information regarding an assessee having some secreted assets or books of account or incriminating documents is considered fairly reliable; at this stage the amount of concealment is largely a matter of opinion. An attempt at precise determination of the likely amount of concealment would necessarily cause delay in taking the decision and detract from the effectiveness of the search which depends upon the secrecy and speed with which it is executed. Searches have, in fact, led to the discovery of secreted assets for the purpose of recovery of tax, as also evidence for prosecution. Besides, laying down monetary limits in the statute may also give rise to a

lot of writs and litigation. Accordingly, it has been considered undesirable to issue any such administrative instructions or to introduce any enactment in this respect.

(*Ministry of Finance* (*Department of Revenue*) *D. O. F. No.* 17|18|69-*IT* (*Audit*), *dated* 24-7-1969).

F. No. 15/142/64-IT(Inv)

Government of India

Central Board of Direct Taxes

New Delhi, the 28th August, 1964.

Circular No. 23 D(XL-64) of 1964

Subject:—Searches and seizures u|s 132 of the Income-tax Act, 1961.

Attention is invited to the Board's circular No. 26-D of 1961 dated the 29th August, 1961, wherein the Commissioners were asked to furnish details of searches and seizures conducted by the Income-tax Officers in their charges to the Directorate of Inspection (Investigation). A review of the report received from the Commissioners during the last three years has revealed that the important powers conferred by section 132 of the Income-tax Act, 1961 which are meant for detecting tax evasion, are not being utilised effectively by the officers of the Department. The total number of searches conducted from March, 1962 to 30th June, 1964 is only 24 and in some of the important charges, no search has been conducted so far.

2. The provisions of section 132 as substituted by the Finance Act, 1964, are a little wider in scope than the earlier provisions. The main features of the new provisions have been explained in the Board's Circular No. 20D of 1964. While it should be ensured that the powers of search and seizure are used with great care in order that it does not become an instrument of harassment, it is also necessary to make full use of these provisions in a larger number of important cases of evasion. It should be remembered that the justification for the conferment of these new powers will be judged by the manner in which they are utilised.

3. The Board also desire that the powers of entry and inspection of books and documents conferred by the new section 133A of the

Income-tax Act should be more freely used by Income-tax Officers in suitable cases.

Sd|- Jagdish Chand,
Secretary, Central Board of Direct Taxes.
Tel. No. 32939.

To

All Commissioners of Income-tax.
Directors of Inspection, (Income-tax)/(Investigation)/(Research, Statistics & Publication), New Delhi.
D.I. (RS&P) Bulletin Section (2 copies).
All Officers and Sections of the Direct Taxes Wing.

CHAPTER V

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

Recommendation

The Committee would like Government to examine how the existing system for determination of income from property can be streamlined and improved to ensure that properties are carefully and correctly assessed. In this connection, they would like to invite attention to the suggestion of the Administrative Reforms Commission for the amendment of the Income-tax Act to provide for determination of the annual value of house property on the basis of the annual rentals received or receivable or the municipal valuation, whichever is greater.

(*S. No. 9—Paragraph 1.56*)

Action taken

The Committee's observations are noted.

2. The Administrative Reform Commission's suggestion is under consideration of the Ministry.

(*Ministry of Finance (Department of Revenue) D.O. F. No. 17|11|69-IT (Audit)*, dated 11-11-1969).

Further information sought by the Action Taken Sub-Committee.

Please state:

(i) whether Government have examined how the existing system for determination of income from property can be streamlined and improved to ensure that properties are carefully and correctly assessed;

(ii) whether Government have taken decision on the Administrative Reforms Commission's suggestion for the amendment of the Income-tax Act to provide for determination of the annual value of house property on the basis of the annual rentals received or receivable or the municipal valuation, whichever is greater.

Government's Reply

The question is still being considered by the Ministry.

(Ministry of Finance (Deptt. of Revenue) D.O. F. No. 17|1|69-IT (Audit), dated 22-12-1969).

Recommendation

(i) The Committee note that some part of the arrears is due to pending court cases. The Committee are glad that Government have, in consultation with the judiciary, taken steps to expedite disposal of these cases. They hope this would bring about some improvement in the arrears position. The Committee would in this connection like Government to consider the suggestion made by the Working Group of the Administrative Reforms Commission to the effect that the Act should be amended to "provide that where an appeal is preferred against an assessment, such an appeal will not be admitted unless tax is paid on the undisputed amount involved in the assessment". An allied suggestion made by the Working Group to reduce arrears is to fix a "time limit for giving effect to appellate orders", so that tax demands disallowed are promptly refunded to assessees. This, apart from creating a better public image of the Department, would also tend to make the picture of arrears more realistic.

(ii) Amongst other suggestions for amending the law to tackle the problem of arrears is the one relating to demands against assessees who have become untraceable. The Working Group of the Administrative Reforms Commission have pointed out that there is a tendency for assessees to go "underground till the period of limitation of 8 years is over" to evade demands made against them. The Committee would like it to be considered whether amendment of the law to make it permissible to reopen assessments in such cases without any time-limit would help to meet this situation.

(S. Nos. 12 & 13—Paragraphs 1.81 & 1.82)

Action taken

(i) In this paragraph, the following two suggestions made by the Working Group of the Administrative Reforms Commission have been commended for Government's consideration by the Public Accounts Committee:

(i) The tax on undisputed income should be paid before an appeal is admitted by the appellate authorities; and

(ii) A time-limit should be fixed for giving effect to appellate orders.

The Ministry have carefully considered the first suggestion and have found it unacceptable because of the following reasons:

(i) A provision like this would result in multiplication of disputes and delay in the disposal of appeals, since non-admission of appeals by Appellate Assistant Commissioners on the ground that tax on undisputed income has not been paid, will itself have to be made appealable to the Appellate Tribunal.

(ii) It would be extremely difficult to determine the amount of undisputed income in cases where assessments have been made *ex-parte* and no returns have been filed.

(iii) Income-tax Officers have, even now, adequate powers under the Income-tax Act to enforce the collection of tax even where assessments are under appeal. They are, however, required to hold in abeyance collection of tax on amounts which they consider to be genuinely disputed.

The second suggestion of the Working Group is under consideration of the Ministry.

(ii) The suggestion of the Working Group of the Administrative Reforms Commission, referred to in this paragraph, is under consideration of the Ministry.

(Ministry of Finance (Department of Revenue) D.O. F. No. 17|39|69-IT (Audit), dated 14-11-1969).

Recommendation

Finally, the Committee would also like Government to gear up their recovery mechanism. The Committee note in this respect that the Commissioners are progressively taking over the work hitherto done by the State Governments. The Committee hope that the recovery squads would function effectively and energetically to realise all recoverable tax dues.

(S. No. 14—Paragraph 1.83).

Action taken

Recovery work is being taken over from the State Governments progressively and training in recovery work is also given by the

several Commissioners to the staff employed on this work. Out of 28 charges of Commissioners of Income-tax, the recovery work has been fully taken over by the Department in 7 charges and partly in 15 charges. The question of taking it over in other charges also is under active consideration of the Government.

2. The Law Ministry's advice based on the decision of the Supreme Court in the case of N. Damodar Bhat (1969) 71 I.T.R. (S.C.) 806, that the proceedings as initiated under section 46(2) of the Income-tax Act, 1922 can be continued by a Tax Recovery Officer appointed u|s 2(44) (iii) of the Income-tax Act, 1961, provided the Tax Recovery Officer purports to act under the 1961 Act and not under any Public Demands Recovery Act, would help in the effective functioning of the recovery officers.

(*Ministry of Finance (Department of Revenue) D.O .F. No.* 17|39|69—*IT* (*Audit*), *dated* 3-11-1969).

Recommendation

(i) The Committee note that a test audit disclosed under assessment of tax amounting to Rs. 1101.16 lakhs in 9,161 cases during the period 1st September, 1966 to 31st August, 1967. Corrective action is still to be taken in 967 of these cases, involving Rs. 167.71 lakhs, while in respect of 84 cases involving Rs. 4.99 lakhs action has become time-barred. The Committee would like corrective action to be speadily finalised. In those cases where action is now precluded by time-bar, the Committee would like Government to examine whether there was any default on the part of the officials concerned, warranting action against them.

The Committee also note that in 48 cases involving Rs. 437.63 lakhs, where Audit are of the view that there has been under-assessment, the matter is still "under correspondence." The Committee would like these cases to be examined expeditiously and corrective action to be initiated promptly in all cases where it is called for.

The Committee take a serious view of the over-assessments disclosed in test-audit. In 2,154 such cases involving Rs. 52.77 lakhs, corrective action has been completed, but action is still to be taken in 223 cases involving Rs. 5.57 lakhs.

(*S. Nos.* 15 *to* 17 *and Paras* 2.5 *to* 2.7).

