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**STANDING COMMITTEE ON FINANCE
(2017-18)**

SIXTEENTH LOK SABHA

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

[Action taken by the Government on the recommendations contained in Forty-Seventh Report of the Standing Committee on Finance on 'Demands for Grants (2017-18)]

FIFTY-SECOND REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2017 / Agrahayana, 1939 (Saka)

FIFTY-SECOND REPORT

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(2017-2018)**

(SIXTEENTH LOK SABHA)

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

[Action taken by the Government on the recommendations contained in Forty-Seventh Report of the Standing Committee on Finance on 'Demands for Grants (2017-18)]

Presented to Lok Sabha on 20 December, 2017

Laid in Rajya Sabha on 20 December, 2017



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2017 / Agrahayana, 1939 (Saka)

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COMPOSITION OF STANDING COMMITTEE ON FINANCE – 2017-18

Dr. M. Veerappa Moily - Chairperson

MEMBERS

LOK SABHA

2. Kunwar Pushpendra Singh Chandel
3. Shri Bandaru Dattatreya
4. Shri Nishikant Dubey
5. Shri Venkatesh Babu T. G.
6. Shri P.C. Gaddigoudar
7. Shri C. Gopalakrishnan
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11. Shri Bhartruhari Mahtab
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RAJYA SABHA

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25. Shri Mahesh Poddar
26. Dr. Mahendra Prasad
27. Shri C.M. Ramesh
28. Shri T.K. Rangarajan
29. Shri Ajay Sancheti
30. Shri Digvijaya Singh
31. Dr. Manmohan Singh

SECRETARIAT

- | | | | |
|----|------------------------------|---|---------------------|
| 1. | Smt. Abha Singh Yaduvanshi | - | Joint Secretary |
| 2. | Shri Rajesh Ranjan Kumar | - | Director |
| 3. | Shri Ramkumar Suryanarayanan | - | Additional Director |
| 4. | Shri Vivek Pandey | - | Committee Assistant |

INTRODUCTION

I, the Chairperson of the Standing Committee on Finance, having been authorized by the Committee, present this Fifty-second Report on action taken by Government on the Observations / Recommendations contained in the Forty-seventh Report of the Committee (Sixteenth Lok Sabha) on Demands for Grants (2017-18) of the Ministry of Finance (Department of Revenue).

2. The Forty-seventh Report was presented to Lok Sabha / laid on the table of Rajya Sabha on 17 March, 2017. The Action Taken Notes on the Recommendations were received from the Government *vide* their communication dated 20 July, 2017.

3. The Committee considered and adopted this Report at their sitting held on 16 November, 2017.

4. An analysis of the action taken by the Government on the recommendations contained in the Forty-seventh Report of the Committee is given in the Appendix.

5. For facility of reference, the observations / recommendations of the Committee have been printed in bold in the body of the Report.

NEW DELHI
18 December, 2017
27 Agrahayana, 1939 (Saka)

DR. M. VEERAPPA MOILY
Chairperson
Standing Committee on Finance

REPORT

CHAPTER - I

This Report of the Standing Committee on Finance deals with action taken by Government on the recommendations/observations contained in their 47th Report (Sixteenth Lok Sabha) on Demands for Grants (2017-18) of the Ministry of Finance (Department of Revenue) which was presented to Lok Sabha / Laid in Rajya Sabha on 17 March, 2017.

2. The Action Taken Notes have been received from the Government in respect of all the 11 recommendations contained in the Report. The Government have noted and accepted in principle almost all the recommendations of the Committee. These have been analyzed and categorized as follows:

- (i) Recommendations/Observations that have been accepted by the Government:

Recommendation Nos. 1,2,3,4,5,6,7,8,9,10 and 11

(Total 11)
(Chapter- II)

- (ii) Recommendations/Observations which the Committee do not desire to pursue in view of the Government's replies:

Recommendation No. NIL

(Total - NIL)
(Chapter- III)

- (iii) Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee:

Recommendation No. NIL

(Total - NIL)
(Chapter -IV)

- (iv) Recommendations/Observations in respect of which final replies by the Government are still awaited:

Recommendation No. NIL

(Total - NIL)
(Chapter- V)

3. The Committee desire that the replies to the observations/recommendations contained in Chapter-I may be furnished to them expeditiously.
4. The Committee will now deal with the action taken by the Government on some of their recommendations.