Action taken

(i) The figures of pendency regarding corrective action, as on 15th January, 1969, were furnished to the P.A.C. by the C&AG. The Ministry have since obtained from the Audit particulars of the cases reported by them.

2. Of the 967 cases of under-assessment of tax totalling Rs. 167.71 lakhs, as reported by the Audit, it is found that the number of cases involving under-charge of tax of Rs. 10,000 and above was 228; these accounted for the bulk of the reported under-charge of tax. The Ministry have not accepted the objection relating to 42 such cases. A watch on the action taken in the remaining cases will be kept by the Director of Inspection (Income-tax and Audit), whose post has been recently set up.

3. The cases involving under-charge of tax below Rs. 10,000, as reported by the C. & A.G.'s Revenue Audit Parties, are too numerous for the Ministry to watch. Along with these cases are also to be considered the cases of this category detected by the Internal Audit Parties of the Department. Till recently, the prime responsibility for rectificatory action in the cases of this type lay with the respective Income-tax Officers. Since, however, this work tended to be neglected, for ensuring proper follow-up action, Audit Objection Calls were set up in all the functional Ranges, which, amongst themselves, cover cases yielding about 60 per cent of the Direct Taxes budget. Detailed instructions have been issued to these Cells about the procedure to be followed by them (*vide* annexure).

4. In the non-functional Ranges of IACs, the work regarding the follow-up of audit objections (raised by both Revenue Audit and Internal Audit) seem to need special attention. The Director of Inspection (Income-tax and Audit) is being asked to keep a watch on these cases through 12 I.A.Cs. (Audit) whose posts also have been newly created for ensuring a planned programme of Internal Audit, as also timely action regarding both Internal Audit and Revenue Audit objections.

5. There were 12 cases involving under-charge of tax of Rs. 10,000 and over, in which action had become barred by time even before Audit raised objections. The amount of revenue involved in these cases is Rs. 3.48 lakhs. 74 of the cases in which no action for rectification was possible, related to cases involving under-charge of tax amounting to less than Rs. 10,000; the aggregate tax involved in these cases was Rs. 1.09 lakhs. In these cases also, action appears to have

been time-barred before the Audit objections were raised. In this context, the P.A.C. will perhaps like to re-consider whethr the officials responsible for the mistakes need be proceeded against.

(ii) The details about the 48 cases are being obtained from the C & AG and the matter under correspondence will be finalised as expeditiously as possible.

(iii) Corrective action is proposed to be taken immediately through the Director of Inspection (Income-tax and Audit).

(*Ministry of Finance (Department of Revenue) D.O. F. No. 17|62|69-IT (Audit), dated* 17-11-1969).

ANNEXURE

PROCEDURE FOR AUDIT OBJECTION CELLS

a. Collect revenue audit reports and Internal Audit reports and place each report in a separate folder. All relevant correspondence will issue from this folder.

b. Serially number all items of objection which require reply or action;

c. Divide the objections into the following three categories:

   i. Objections involving tax effect exceeding Rs. 10,000.

   ii. Objections involving tax effect between Rs. 1,000 and Rs. 10,000.

   iii. Objections involving tax effect below Rs. 1,000.

d. Mark the period of limitation for action, if any, against each item;

e. The objections will be disposed of on the basis of the following priorities:

   i. Items getting time barred by the end of the financial year;

   ii. Other items in c.i

   iii. Other items in c.ii.

   iv. Other items in c.iii.

f. Put up notes to the ITOs (Assessment) concerned.

g. Initiate steps for revision of assessment under section 147 wherever necessary.

h. Initiate steps for rectification of mistakes.

i. The computation work in all cases should be done by the Tax Computation group of the Assessment Cell. The cases should be entered in a batch control sheet. Each control sheet should bear consecutive serial numbers and should be sent to Assessment Cell in duplicate with the files. The acknowledgment from Assessment Cell should be taken on the copy and kept in this Cell. Thereafter, the records will move as indicated in the batch control sheet;

j. Compile the final report;

k. This Cell will maintain two registers—one for internal audit reports and the other for revenue audit reports. Each register will be divided into 3 parts for entering the 3 types of cases mentioned in para c above. The Register of tax effect prescribed earlier by the Board may be discontinued as all the required information is available in the register now prescribed.

Further information sought by the Action Taken Sub-Committee

Please indicate the latest position regarding rectification in cases of under-assessments/over-assessments mentioned in the Report.

Government's Reply

The position regarding the rectification of cases of under-assessment and over-assessment cannot be readily indicated. The Departmental figures are to be verified with the C. & A.G.'s and this will take time. It may, however, be mentioned that the Ministry is considering a proposal of sending one of its senior officers from charge to charge to settle long outstanding audit objections. If the Audit agree, one of their representatives also will be associated with this drive.

[*Ministry of Finance (Department of Revenue) D.O.F. No.* 17|1|69-*IT (Audit), dated* 22-12-1969].

Recommendation

The Committee observe that a large number of these cases of under-assessments and over—assessments excaped the notice of Internal Audit parties in the Department. This suggests the need for toning up their performance. The Committee note that a number of steps have been taken in this regard. They hope that as a result, the work of these parties will show qualitative improvement.

[*S. No.* 19—*Paragraph* 2.9].

Action taken

The following steps have been taken by the Government to tone up the performance and efficiency of Internal Audit Parties:

(1) The number of Internal Audit Parties has been increased from 71 to 91.

(2) An I.A.P. previously consisted of one Supervisor or Inspector and 3 UDCs. One LDC has now been sanctioned for each IAP for doing the typing and other routine work.

(3) There were 7 Chief Auditors in big city charges at Bombay, Calcutta, Delhi, Madras and Ahemdabad. The posts of 12 more Chief Auditors (7 Class I ITOs and 5 Class II ITOs) have been sanctioned. Thus, there are now 19 Chief Auditors covering all CITs charges. They will be in overall charge of Internal Audit and Revenue Audit.

(4) Twelve posts of IACs (Audit) have been created for ensuring a regular and effective supervision over the functioning of IAPs. They have been charged with the duty of planning and organising the work of IAPs, training the staff and fulfilment of targets. They have also to exercise audit functions in cases of refunds exceeding Rs. 50,000 tax liabilities of foreign collaborators etc. They will also deal with revenue audit objections and ensure that they are followed up promptly.

(5) The post of Director of Inspection (Income-tax) has been revived and redesignated as Director of Inspection (Income-tax and Audit). He will deal with both internal audit and revenue audit and exercise overall supervision over the IACs (Audit).

(6) The scope of Internal Audit has been enlarged so as to make it coterminous with that of Revenue Audit.

(7) An Internal Audit Manual has been prepared, giving detailed instructions to IAPs for checking different items. Printed copies are expected shortly.

(8) The IAPs are being relieved of the work of checking of Demand and Collection Registers. Under the new orders,

the checking of D & C Registers of one IAC's Range will be done by the staff of another IAC's Range.

[*Ministry of Finance (Department of Revenue) D.O.F. No. 17*|38|69-*IT (Audit)*, *dated* 6-11-69].

F.No. 5|4|69-IT(Audit)

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 26th May, 1969
the 5th Jyaistha, 1891

From

Shri S. Bhattacharyya,
Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

SUB: *Scope of work of Internal Audit Parties—Enlargement of—Strengthening of IAP.—*

Sir,

There has been unanimity of opinion between the Public Accounts Committee and the Department about enlarging the scope of work of the Internal Audit Parties. A decision to this effect was taken at the Commissioners' Conference held in July, 1968|vide para 4 of item IX(1) of the Board's F.No. 4|27|68-ED dated 7-8-68. In para 2.9 of their 73rd Report (1968-69) the P.A.C. have reiterated their earlier observations regarding the need for toning up the performance of the IAPs.

2. Admittedly, the performance of the IAPs has been found inadequate, mainly because of the existing restriction of their scope of work. The items of work which are to be checked by them were listed in the Board Circular No. 19-D(LXXIX)|63 dated 1-8-63 and these were modified and supplemented by Circular No. 11-D(XXIX-5) of 1966 (vide F. No. 83|50|65-ITB dated 17-3-66.). It has now been decided by the Board that a large number of additional items, as listed in Annexure I to the Circular, should also be checked by the IAPs in future.—Detailed instructions as to how the IAPs should check the different items are being incorporated in an Internal Audit Manual prepared by the Directorate of Inspection (Income-tax). It is expected to be published shortly.

3. The failure of the IAPs has also been ascribed to the following deficiencies of the system:

(i) The total number of IAPs sanctioned for all Commissioners' charges is only 71, which is quite inadequate.

(ii) Though each IAP is expected to have three UDCs, in a number of charges only 2 UDCs are available, the third having been withdrawn for other purposes.

(iii) The IAPs have been feeling handicapped about the disposal of their trying and other routine type of work, because no LDC has so far been sanctioned for the IAPs; and

(iv) The supervision of the IAP has neither been adequate nor effective.

4. The Board are taking the following steps for removing the drawbacks referred to in the preceding paragraph:

Re: (i)—To the present strength of 71 IAPs, another 20 are being added with immediate effect. Thereafter, a study will be conducted by the Staff Inspection Unit of the Department of Expenditure to assess whether the number of IAPs should be increased to 120.

Re: (iii)—Each of the 91 IAPs is being provided with one LDC for typing and routine work.

Re: (iv)—At present there are only 7 Chief Auditors who are supervising the work of 39 IAPs, based at Bombay, Calcutta, Delhi, Madras and Ahmedabad. The posts of 12 more Chief Auditors (7 in Class I and 5 in Class II), are being sanctioned with immediate effect Besides, 12 posts of IACs (Audit) have been newly created: these officers will be in overall charge of Internal Audit and Revenue Audit.

The distribution of the newly created posts is given in Annexure IV.

5. As regards item (ii) of paragraph 3 above, the Board desire that the Commissoners of Income-tax should put back to their respective positions all the UDCs who had been withdrawn and put to other

duties. In fact, no member of an IAP or Chief Auditors should be required to take up any additional work over their specified duties with the IAPs.

6. The Board feel that the functions of the IAPs as well as those of the supervising officers should be well-defined, so that there is no conflict of jurisdiction and there is no avoidance of responsibility. The Duty Lists of IACs (Audit) and Chief Auditors have been drawn up (vide Annexures II and III).

7. The Duty Lists now drawn up may require some modification on the basis of the actual experience on their working. The Board, accordingly, desire that in case any difficulty is felt in working the scheme, the same may be brought to their notice.

8. According to the existing Duty List of IAPs, all the Income-tax assessments with a total income of Rs. 50,000|- and over have to be scrutinised by the IAPs on a priority basis. Since, however, these parties have hitherto confined their attention to only the detection of arithmetical errors, as distinguished from the errors in the computation of income or loss, quite serious mistakes have been detected by the Revenue Audit parties in the cases already looked into by our IAPs. The Board desire that on the lines of the revised Duty List, the existing IAPs should undertake a review of all Income-tax assessments with a total income of Rs. 1 lakh and over, which have not so far been looked into by Revenue Audit parties and in which corrective action has not already become time-barred. A review of all such assessments completed during the period 1-6-65 to 30-9-65 should be undertaken forthwith and necessary rectifications made without delay. Thereafter the assessments made during the period 1-10-65 to 31-3-67 also may be taken up for similar action.

9. For improving the quality of the personnel engaged in Audit work in the different Commissioners' charges, the following steps may be taken urgently:

(i) Select suitable hands for appointment as Chief Auditors.— In this connection, they may consider some newly recruited ITOs class II, who were formerly working in the AG's set up and have passed the S.A.S. examination.

(ii) Make a judicious change in personnel now manning the IAPs, replacing the present hands on a staggered basis.— The work in the IAPs being rather exacting, the incumbents should be rotated from their positions at the end of two to three years.

(iii) Arrange locally for refreshers' courses for the IAP staff.— The courses should be organised by Chief Auditors or by IACs (Audit), where available.

Secretary, Central Board of Direct Taxes

ANNEXURE—I

New items to be checked by IAPs

[These items supplement the list as per the Board's Circular No. 10-D(XXXIX) dated 1-8-63, together with the items added under the Board's instructions dated 17-3-66]

II. *Rebates and exemptions*

(g) whether the rebate u|s 85 in respect of dividends attributable to profits from new industrial undertakings or ships or hotel business have been correctly allowed up to the assessment year 1967-68?

(h) For the assessment years 1966-67 and 1967-68, Indian companies were entitled to a rebate u|s 85 in respect of royalty, commission or fees etc. received from certain foreign companies. To check in such cases whether (i) the rebates and allowances have been made in accordance with the limits and conditions prescribed (ii) the proof of the payment is on record, and (iii) the agreement to supply the "know-how" had been approved by the Central Government before the 1st October of the relevant assessment year.

II-A. *Deductions in computing Total Income* (Deductions which are being generally allowed from the assessment year 1965-66 the deductions being in substitution of the system of rebates prevailing earlier).

(a) Regarding Life Insurance Premia, Annuities and contributions to Provident Fund etc., whether, the limits prescribed u|s 87(3) and 87(4) for the assessment years upto 1967-68 and u|s 80C(4) for the assessment year 1968-69 onwards have been exceeded?

(b) Whether the deductions admissible in respect of profits from priority industries u|s 80E for the assessment years 1966-67 and 1967-68 and u|s with effect from the assessment year 1968-69 have been correctly allowed? The conditions prescribed are rigid and will have to be strictly adhered to.

(c) Whether regarding deductions in respect of profits and gains from an industrial undertaking admissible under Section 80-H with effect from the assessment year 1968-69 the conditions prescribed u|s 80-H(2) have been fulfilled?

(d) In the case of a company entitled to deductions both u|s 80-H and u|s 80-I whether the profits in respect of which the deduction u|s 80-I is available, have been first reduced by the allowance made u|s 80-H?

(e) Whether the deduction under Section 80-H admissible from the assessment year 1968-69 onwards in respect of dividend attributable to profits from new industrial undertakings or ships or hotel business has been correctly allowed?

(f) Regarding the deduction under Section 80-H admissible to Indian companies in respect of royalty, commission or fees received by them from certain foreign companies, whether the conditions enumerated against item II(h) have been fulfilled?

V. Depreciation Chart

1. (In substitution of the present item) Has a Depreciation Chart been properly maintained year by year? If so, have the written down values been copied out correctly? (*Vide* para 2.101 and 2.108 of the PAC's 29th Report)

2. (In substitution of the present item) whether correct rates of depreciation have been adopted in the assessment and calculations correctly made?— Sometimes it is overlooked that on particular items of asset no extra-shift allowance is admissible. (*Vide* paras 1.72 and 1.73 of the PAC's 46th Report).

3. Whether the aggregate of the depreciations allowed on a particular asset has exceeded the original cost?

VII. Computation of income

SALARY

1. Have all "perquisites" and "profits" in lieu of salary been included in the assessee's income under the head Salaries? The valuation of the perquisites should be in accordance with Rule 3.

2. Has the claim for entertainment allowance been allowance in accordance with Sec. 16(ii)? If an assessee receives

entertainment allowance from an employer in excess of 1|5th of his salary received from the same employer, the excess would become assessable as his income.

3. Whether the Provident Fund or Superannuation Fund to which the assessee has contributed is a recognised or a approved one.

4. Where tax has been borne by the employer, whether it has been grossed up?

PROPERTY INCOME

5. Whether municipal value has been increased by 1|9th?

6. Whether the annual letting value has been estimated on the basis of the rent which the property is reasonably expected to fetch?

7. In cases where a consolidated loan has been raised, both for property and other sources of income, whether a proper allocation of interest has been made?

BUSINESS

8. Whether all obviously inadmissible items of expense have been added back to profits or deducted from the loss as per books. (Often, the inadmissibles are added to the returned loss instead of being deducted there from. This has to be guarded against.)

9. Has a cross-verification of the opening stock of the current year with the closing stock of the year immediately preceding been made? (*Vide* para 1.81 of the PAC's Third Report) (1967-68).

10. Whether losses from speculation business have been mistakenly set off against the profit from other business activities? The loss from speculation can be adjusted only against profit under the same head.

11. Whether any capital expenditure has been charged to revenue?

12. Where any amount has been paid to an employee as bonus or commission, whether it has been checked if the same

sums would have been payable to him as profit or dividend had it not been paid as bonus or commission?

13. Whether entertainment allowance, advertisement expenses, guest house charges and the travelling expenses claimed by an assessee are within the prescribed limits?

14. In case an item of bad debt has been written off, were the conditions laid down in Sec. 36(2) complied with?

15. Amongst the expenses allowed, is there any item for which liability had not accrued during the relevant accounting year?

16. If any bonus shares have been sold, was the profit from the same worked out after a proper valuation of the bonus shares and other shares?

17. When some secured loans are shown either from banks or from other creditors, whether the securities in question can be correlated to the assessee's known assets? If not the excess will have to be assessed u|s 69.

18. Has appropriate action been taken for assessing, unexplained credits including bogus Hundi loans?

19. Whether development rebate claimed for the profit and loss account was first added back in the computation of total income and thereafter allowed according to the Act and Rules? If the development rebate reserve has not been maintained intact or there has been some unauthorised distribution of dividend therefrom, whether any action u|s 155(5) and (5A) has been taken for withdrawal of the rebate in the relevant past years? If the asset in question has been sold, then also the development rebate will have to be withdrawn.

20. Whether copies of the reserve accounts have been obtained and credits in these account duly considered.

VIII. Carry forward of loss, unabsorbed depreciation and development rebate.

(a) Whether the business from which the carried forward loss arose is in existence in the year in which a set off is claimed?