Recommendation (Sl. No. 2)

Tax-GDP Ratio and Tax Base

5. The Committee were concerned to note the rather low level of Tax-GDP ratio of our economy, which stands at 16.6 percent and required to be re-visited in comparable parameters with BRICS countries. The concerns of the Committee got accentuated in the light of the fact elucidated in the Economic Survey that India's abysmally low tax to GDP ratio has been the prime factor responsible for the ever-widening income inequality, allowing less scope for the state to spend more on areas like primary healthcare and education. Further, the Committee were constrained to note that the measures adopted by the Ministry so far to address this issue, have proved to be incremental and thus insufficient. This fact got fortified by the findings of the Shome panel (Tax Administrative Reforms Commission-TARC) that in the last ten years, though the direct tax collection has increased by more than 700 percent, the number of tax payers has merely grown by 35 per cent. Therefore, the Committee suggested for harnessing the tax potential of un-organised sector and in particular those categories, not subject to regular TDS; making even avoidance of tax an offence at par with evasion inviting heavy penalties; prompt implementation of Goods and Services Tax (GST); doing away with unnecessary tax exemptions and case by case exemption-wise impact assessment; and arresting the rampant tax evasion in our flourishing informal market ecosystem. Further, the Committee also reiterated their earlier recommendation of implementing various suggestions made by TARC (Tax Administration Reforms Commission) and RV Eashwar Committee on simplification and tax reforms. Efforts should also be simultaneously made to gradually move towards Tax Deductible at Source or Tax Collectible at Source, which will help widen and deepen the tax base in the most non-intrusive manner. The Committee desired to be apprised of the future road map to tap the real potential of tax, which would enable our economy to surpass other comparable economies in raising the tax-GDP ratio. The personal income tax collection figures made available to the Committee clearly suggested that most of the tax-payers fall in the lower income brackets. In the Budget speech 2017, it was clearly mentioned that out of a total individual taxpayers of 3.7 crore, 99 lakh show income below the exemption limit of Rs. 2.5 lakh per year and 1.95 crore show income between Rs. 2.5 lakh to Rs. 5 lakh. 52 lakh show income between Rs. 5 lakh and Rs. 10 lakh and only 24 lakh show income above Rs. 10 lakh. Of the 76 lakh individual assesseees who

declare income above Rs. 5 lakh, 56 lakh are from salaried class. The Committee thus noted that this indicates pathetic levels of tax collection from non-salaried class and the lax effort of income tax department in ensuring tax compliance and observed that this is indicative of a broader tax-base at the bottom only in terms of number but not actual tax collections. Such an approach of adding the numbers at the bottom cannot obviously result in even a semblance of tax buoyancy, as incomes would naturally stagnate at that level. This method would soon thus inevitably hit a "tax plateau", if it has not done so already. Furthermore, the Committee understood that there are about roughly 8 crore BPL families with an average of five members in a family, thus keeping approximately 40 crore persons out of the tax net. In addition, there are also about 13 crore farmer families who are exempt from tax. The Committee also found that posts in the income tax department have been created on the basis of the number of tax payers and returns rather than the actual increase in tax collections and tax buoyancy. The Committee therefore felt that if such additional posts do not bring in additional revenue, these posts should be reviewed. Therefore, the Committee expected the Department of Revenue to overhaul their direct tax policy and the basic approach to tax buoyancy, so that the present income tax slabs and the prescribed rates of tax do not prove to be a 'dead horse', whose flogging yields very little and may rather force the honest tax payer to look for avenues to avoid/evade taxation. The Committee thus recommended a review in this regard with better calibrated slabs and tax rates, which will support widening of tax net, bring about tax buoyancy and compliance besides being truly reflective of actually prevailing personal incomes, wealth and consumption. Accordingly, the standard deduction, which was earlier available for those drawing income under the head 'salaries' corresponding to the deductions allowed on business expenditure available under the head 'Income from Business or Profession' may be restored to a reasonable level to provide much-needed relief to the salaried class, who have been admittedly shouldering a large burden of personal income tax collections. In this context, the Committee pointed out that the methodology of computing tax should be reviewed and made more just and fair. For example, those assesseees declaring agricultural income along with other income end up in a higher tax bracket due to the addition of exempted agricultural income to other income for determining the slab, whereas those who do not declare "any other income" get full exemption for their agricultural income. As suggested by the Committee earlier, the excise duty structure for products such as pan masala etc. should also be rationalized in a manner that does not result in needless complexity and revenue loss to government. Adequate caution should be exercised so that tax rates does not incentivise or become an instrument for illicit trade.