(b) Whether in determining the profits u|s 41(5) on the sale of business assets after the discontinuance of the business only loss arising in the last year of business has been allowed? (*Vide* para 44(a) of the Audit Report, 1968).

(c) Whether in the case of an unregistered firm the unabsorbed depreciation has been wrongly allowed amongest its partners instead of being set off or carried forward in its own hands?

(d) Whether carried forward loss or unabsorbed depreciation adjusted in an assessment had not been already adjusted in the assessment of an earlier year? (*Vide* para 2.117 of the PAC's 29th Report).

(e) In the case of companies in which the public are not substantially interested (Section 23A Companies), whether a carry forward of loss from one year to another has been permitted despite a substantial change in the share holdings as between the year in which the loss was first incurred and the year in which the loss is sought to be carried forward? If shares carrying less then 51 per cent of the voting power only remain with the old shareholders a set off should not be allowed unless the ITO is satisfied that the change of ownership was not made with a view to avoiding or reducting tax. The Audit Party should check whether the ITO has recorded a finding in this respect.

IX. **Registration of firms**

(a) Whether an instrument of partnership valid for the relevant assessment year was in existence and whether the firm itself was functioning? (*Vide* para 2.118 of the P.A.C.'s 29th Report).

(b) Whether interest paid to partners was added back for arriving at the firm's total income and the interest properly allocated as the income of the partners who earned these amounts? (*Vide* Para 1.91 of the PAC's 46th Report).

X. **Assessments of companies. (Special points to be looked into).**

1. Whether copies of the memorandum of association and articles of association of the company are on record?

2. Whether a list of shareholders at the end of the relevant previous year and the immediately preceding year are on record?

3. Whether the company is one in which the public are substantially interested? It will be necessary for this purpose to check the list of Directors and controlling shareholders, including their relatives and nominees?

4. Whether there is any evidence regarding the original cost of the assets on which depreciation is claimed? If a running business has been taken over, the agreement resulting in the transfer will have to be scrutinised.

5. Has the pre-incorporation profit and loss been ignored in the assessment of the company?

6. Whether the company is a widely held domestic company? If so:

(i) Is the T.I. Rs. 25,000|- or less for the assessment years 1966-67 and 1967-68 and Rs. 50,000|- or less for the assessment years 1968-69 and 1969-70.—

The effective rate of tax would be 45 per cent in all such cases.

(ii) If the T.I. exceeds the limits specified in (i), the effective rate of tax would be 55 per cent.—But for cases slightly exceeding the limit, marginal relief will have to be allowed.

(iii) Whether it is a closely held (Sec. 104) company, wholly or mainly engaged in priority industries. In such cases, the effective rates of tax (Income-tax and Super-tax) would range between 45 per cent and 60 per cent for the assessment year 1964-65, depending on the total income and the types of priority industries. For the next year also, the range of variation of tax rates is the same but Super-tax and Income-tax get merged.

(iv) Whether it is a closely held industrial company? In such cases, the effective rate of tax for an industrial company on the first 10 lakhs of the total income would be 55 per cent for each of the assessment years 1966-67 to 1969-70 and 60 per cent on the balance of the total income. In the case of a closely held non-industrial company, the rate of tax would be 65 per cent for the assessment years 1966-67 to 1969-70.

7. Whether it is a non-domestic company which has not made prescribed arrangements for declaration and payment of dividends in India? If so—

(i) Whether it has income from royalties from an Indian concern in pursuance of an agreement made on or after

1-4-61 and approved by the Central Government? In such cases, the rate of tax will be 50 per cent for each of the assessment years 1964-65 to 1969-70.

(ii) Whether it has income in the form of technical service fees from an Indian concern under an agreement made on or after 20-2-1964 and approved by the Central Government? In such cases also, the effective rate of tax will be 50 per cent for each of the assessment years 1964-65 to 1969-70.

(iii) Whether the income is from sources other than royalty or technical fees? The rate of tax on such income will be 65 per cent for the assessment years 1964-65 and 1965-66 and 70 per cent for the assessment years 1966-67 to 1969-70.

8. Whether it was necessary to declare an assessee which is not an Indian company, to be a company u|s 2(17) (ii) and whether such a declaration was timely made?

9. Whether a non-domestic company has made prescribed arrangements for declaration and payment of dividends in India and for the deduction of tax at source. In such cases, the rates of tax would be lower than what has been indicated for non-domestic companies at 7(iii) above.

10. Whether in the case of a closely held company, entries have been made in the register maintained for Section 104 companies and timely action has been taken u|s 104. In case of an inordinate delay in taking action the matter should be brought to the notice of the concerned I.A.C. or I.T.O.

11. Is there any loan or advance to substantial shareholders within the meaning of Sec. 2(32) to be treated as dividends u|s 2(22)(e)?—In such cases, the loans are to be treated as deemed dividend to the extent of accumulated profits at the time of advancing the loans. This should be so even if the amounts have been paid within the accounting year itself. It should be checked up whether dividend subsequently declared is set off against such loans.

12. Whether the company has any collaboration agreement with some non-resident concerns and, if so, if it has agreed to bear the tax payable by the latter? In such cases, the non-resident company will be liable to be taxed on the gross amount arrived at on the "tax on tax" basis. [*Vide* Para 55(a) of the Audit Report, 1968].

XI. *Collection of tax*

(a) Where tax has been paid after the time allowed, has interest been charged u|s 220(1)?

(b) Has the rate of interest been correctly charged *viz.* @ 4 per cent for the assessment years 1962-63 to 1964-65, @ 6 per cent for 1965-66 and 1966-67 upto 1-10-67 and @ 9 per cent thereafter?

(c) Where the assessee is in default in regard to any payment of tax has the mandatory penalty u|s 220(1) been levised? (The total amount of such penalty cannot exceed the amount in arrears.)

(d) In case the demand made is reduced, either by rectification or as a result of appeal whether corresponding reduction of interest has been made? (The interest payable cannot be enhanced in any case.)

(e) Whether registers are being maintained for tax deductible at source from salary and dividend etc. and whether the cases of defaulters are being promptly pursued? Any case of continued default should be brought to the notice of the I.A.C. concerned, for possible prosecution.

XII. *Refund*

1. Whether the assessee claiming refund has produced satisfactory evidence of having paid the amount which he wants to be refunded? Where refunds have been allowed in one charge on the basis of payments reported to have been made in another charge, whether the entries in the transfer memo had been cross-verified before accepting them as correct? (*Vide* para 1.211 of the P.A.C.'s 46th Report).

2. Whether dividend certificates issued by companies have been verified by referring to their own assessments by the ITO assessing the companies.

3. In cases of delayed refunds, whether interest u|s 243 and 244 has been invariably paid to the assessee?

ANNEXURE II

Duties of the I.A.C. (Audit)

Basically, the job of the I.A.C. (Audit) will be the administration of the Internal Audit Organization in the CIT's charge and

directing the activities of this group within the framework of the policies and directives of the CBDT|DI(IT)|CIT. However, he has to achieve this end in a variety of ways and the following outline classifies some of them:

A. ADMINISTRATIVE FUNCTIONS

(1) Planning:

(i) taking stock of the work-load.

(ii) determining overall performance targets.

(2) Organising:

(i) allocating work amongst the IAPs and assigning similar types of work with the same IAP or an individual member of an IAP *i.e.* creating specialist groups to deal with specific problems *e.g.* development rebate, section 104 cases rebate admissible to newly established industrial undertakings etc.

(ii) establishing proper authority relationship amongst members of the IAP.

(3) Directing: Explaining, suggesting and giving orders; in other words, telling his subordinates what to do and seeing that they do it.

(4) Evaluation of audit programmes: Checking on how well previous audit programmes have been carried out and the progress of the present audit programmes, including scrutiny of monthly progress reports.

(5) Evaluation of work of the Chief Auditors and countersigning the reports of the individual members of the IAPs.

(6) All other administrative matters:

(i) co-ordinating the work of all the Internal Audit Parties in the Commissioner's charge.

(ii) excercising administrative control over the IAPs as regards transfer, posting, leave etc.

(7) Training:

(i) responsibility of training;

(ii) drawing up training programmes and details thereof, including methods of training and steps to be taken for on-the-job training.

B. AUDIT FUNCTIONS

(1) checking of all refund cases involving a refund of more than Rs. 50,000|-.

(2) checking all cases involving tax liability of foreign collaborators. This would require scrutiny of the terms of collaboration agreements.

(3) instructing Chief Auditors on important questions of law and accounts involved in Internal Audit. Normally he will decide such cases in keeping with the policies and directives of the CBDT| DI(IT)|CIT. However, in important cases and wherever he considers necessary he will consult the CIT.

(4) conferring with the Standing Counsels, Solicitors and officers of the DI(IT) and CBDT on important questions of law and accounts in respect of Internal Audit and Revenue Audit.

(5) conferring with Audit Officers of the rank of Senior DAG| DAG regarding major disputes relating to objections raised by the Revenue Audit.

C. ASSISTANCE FUNCTIONS

(1) assisting CIT in matters relating to Internal Audit and Revenue Audit.

(2) examining cases of mistakes of serious nature from vigilance angle, maintaining records of such cases and putting up such cases to the CIT for review and action.

(3) acting as the CIT's liaison with the Accountant General.

(4) acting as the CIT's deputy in taking up matters directly with the IACs for arranging prompt follow up action and speedy replies to Revenue Audit objections and quaries by CBDT regarding such objection.

D. MISCELLANEOUS FUNCTIONS

(1) on detection of mistakes of general and|or repetitive nature, taking immediate action for rectification of such and similar mis-

takes in all cases and ensuring by issue of circulars etc. that such mistakes are not repeated.

(2) overall supervision of collation and maintenance of statistical data for:

(i) submission to the P.A.C. and the C&A.G.

(ii) planning performance targets.

(iii) control and evaluation of the audit programme.

(iv) submission of statements and monthly reports to DI(IT).

ANNEXURE III

Duties of the Chief Auditor

The Chief Auditor will personally audit certain important types of cases which are enumerated at item 2(e) below. He will also test check 2 to 3 per cent of the audit work done by the various IAPs. In addition to these duties he will generally render technical assistance to the IAC (Audit).

2. The following outline details his duties:

(a) Weekly programming of work to be done by IAPs, including matters relating to follow up action.

(b) Test check of 2 per cent to 3 per cent of the work done by IAPs.

(c) Instruct IAPs on legal interpretations and accountancy problems. In case, he himself in doubt, he should seek the instructions of the IAC(Audit).

(d) Settling with Revenue Audit staff disputes relating to objections raised by Revenue Audit.

(e) Personal checking of the following types of work:

(i) All cases resulting in refund below Rs. 50,000 but above Rs. 25,000|-.

(ii) Capital computation for the purpose of determining Surtax or Super Profits Tax liability.

(iii) Scrutiny of the claims for tax concession made by— (a) companies stated to be engaged in priority industries, and (b) companies entitled to tax holiday.

(iv) Liability to additional tax by companies in which the public are not substantially interested.

(v) Tax calculation in the case of companies with an assessed or returned total income of Rs. 10 lakhs and above.

(f) Rendering technical assistance to the IAC (Audit).

(g) Assisting IAC in running training classes for the Internal Audit staff.

(h) Supervising collation and maintenance of statistical data and preparation of statements and monthly reports to DI(IT) in respect of Internal Audit and Revenue Audit.

(i) Evaluation of the performance of the Class III staff attached to the IAPs.

Distribution of Internal Audit Parties IACS(Audit) and chief Auditors over the different Commissioners' charges

Sl. Nos.	Commissioners' charges	Strength of IAPs		Chief Auditors		ACS (Audit) (All new posts)	Remarks
		Existing number	Number to be added	Present strength	Addition		
1	2	3	4	5	6	7	8
1—4	Bombay City I, II, III & Central	12	7	2	1	3	One IAC will look after the Poona charge (Sl. No. 23) and another will look after the Nagpur charge (Sl. No. 24) in addition to their work in Bombay.
5—8	West Bengal I, II, III and Calcutta (Central	12	7	2	1	3	One IAC will look after the Assam charge (Sl. No. 20) and another will look after Orissa charge (Sl. No. 28) in addition to their work in Calcutta.
9—11	Delhi I, II and Central	4	2	1	—	2	One IAC will look after Rajasthan (S. No. 22) another will look after the Punjab charge (S.No.27), in addition to their work in Delhi.
12—14	Madras I, II & Central	5	1	1	—	1	
15—16	Gujarat I & ii	6	1	1	—	1	
17	Mysore	3	1	—	1	1	He will look after the Andhra Pradesh charge (S. No. 26) and Kerala charge (S. No. 25) as well.
18	Kanpur	2	1	—	—	1	He will also look ater the Patna charge (S. No. 21) and the Lucknow charge (S.No. 19).
19	Lucknow	2	—	—	1	—	Vide item 18.

1	2	3	4	5	6	7	8
20	Assam	2	—	—	1	—	Vide items 5-8
21	Bihar	2	—	—	1	—	Vide item 18
22	Rajasthan	2	—	—	1	—	Vide items 9-11
23	Poona	4	—	—	1	—	Vide items 1-4
24	Madhya Pradesh	4	—	—	1	—	Vide items 1-4
25	Kerala	3	—	—	1	—	Vide item 17
26	Andhra Pradesh	4	—	—	1	—	Vide item 17
27	Punjab	3	—	—	1	—	Vide items 9-11
28	Orissa	1	—	—	—	—	Vide items 5-8
	Total	71	20	7	12	12	

Recommendations

The Committee note that out of the short levy of Rs. 80,000|-, a sum of Rs. 5,400|- has so far been recovered, the recovery of the balance (Rs. 74,600) having been stayed pending disposal of an appeal before the Income-tax Appellate Tribunal. The Committee would like to be informed of the position regarding recovery after the disposal of the appeal by the Tribunal.

[*S. No. 23—Paragraph 3.15*]

Action taken

The assessment in this case was originally completed under Sec. 23(4), [144] *ex parte*. This has now been reopened under Section 146 of the Income-tax Act and, therefore, the original demand stands vacated.

[*Ministry of Finance (Department of Revenue) D.O. F. No. 17|14|69-IT (Audit) dated 14-11-69.*]

Recommendation

In the Committee's opinion, this case raises an important question of law, *i.e.*, whether, in terms of the Act, an assessee who derives taxable profits in a year subsequent to the year in which his business ceased to exist can adjust against the profits, for purposes of tax, the carried-forward unabsorbed depreciation of earlier years. As the Law Ministry have held the audit objection to be correct, the Committee would await report regarding rectification and recovery of the tax involved.

[S. No. 24—Paragraph 3.19]

Action taken

Committee's recommendations have been noted.

Assessment in this case has been rectified on 7-8-69. An additional demand of Rs. 1,40,183|- has been raised, which is yet to be recovered. As and when the recovery is made, a further reply will be sent to the Public Accounts Committee.

[*Ministry of Finance (Department of Revenue) D.O. F. No. 17|8|69-IT (Audit) dated 17-11-69*].

Recommendation

The Committee note that the bulk of the tax dues is still to be

recovered from the assessees and that their assets have been attached. The Committee would like to have a further report regarding recovery.

[*S. No. 27—Paragraph 3.28*]

Action taken

No further recovery has been made in the case of M|s United Provinces Commercial (P) Ltd. The Company had gone into liquidation and no collection is possible so long as the liquidation proceedings are pending with the liquidator.

2. A further report regarding the recovery position will be sent to the P.A.C.

3. The company M|s Filmistan Distributors (India) Pvt. Ltd. belongs to the Jalan Group. Substantial additions have been made in the various cases of the group which are disputed and appeals are pending before the A.A.C. and|or I. T. Appellate Tribunal. Recovery certificates have nevertheless been issued and the properties have been attached by the Additional Collector. The group is carrying on negotiations regarding payment of taxes in instalment. The real position is being crystalised after examining the assessees' contention and the fixation of quantum of monthly instalment for payment of tax is presently under study. The extra demand raised as a result of the Audit objection, amounting to Rs. 51,516|-, is included in the outstanding demand and will be covered by the overall arrangement of instalment scheme. The Committee will be informed as to the arrangement arrived at with the assessee for paying the tax in monthly instalment.

[*Ministry of Finance (Department of Revenue) D.O. No. 17|69-IT (Audit) dated* 1-12-69.]

Recommendation

The Committee note that the Department tried to revise the assessment order, but the assessee went to the High Court to obtain an interim stay of the proceedings. The Committee would like to have a further report regarding rectification|recovery.

[*S. No. 30—Paragraph 3.36.*]

Action taken

Action to revise the assessment u|s. 147 was initiated. Against

the proposed revision of assessment, the assessee has obtained interim stay in a writ from the Calcutta High Court. The case is still pending with the High Court.

[*Ministry of Finance (Department of Revenue) D.O. F. No. 17|24|69-IT(Audit), dated 29-11-69*].

Recommendation

The Committee would like Government to dispel any impression in the minds of the public that a development rebate allowed in respect of an asset sold to Government will not be withdrawn even if the party credits to the Profit and Loss account the reserve which he had originally created in order to qualify for the grant of rebate. Another question that Government should consider is whether the party would forfeit the rebate when his entire assets are sold to Government and the reserve cannot stand as such in his books.

[*S. No. 36—Paragraph 3.72.*]

Action taken

The Government is grateful for the suggestions made by the Committee. The points mentioned by the P.A.C. have been clarified by a public circular F. No. 10|59|69-IT(AI), dated 6-8-69. A copy of the said instructions is enclosed.