6. The Ministry in their action taken reply have stated as follows:-

DIRECT TAXES

It is submitted that tax component in the developed countries also includes social security contributions and due to this reason their tax-GDP ratio is higher. Moreover there is a component of state taxes in the Indian economy which is not aggregated with the central tax figures, which reduces the tax-GDP ratio. A large segment of the Indian economy is agrarian. This component of the GDP does not contribute to the direct taxes, thereby reducing the tax-GDP ratio which is also a reason of lower tax-GDP ratio than the developed economies. It is also submitted that per capita income in the country is low but the basic exemption limits are quite high. Accordingly, the small and very small proprietorship businesses may not contribute to direct taxes, even though they contribute to GDP, which is also a reason for a low tax-GDP ratio.

In so far as harnessing the tax potential of unorganized sector and in particular those categories, not subject to regular TDS is concerned, it is submitted that the Finance Act, 2016 expanded the scope of presumptive taxation for small businesses by increasing the threshold limit of income from Rs. 1 crore to Rs. 2 crore for being eligible for presumptive taxation scheme. Further, it also provided for new presumptive taxation regime in case of professionals to bring small taxpayers within the tax fold and reduce the compliance burden of maintenance of books of accounts in case of small business and professionals covered in the presumptive taxation regime thereby widening the tax base also.

With respect to the Committee's suggestion for making even avoidance of tax an offence at par with evasion inviting heavy penalties, it may be mentioned that to counteract aggressive tax planning with the use of sophisticated structures, statutory provisions, namely, the General Anti Avoidance Rules (GAAR), to be applicable from 01.04.2014, was introduced by Finance Act, 2012 as Chapter X-A of the Act.

GAAR is the doctrine of "substance over form" where the real intention of the parties and effect of transactions and purpose of an arrangement is taken into account for determining the tax consequences, irrespective of the legal structure that has been superimposed to camouflage the real intent and purpose. Under GAAR, an arrangement, the main purpose of which is to obtain a tax benefit, would be considered an impermissible avoidance arrangement. The provisions allow the tax authority to declare an "arrangement" which the assessee has entered into, as an "impermissible avoidance arrangement". Once an "arrangement" has been declared as an

“impermissible avoidance arrangement”, the consequence as regards the tax liability would also be determined.

The implementation of GAAR provisions has been deferred for a period of two years and it would now be applicable from AY 2018-19 onwards, i.e., to income of FY 2017-18 onwards. Further, the investments made upto 31.03.2017 have been grandfathered.

Regarding doing away with unnecessary tax exemptions, the Finance Minister in his Budget Speech for 2015-16 announced intention of Government to phase out various exemptions and deductions under the Act along with phased reduction of corporate tax rates. Accordingly, the detailed phase out plan of various tax incentives has been laid out by Finance Act, 2016.