[*Ministry of Finance (Department of Revenue) D.O. F. No. 17|6|69-IT(Audit) dated 22-10-69*].

Circular No. 26

F. No. 10|59|69-ITAII

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 6th August, 1969

15 Sravana, 1891 SE

SUBJECT: *Development rebate allowed in respect of asset sold to Government—*

There is an impression that the development rebate allowed in respect of an asset sold to the Government will not be withdrawn even if the vendor credits to the Profit & Loss account the reserve which he had originally created to qualify for the grant of the rebate. This is wrong as clarified below:

2. Section 34(3) (a) of the Income-tax Act, 1961, provides, *inter alia*, that development rebate shall be allowed only if in addition to certain other requirements, the following two conditions are also satisfied:—

(i) An amount equal to 75 per cent of the development rebate to be actually allowed is debited to the Profit & Loss Account and credited to a reserve account. The reserve so created is not to be utilised for a period of 3 years either for distribution by way of dividends or profits, or for remittance outside India as profits or for creation of any asset outside India, and

(ii) The machinery or plant in respect of which development rebate has been allowed is not to be sold or otherwise transferred for a period of 8 years.

3. Under proviso to Section 34(3) (b), the transfer or sale of the asset will not be penalised in certain circumstances. However, while claiming protection under this proviso in respect of the development rebate already allowed on the ground that the second condition should not be enforced, the assessee cannot claim that the first condition, too, namely, that the amount of the development rebate reserve should not be utilised for the distribution of dividends or profits, should also not be enforced. Even if the asset is not sold or transferred at all but continues to remain with the original owner, he, too, would forfeit the development rebate allowance in the event of a violation of the first condition. Merely because the violation of the second condition is condoned in certain circumstances by virtue of the proviso to section 34(3) (b), it does not follow that, in those cases, the violation of the first condition also stands condoned. Thus, if this condition is violated, the development rebate already allowed to the assessee, will have to be withdrawn.

Sd|- J. C. KALRA,
Secretary, Central Board of Direct Taxes.

To

1. All Commissioners of Income-tax.
2. Director of Inspection (Income-tax) | (Investigation) | (RS&P).
3. Bulletin Branch (with 2 spare copies).
4. The Comptroller & Auditor General of India (with 25 spare

copies). These instructions are issued on the recommendation of the Public Accounts Committee in their 73rd report (paras 3.72 and 3.73).

5. All Officers and Branches in the Direct Taxes Wing of the Board.

6. All Chambers of Commerce.

Further information sought by the Action Taken Sub-Committee

Please indicate the action taken on the point raised in the last sentence of the P.A.C.'s recommendation as to what the position would be if the entire assets of a party are sold to Government and the reserve cannot stand as such in his books.

Government's Reply

The point is being examined.

[*Ministry of Finance* (*Department of Revenue*) *D.O. F. No.* 17|1|68-*IT* (*Audit*) *dated* 22-12-69.]

Recommendation

One of the conditions laid down in the Income-tax Act is that a development rebate allowed to an assessee in respect of his assets will be withdrawn if there is a transfer of assets to parties other than Government. The Committee note that in this case the old firm was dissolved on 31-12-59 and a new firm with some new partners was formed on 2-1-1960. The view held by the Department is that there is no transfer but only a distribution of assets on the dissolution of the partnership and that, therefore, the provisions of the law relating to withdrawal of development rebate on transfer, of assets would not be attracted. The Committee, however, see force in the points raised by Audit in this case as reproduced at page 164 of this Report. They would, therefore, like Government to obtain specific legal opinion on this case with reference to all the relevant facts so as to decide whether there was a transfer of assets calling for the withdrawal of the development rebate.

[*S. No.* 38—*Paragraph* 3.78]

Action taken

The matter has been referred to the Ministry of Law.

2. As soon as their opinion is available, the Public Accounts Committee will be informed by a further report.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|1|69-*I.T. (Audit) dated* 29-11-69.]

Further information sought by the Action Taken Sub-Committee

Please furnish the opinion of the Ministry of Law in this case, when given.

Government's Reply

The opinion of the Law Ministry has not yet been received.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|1|69-*IT (Audit) dated* 22-12-69.]

Recommendations

(i) The Committee note that a managing agent in this case was sharing his income arising in Pakistan with two other parties. Under the double taxation relief formula, he was allowed relief in respect of 50 per cent of the gross commission without deducting the sums payable to the other parties. The Committee note that the Ministry of Law have opined this to be correct, but that at the instance of Audit the matter is being re-examined in the light of certain facts which were not taken into account when the Ministry of Law first gave their opinion. The Committee would like to await the revised opinion of the Ministry of Law.

(ii) The Committee would like to observe that the Double Tax Avoidance Agreement as also the Two-Man Committee formula, under which India is entitled to tax 50 per cent of the income of Indian residents arising in Pakistan are in the nature of bilateral international agreements, which are binding on both the countries. The Committee note that the Pakistan Government have since decided to tax the whole of the income derived from managing agency commission. The Committee would like the Government of India to take up the matter with the Government of Pakistan.

[*S. Nos.* 40 & 41— *Paragraphs* 3.93 *and* 3.94.]

Action taken

(i) The matter is under consideration of the Ministry.

(ii) The P.A.C.'s observations have been noted by the Ministry, who propose to take up the matter with the Government of Pakistan.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|19|69 *IT (Audit) dated* 15-11-69.]

Further information sought by the Action Taken Sub-Committee

Please state whether the Ministry of Law have since given their revised opinion.

Government's Reply

The Law Ministry's revised opinion has been received. They have agreed with Audit.

[*Ministry of Finance (Deptt. of Revenue) D.O. F. No.* 17|1|69-*IT (Audit) dated* 22*nd December,* 1969.]

Recommendation

The Committee observe that against Rs. 2.37 lakhs due for recovery in these two cases, only a sum of Rs. 22,105 has been adjusted so far. They would like to be apprised of the progress in realisation of the balance amount due.

[*Serial No.* 43 *and Para* 3.101 *of Appendix II to the* 73*rd Report,* 1968-69.]

Action taken

In one case the demand of Rs. 1,84,870.88 has been reduced to Rs. 1,62,027.08. The assessee has preferred an appeal against the order u/s 154. The entire demand being disputed, has been stayed by the Commissioner of Income-tax, till the decision of the first appeal. In the second case the Appellate Assistant Commissioner has held that the concern is a public limited company entitled to a rebate of 30 per cent. against Surtax, as originally allowed in the assessment. The order revising the assessment has been cancelled and therefore the whole demand stands vacated.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|26|69-*IT (Audit) dated* 6*th November,* 1969.]

Recommendation

The Committee note that mistakes in computation of super-tax payable by companies have been occurring year after year. The

tax effect of the mistakes pointed out in the present cases (*viz.* Rs. 7,75,744) has been higher than that reported in earlier years. The mistakes occurred in three different cases assessed in three different charges. All these suggest that assessing officers need to be specifically instructed about the provisions of the law on the subject. In para 11 of their 28th Report (Fourth Lok Sabha) the Committee had drawn attention to this situation. The Committee note that pursuant to these observations, a review of cases of all companies having an income of Rs. 1 lakh or more has been undertaken. Such a review should cover assessments from 1956-57 onwards as the additional super-tax by way of reduction of the rebate from super-tax admissible to the companies was levied in the Finance Acts, 1956 to 1959. The Committee would like to be informed of the outcome of the review when finalised. They trust that effective action will be taken by Government to ensure that cases of this nature do not recur.

[*S. No.* 44—*Paragraph* 3.112.]

Action taken

The observations of the P.A.C. in this paragraph pertain to cases in which super-tax rebate relating to the assessment years 1956-57 to 1959-60 could not be withdrawn in the assessments for those years, because either the rebate admissible was nil or lower than the amount of withdrawable rebate. This could have happened only in cases where the assessee companies had negative income in any of the assessment years 1956-57 to 1959-60. In this context, the Ministry feel that the intention of the P.A.C. was to have a review made of those cases of companies which had suffered losses for the assessment years 1956-57 to 1959-60 and later on started having positive income.

2. The earliest assessment year for which such a company may have become liable to the withdrawal of super-tax rebate on its earning a positive income, would be the assessment year 1957-58. Similar liability would arise for any later assessment year in which the company may be assessed on a positive income for the first time after the assessment year 1956-57. This means theoretically that the assessments for all the assessment years after 1956-57 would have to be reviewed for spotting the assessment year in which the liability

for withdrawal of super-tax rebate arose. On practical considerations, however, a general review of such magnitude may better be avoided, because:—

(i) Any rectificatory action for the assessment years upto 1963-64 have become time-barred by 31st March, 1969; and

(ii) The time and labour involved in a general review on such a scale, would be disproportionately large in relation to the results expected.

It is because of these practical considerations that the Ministry had thought of restricting the scope of the review to the cases of companies which had been assessed for the assessment years 1964-65 to 1967-68 on a total income of Rs. 1 lakh or over. [*Vide* paragraph 3.110 of the P.A.C.'s 73rd Report]. The work involved even in this restricted review has been quite substantial and the Ministry is yet to receive reports about the review from some of the Commissioners of Income-tax.

3. In view of the difficulties stated in the preceding paragraph, the P.A.C. may perhaps like to wait for the results of the review already undertaken in the different charges of Commissioners of Income-tax, before considering whether the scope of the review should be extended.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|23|69-*IT (Audit) dated 14th November,* 1969.]

Recommendation

This case raises an important joint bearing on the method of computation of income, profits or gains accruing to Brtish Shipping Companies. The Committee would like the Board to have the matter examined, in consultation with Audit and Ministry of Law, if necessary. The Committee would also like to be apprised of the decision taken.

[*S. No.* 49—*Paragraph* 3.142]

Action taken

The Law Ministry is considering the matter and it is expected that they would soon convene a meeting with representatives of the Ministry and the Audit.

[*Ministry of Finance (Department of Revenue) D.O.F. No.* 17|10|69-*IT dated 15th November,* 1969.]

Recommendation

The Committee are greatly concerned over the heavy pendency of cases with Appellate Assistant Commissioners. The number of such cases which at the end of June, 1964 was 84,736 increased to 2,00,928 as at the end of June, 1968. The Committee note that certain additional posts were sanctioned in the Department to cope with increasing work in this respect, but due to various reasons the posts could not be filled up till recently. The Committee also note that steps are being taken by the Department to clear the backlog of pending appeals. They hope that as a result work will be "fairly current" by March, 1970 as expected by Government. The Committee expect that Government will keep the matter under constant and continuous watch.

[*S. No. 60—Paragraph 5.32*]

Action taken

The Ministry shares the concern expressed by the P.A.C. about the heavy pendency of appeals with Appellate Assistant Commissioners. Even with the addition of 30 AACs to the strength of 148 obtaining till 1967-68, it has not been possible to arrest the rise in the number of pending appeals. The position of the pendency of appeals before the AACs during the last three years 1966-67 to 1968-69 and the first five months of the current year, April to August, 1969 is indicated below:

Year	Opening balance of pending appeals.	Institution during the period	Disposal during the period	Closing Balance	No of A.A.Cs.
1966-67.	1,58,884	1,96,288	1,94,080	1,61,092	148
1967-68	1,61,092	2,09,336	1,84,217	1,86,211	148
1968-69	1,86,211	2,16,691	1,94,424	2,08,478	178
1-4-69 to 31-8-69	2,08,478	91,750	87,559	2,12,669	178
Corresponding figures upto August, 1968		(87,004)	(68,332)		

Though the above figures suggest a progressive increase in the number of appeals pending, the correct position is that in recent months the pendency has been going down at the rate of about 9,000 appeals per month. The following figures would speak for themselves:

Month	Pendency at the end of the month
June, 1969	2,30,789
31-7-69	2,21,501
31-8-69	2,12,669

The Ministry notice, however, that even with the added disposal of 9,000 cases per month, the arrears as on 31-3-69, can be wiped out in a minimum period of 27 months. It will, therefore, be necessary for the Ministry to revise its earlier estimate that the work will be fairly current by March, 1970.

Alarmed at the apparent set-back in the pendency position regarding appeals, the Ministry had the reasons investigated into. The following trends, some contributing to the reduction of appeals and the others to their addition, were detected:

(1) The time-limit for completion of pending assessments has been reduced from 4 years to 2 years and other measures like the Small Income Scheme introduced to accelerate the pace of disposal of assessments. As a result, considerably larger number of assessments than in the past are being made now. This is happening not only in small income cases which are disposed of in a summary manner and give rise to few appeals, but also in higher income cases involving contentious points.

(2) More ITOs have been posted for bringing the assessments uptodate. 200 ITOs (Class II) have been put on duty only in October, 1969.

(3) The percentage of appeals filed in relation to the assessments completed has declined from 8 per cent in 1966-67 and 1967-68 to 6 per cent in 1968-69.

(4) For reducing the institution of appeals further, a pilot study was conducted by some senior officers of the Department for spotlighting the avoidable omissions and commissions on the part of ITOs and on the basis of the study instructions have been issued for the avoidance of such pitfalls. This step is also expected to eliminate appeals in many cases.

(5) The rate of disposal by AACs has been stepped up from 104 in 1968-69 to 118 during the first five months of the current year.

The Ministry feel that despite the fall in the rate of filing of appeals and a distinct improvement in the rate of disposal by AACs, it will not be easy to clear the tremendous load of appeals created by the reduction of the time-limit for completion of assessments from 4 years to 2 years. For copying with this extra load, a further increase in the number of AACs may be the only solution. This aspect of the problem is under their active consideration.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|32|69-*IT (Audit) dated* 14-11-69.]

Recommendation

The Committee would also like to point out that the number of revision petitions pending with Commissioners increased from 4,760 as at the end of June, 1965 to 7,234 as at the end of September, 1968. The Committee would like steps to be taken to bring down the number of outstanding revision petitions.

[*S. No.* 61—*Paragraph* 5.33.]

Action taken

The Ministry themselves are concerned about the steady rise in the number of revision petitions, as indicated by the following figures:

Date	No. of revision petitions pending
30-9-68	7,234
31-3-69	7,947
30-6-69	9,085
30-9-69	9,601

2. The reasons for the increase are the following.

(i) Because of the accelerated pace of disposal of assessments, the rate of institution of revision petitions is going up. Thus, in each of the first five months of 1969-70, the institutions were more than in the corresponding months of the preceding year. The aggregate excess in these five months was 677 cases.

(ii) Due to the addition of various new items of work at the Commissioner's level and the drives regarding accelerated disposal of assessments, collection and refund, the pressure of work on the Commissioners is becoming heavier.

(iii) Following the Supreme Court decision in the cases of Dwarka Nath vs. I.T.O. (57 ITR 349) the Commissioners of Income-tax are now required to give a hearing to the assessees filing revision petitions, before these can be rejected.

3. The Ministry is considering some administrative measures, such as, the creation of a few posts of Additional Commissioner of Income-tax, who could take over some functions relieving the Commissioners of their extra burden.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|29|69-*IT (Audit), dated* 17-11-1969.]

Recommendation

The Committee are concerned to observe that the number of outstanding cases in which penal Super-tax/Income-Tax under Section 23A/104 of the Income Tax Act, 1922/1961 is leviable has risen from 1086 as on 31st March, 1967 to 2477 as on 31st March, 1968, the latter figure including 295 cases pending under the old Act. The amount of tax involved in the cases pending as at the end of March, 1968 was Rs. 3.02 crores. The Committee note that instructions are proposed to be issued impressing upon the Commissioners of Income-tax the need to complete all these cases, pending under the old Act by 30th September, 1969 at the latest. The Committee hope that the cases pending under the old Act will be finalised by this target date and substantial progress also made with the clearance of other pending cases coming under the 1961 Act. As the 1961 Act stipulates a definite time-limit for the completion of these cases, it is essential that they should also be expeditiously finalised.

[*Serial No.* 66—*Paragraph* 5.58.]

Action taken

Instructions have been issued to all Commissioners of Income Tax to give the top-most priority to the 295 cases pending under the old Act and to ensure that they are finalised by end of September, 1969 at the latest. Instructions have also been issued for the expeditious finalising of other cases arising under section 104 of the Income Tax Act, 1961. A copy of these instructions is enclosed for ready reference.

2. The Committee will be informed of the progress made in this direction by a further report.

[*Ministry of Finance (Department of Revenue), D.O. F. No.* 17|1|69-*IT (Audit), dated* 29-11-1969.]

F. No. 17/45/69-I.T.(Audit)

GOVERNMENT OF INDIA

Central Board of Direct Taxes

New Delhi, the 6th September, 1969

From

Shri S. Bhattacharyya,
Secretary, Central Board of Direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT:—*Proceedings under Section 104 of the I.T. Act, 1961, Need for expeditious finalisation of—*

Please refer to the Board's letter No. 7/10/68-I.T. (Audit) dated 14th March, 1969 relating to the finalisation of all cases pending under Section 23-A of the I.T. Act, 1922.

2. The large number of pending proceedings under Section 104 of the Income-tax Act, 1961 (which correspond to Section 23-A of the Old Act) has been commented on by the Public Accounts Committee in para 5.58 of their 73rd Report. The Public Accounts Committee have emphasized the need for the early finalisation of these cases.

3. The Board desire to have the following data for watching the progress in this regard:—

(1) The number of such cases pending as on 31st March, 1969;

(ii) Cases finalised during the half-year 1st April, 1969 to 30th September, 1969; and

(iii) The cases pending as on 30th September, 1969.