Regarding implementing various suggestions made by TARC (Tax Administration Reforms Commission), the following major TARC recommendations have been accepted and have been implemented/ are under implementation by CBDT:

- Placing in public domain data of taxpayers who have been granted certificates for being charitable organizations. The data of all organisation granted certificates u/s 80G is available on the Income Tax Website.
- Review of Citizen’s Charter to give details of services and timelines within which such services are delivered.
- Shifting of all key-operations within the Department to the digital platform. All major taxpayer services are now online. Returns are filed online and processed by CPC, Bengaluru without any human intervention. Refunds are also issued through Refund Banker (SBI). Selection of cases for scrutiny is also based on Computerised Selection Process without any human intervention.
- Digitization of all key-internal processes with the help of information and communication technology (ICT) systems and re-engineering of business processes accordingly. The Income Tax Business Application (ITBA) project is being rolled out for bringing all the digital applications at one single platform.
- Online tracking of Dak/ Grievances/ Applications etc. through Aayakar Sewa Kendras.
- Establishment of a dedicated vertical for taxpayer services within the Board and at all levels in the field.
- Establishment of High Level Committee for giving recommendations for clarity in tax laws and procedure.
- Development of PAN as a common business identifier (CBIN).
- Enlarging the scope of presumptive taxation to professionals also.

- Pre-filled returns for individual taxpayers. In respect of ITR-1 and ITR 4S , personal details as well as tax payment details are pre-filled. In respect of other ITRs the facility is available in offline mode- the option for pre-filling the personal details as well as tax payments details is available.
- Inclusion of assets and liabilities of individuals in their income tax returns where total income exceeds Rs.50,00,000/-. Wealth tax has since been abolished.
- Selection of cases for scrutiny through a broad based risk assessment matrix. The computer aided scrutiny selection (CASS) is already implemented for last few years.
- Dispensing with personal presence in simple scrutiny cases and seeking data/ information through an e-system. Pilot projects are already initiated in 7 major cities.
- Issue of clarificatory circulars for reducing disputes and litigations. CBDT has issued more than 25 clarificatory circulars during last two years.
- Special measures for review and liquidation of disputes including withdrawal of departmental appeals pending in ITAT, High Court and Supreme Court. Monetary limits for filing departmental appeals have been enhanced upwards with retrospective effect. More than 15000 appeals have been since withdrawn by the Department.
- Extending the scope of Authority for Advance Rulings (AAR) to domestic taxpayers also. Also establishment of more benches of AAR.
- Effective action for weeding out officers who are inefficient or of doubtful integrity. Regular reviews are being undertaken.

Based on the recommendations of Easwar committee, certain measures have been taken, details of which are as under:

- a) Section 43 of the Act has been amended to provide that where any capital asset in respect of which deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of sub-section (7B) of the said section, the actual cost to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purposes of business since the date of its acquisition.
- b) A new sub-section (5A) in section 45 of the Act has been inserted so as to provide that in case of an assessee being individual or Hindu undivided family, who enters into a specified agreement for development of a project, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.
- c) Section 47 of the Act has been amended to provide that the conversion of preference share of a company into its equity share shall not be regarded as transfer.
- d) Section 55 of the Act has been amended so as to provide that the cost of acquisition of an asset acquired before 01.04.2001 shall be allowed to be taken as fair market value as on 1st April, 2001 and the cost of improvement shall include only those capital expenses which are incurred after 01.04.2001.

- e) A new clause (x) in sub-section (2) of section 56 of the Act has been inserted so as to provide that receipt of the sum of money or the property by any person without consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient under the head "Income from other sources".
- f) Section 115BBDA of the Act has been amended so as to provide that the provisions of said section shall be applicable to all resident assessee except domestic company and certain funds, trusts, institutions, etc.
- g) Section 44AB of the Act has been amended to exclude the eligible person, who declares profits for the previous year in accordance with the provisions of sub-section (1) of section 44AD and his total sales, total turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year, from requirement of audit of books of accounts under section 44AB.
- h) In order to address the grievance of delay in issuance of refund in genuine cases which are routinely selected for scrutiny assessment, provisions of section 143(1D) of the Act shall cease to apply in respect of returns furnished for assessment year 2017-18 and onwards. However, to address the concern of recovery of revenue in doubtful cases, a new section 241A has been inserted in the Act to provide that, for the returns furnished for assessment year commencing on or after 1st April, 2017, where refund of any amount becomes due to the assessee under section 143(1) of the Act and the Assessing Officer is of the opinion that grant of refund may adversely affect the recovery of revenue, he may, for the reasons recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, withhold the refund upto the date on which the assessment is made.
- i) Sections 90 and 90A of the Act has been amended to provide that where any 'term' used in an agreement entered into under sub-section (1) of Section 90 and 90A of the Act, is defined under the said agreement, the said term shall be assigned the meaning as provided in the said agreement and where the term is not defined in the agreement, but is defined in the Act, it shall be assigned the meaning as definition in the Act or any explanation issued by the Central Government.