The report may please be sent by 31st October, 1969 at the latest.

4. A further report regarding the cases finalised during the half-year ended 31st March, 1970 shall be sent by 30th April, 1970.

Yours faithfully,

Sd/- S. BHATTACHARYYA,
6-9-69.

Secretary, Central Board of Direct Taxes.

Recommendation

The Committee note that a disclosure petition of the assessee in this case for Rs. 1.40 crores is pending before the Board. They would like to be infomed of the Board's decision on the petition as also the position regarding recovery of short-levy of interest of Rs. 1,11,595.

[*S. No.* 75—*Paragraph* 5.96.]

Action taken

The disclosure petition filed by the assessee under section 271(4A) of the Act has since been rejected by the Board. The position regarding recovery of the demand raised in the case of M/s. Chamanlal & Bros. is as under:—

The properties of the assessee at Bombay & Delhi had been attached by the Tax Recovery Officer but he was instructed not to proceed with the sale of the properties on the directions of the Board pending the finalisation by the Board of the settlement petition filed by the assessee under section 271(4A) of the Income-tax Act, 1961. The Board has rejected the settlement petition and the Tax Recovery Officers have been asked to go ahead with the sale of the properties. No recovery has so far been made.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|4|69-*IT (Audit), dated* 6-11-1969.]

Recommendation

The Committee note that the additional demand of Rs. 2,40,290 raised on rectification of the mistake in this case has not yet been recovered as the assessee expired in June, 1967. The Committee would like to be informed of the progress with recovery.

[*S No. 79—Paragraph* 5.108.]

Action taken

The assessee has left assets the declared value of which is only Rs. 6.57 lakhs. Against this, the total tax recoverable against the estate is Rs. 37 lakhs. Recovery of tax to the extent of the assets left is being hampered due to litigation between the executors of the deceased assessee's will and his widowed second wife who has challenged the genuineness of the will.

[*Ministry of Finance (Department of Revenue) D.O. F. No.* 17|2|69-*IT (Audit), dated* 6-11-1969.]

NEW DELHI;
Magha 4, 1891 (*S*).
January 24, 1970.

ATAL BIHARI VAJPAYEE,
Chairman,
Public Accounts Committee.

APPENDIX

Summary of main Conclusions/Recommendations

S. No.	Para No. of the Report	Ministry/Department concerned	Conclusions/Recommendations
1	2	3	4
1	1.3	Department of Revenue	While the Committee are happy that Government have furnished replies to all their observations/recommendations in the Seventy-third Report (Fourth Lok Sabha) they would like to point out that most of the replies were sent by Government within a short period after the prescribed limit of six months for submission of replies had elapsed. The bunching of the notes sent by Government made it difficult for the Committee to obtain the views of Audit in regard to a number of points arising out of the replies. The Committee would like Government to ensure that replies to their observations are sent well within six months, so that they could be vetted by Audit before being considered by the Committee.
2	1.10	—Do—	The Committee are not satisfied with the basis adopted by Government for determination of the cost of collection of tax in the various income brackets. A rough and ready assumption has been made about the time required for the completion of assessment of cases falling under different categories. As pointed out by Audit, this assumption may not be borne out by the realities of experience.

1	2	3	4
			The Committee desire that the Department should conduct pilot time and motion studies in selected ranges to arrive at the approximate time taken in disposal of each category of cases. The proposed study should also cover the revenue yield from the various slabs of incomes in each category.
3	1.11	Department of Revenue	The matter is of something more than academic interest in view of the considerations pointed out by the Committee in their Seventy-third Report (Fourth Lok Sabha). A reference to the date given in para 1.5 of that report would show that more than three-fourths of the assessments in the Department relate to small income cases. It is therefore imperative to determine whether the time and money spent on examination of these cases is worthwhile, having regard to the revenue derived therefrom. A study of the kind suggested would also help Government to come to a considered conclusion on the question whether the present exemption limits are realistically fixed and whether both for reasons of economy and practical administrative convenience, a raising of the limit is called for.
4	1.12	—Do—	The data furnished to the Committee also shows that the pendency in category I cases, which relate to the higher income brackets, had risen from 1.64 lakhs as on 31st March, 1968 to 1.94 lakhs as on 31st March, 1969. These are the cases with revenue potentiality which merit greater attention from the Department. The Committee hope

			that Government will draw up a suitable programme of priorities to ensure that income tax officers devote adequate time to the examination of cases involving larger revenue.
5	1.16	—Do—	The Committee observe that the Board had indicated to the Committee in January, 1969 that all the pending Super Profits Tax/Sur tax assessment cases would be cleared within the next twelve months except those which might have to be kept pending for compelling reasons. The Committee, however, find that the position is still far from satisfactory. While the number of pending Super Profits Tax assessments came down from 516 on 1st April, 1968 to 284 on 30th June, 1969, there was an increase in the pendency of Sur-tax assessments. As regards the arrears in collection of tax demands, even the Ministry have conceded that the position is "disappointing". As against a decrease of 7 per cent in the Super Profits Tax arrears, the increase in Sur Tax arrears is nearly 110 per cent. The Committee feel that the Board will have to act with greater vigour for the expeditious clearance of arrears.
	1.20	—Do—	The Committee note that though according to targets originally set, all the 71 pending Excess Profits and Business Profits Tax cases were to be cleared by 1st February, 1969, 56 of the 71 cases continue to be pending. Government have now indicated that the pending cases are not likely to be cleared even by 31st March, 1970, i.e. 14

1	2	3	4
			months after the original target date fixed by the Board. The Committee would like Government to take steps for the clearance of these arrears by 31st December, 1970, at the latest.
7	1·23	Department of Revenue	In para 1.50 of their Seventy-Third Report (Fourth Lok Sabha) the Committee had suggested the institution of an integrated tax return covering both Wealth Tax and Income Tax so that the quality of tax administration could be improved. Government have stated that Wealth Tax assessees constitute only 4 per cent of the number of income tax assessees and that an integrated return would place an unnecessary burden on the majority of the assessees. The Committee feel that the difficulty pointed out by Government could be met if only those assessees who were liable to both Income-tax and Wealth Tax were required to submit an Integrated return. This would also meet the legal difficulty arising out of section 14(2) of the Wealth Tax Act which authorises a Wealth Tax Officer to call for a return of net wealth only if he is of the opinion that the party concerned would be assessable to Wealth Tax. The Committee would like Government to process their suggestion on these lines.
8	1.26	—Do—	In their Seventy-Third Report (Fourth Lok Sabha) the Committee had asked Government to examine how the existing system for determination of income from property could be streamlined and improved to ensure that properties are correctly valued. In this

			context the Committee had drawn attention to the suggestion of the Working Group of the Administrative Reforms Commission for determination of annual values on the basis of rentals or the municipal valuation, whichever is greater. The Committee desire that the examination should speedily be carried out and appropriate action initiated.
9	1.30	—Do—	The Committee observe from the data given by Government that the total market value of the properties covered by 71 cases disposed of by the newly-created Valuation Cell of the Board upto the end of September, 1969 came to about Rs. 238 lakhs according to the returns filed by the concerned assessees. The corresponding figures as per the valuations worked out by the Valuation Units came to about Rs. 413 lakhs i.e. 73 per cent more than the valuation shown in the returns. This illustrates the extent to which property values are depressed in tax returns.
10	1.31	—Do—	The Committee note that on the basis of the experience of the survey of new properties in the Delhi Commissioner's Zone, similar surveys will be undertaken shortly in other Commissioners' charges. The Committee trust that Government will draw up a time-targetted programme for the completion of such reviews in all the major cities. They further trust that Government will maintain vigilance in this regard and make periodical investigations to ensure that neither undeclared investments in property nor incomes accruing therefrom escape tax.

1	2		3
11	1.35	Department of Revenue	In their 73rd Report (Fourth Lok Sabha), the Committee had desired Government speedily to finalise rectificatory action in 967 outstanding cases of under-assessments, involving Rs. 167.71 lakhs and 223 outstanding cases of over-assessment involving Rs. 5.57 lakhs disclosed in Test Audit during the period 1st September, 1966—31st August, 1967. In their reply Government have stated that the position regarding rectification of cases of under-assessment and over-assessment cannot be readily indicated and that Government were considering a proposal of sending one of its senior Officers from charge to charge to settle long outstanding Audit Objections. As it is now more than two years since these cases of under-assessment/ over-assessment were reported, the Committee desire that necessary rectificatory action should be finalised without any further delay.
12	1.36	—Do—	The Committee suggest that Government should maintain a closer liaison with Audit as a standing arrangement so that such cases might be promptly attended to.
13	1.41	—Do—	The Committee feel that it is the basic function of Internal Audit Parties to check the admissibility of depreciation while verifying whether depreciation on a particular asset has been calculated with reference to the period of use, etc. Considering that a large number of mistakes in computation of depreciation is reported by Audit year