Further, widening of tax base to achieve growth in tax collection is a continuous process which involves legislative as well as administrative measures and is also a data driven exercise.

Legislative Measures:

1. Finance Act, 2017 has taken the following measures for widening tax base:

- a) The tax rate for the slab of income from Rs.2.50,000 to 5,00,000 has been reduced from 10% to 5%.This shall encourage voluntary compliance and promote people to file tax returns.
- b) A new section 194-IB of the Act has been inserted in the Act to provide that Individuals or a HUF (other than those covered under 44AB of the Act),

responsible for paying to a resident any income by way of rent exceeding fifty thousand rupees for a month or part of month during the previous year, shall deduct an amount equal to five per cent. of such income as income-tax thereon

- c) Finance Act, 2017 has amended section 115BBDA of the Act so as to provide that the provisions of this section shall be applicable to all resident assessee except domestic company and certain funds, trusts, institutions etc.

2. Finance Act, 2016 has taken the following measures for widening tax base.

- a) Finance Act, 2016 expanded the scope of TCS and provided for TCS at the rate of 1% on sale of motor vehicle of the value exceeding ten lakh rupees and sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding two lakh rupees.
 - b) Further the Finance Act, 2016 expanded the scope of presumptive taxation for small businesses and provided for new presumptive taxation regime in case of professionals to bring small tax payers within the tax fold by reducing the compliance burden of maintenance of books of accounts in case of small business and professionals covered in the presumptive taxation regime thereby widening the tax base also.
 - c) Besides it may also be noted that The Finance Act, 2016 inserted a new Chapter VIII "Equalisation Levy" to levy tax on e-commerce transactions. The Central Government vide Notification. No 37(SO 1904E), dated 27th May 2016 appointed 1st of June, 2016 as the date from which the provisions of this Chapter will come into force. The revenue accrued for the Government exchequer through the equalization levy amounts to 274.2 Crore rupees from 1st June 2016 to the latest 21st February 2017.
 - d) Finance Act, 2016 inserted section 115BBDA in the Act to provide for additional chargeability of income exceeding Rs ten lakhs by way of dividends @10% in the hands of shareholders being individuals/ HUFs/ firms.
- 3.** For expanding the ambit of the TDS provisions, the Finance Act, 2015 expanded the scope of TDS on interest on bank deposits by bringing the interest on recurring deposits within the ambit of TDS and also provided that interest for the purpose of TDS by a bank having core banking solution shall calculate the interest bank wise to discourage the practice of splitting the deposits among various branches of the bank to avoid TDS.
- 4.** Following measures were also taken by the recent Finance Acts for expanding the scope of TDS/TCS:-
- a) Finance Act, 2012 introduced TCS at the rate of 1 % on sale of minerals being Coal, Lignite, and Iron ore for trading purpose.

- b) Finance Act, 2012 introduced TCS at the rate of 1 % on sale in cash of bullion in excess of Rs 2 Lakhs and jewellery in excess of Rs 5 Lakhs.
- c) Finance Act, 2013 introduced TDS at the rate of 1 % on payment for acquisition of immovable property (other than rural agricultural land) having value of Rs 50 lakhs or more.

The department is also undertaking various measures such as making PAN mandatory for certain transactions and collection of data from third parties, etc. The Department is also using the data of cash deposit in bank accounts after demonetization for identification of new taxpayers together with detection of unaccounted income.

Further, the general thrust of Government towards creation of digital/cashless economy is also likely to generate audit trails which go a long way towards achieving the goals of widening the tax net.

The issue of widening and deepening of tax base has been dealt with more elaborately in reply to Para No. 11. All these steps would also further enable tax buoyancy to be maximized and compliance ensured.

With respect to the recommendation that Standard deduction may be restored to a reasonable level, it is submitted that there is no economic justification for allowing standard deduction against salaried income particularly in the context of concessional treatment of a large number of perquisites already availed of by the salaried tax payers. Therefore, to ensure horizontal equity and neutrality across classes of income, restoration of standard deduction is not feasible.

With respect to the recommendation that the methodology of computing tax should be reviewed and made more just and fair and the example that those assessee declaring agricultural income along with other income end up in a higher tax bracket due to the addition of exempted agricultural income to other income for determining the slab, whereas those who do not declare "any other income" get full exemption for their agricultural income; it is submitted that in the scheme of direct taxes at present, income from agriculture is utilized for rate purpose only in cases where the income from other sources exceeds the income not chargeable to tax and net agricultural income exceeds five thousand rupees. This system of aggregation of agricultural income with non-agricultural income for rate purpose was introduced by Finance Act, 1973. The system has been continued by the annual Finance Act since then. It may also be mentioned that where it is found by the investigations carried out by the Income Tax Department that any income has been wrongly shown as agricultural income only to avail of the benefit of exemption, the same is brought to tax and all other consequences follow.

INDIRECT TAXES

GST is scheduled to be operational from 01.07.2017 and it incorporates many of the suggestions of the Committee, i.e. extensive use of information technology so as to plug evasion, decisions on exemptions to be taken jointly by the Centre & States in the GST Council etc. The assesses base would increase in GST era wherein, almost the entire value chain of business would be subject to tax. Exemptions relating to central excise duty have been reviewed and a few of these have been proposed to be continued in GST era.

Excise duty on Pan Masala and Chewing Tobacco products is levied under the simplified Compounded Levy Scheme, wherein, duty payable is calculated based on the speed of a machine, number of packing machines installed and the Retail Sale Price (RSP) of the pouch.

7. The Committee are constrained to observe that on the question of tax-GDP ratio and tax-base, the Department of Revenue seems to lack a clear-cut vision. The Committee seek further substantiation with proper examples on the point that 'tax component in the developed countries includes social security contributions and due to this reason their tax-GDP ratio is higher'. Besides, on the suggestion of the Committee for making avoidance of tax an offence at par with evasion inviting heavy penalties, the Department has mentioned about the statutory provisions, namely the General Anti Avoidance Rules (GAAR) introduced by Finance Act, 2012 to be applicable from 01.04.2014. However, the deferment of the implementation of GAAR to the FY 2018-19 onwards is clearly indicative that the Department of Revenue is apparently not very sure and firm about the adequacy, effectiveness and implementation of GAAR. Further, in the light of various measures enumerated by the Ministry, the Committee would like to recommend that the worthiness and impact of each and every measure should be assessed periodically so that the effectiveness of each such measure is gauged timely. The Committee also believe that besides widening of tax base and increasing the tax-GDP ratio, there is also a need to enhance the proportion of non-tax revenue which does pose a challenge before the revenue administration, requiring a multi-pronged approach for successful execution.

Recommendation (Sl. No. 6)

Pendency of Court Cases regarding Arrears

8. The Committee observed with dismay that the data supplied by the Ministry indicated that for direct taxes, number of appeals pending in various courts/tribunals stands at 70,371 and amount locked in such appeals is to the tune of Rs. 3,04,491 crore, whereas, for indirect taxes, the number of appeals stood at 1,01,839 involving a whopping figure of Rs. 238385.73 crores. In the light of such glaring facts, the Committee recommended for an immediate and thorough study by the Ministry to introduce the National Litigation Policy, wherein the Ministry and assesseees are restrained from frivolous and speculative litigation. Further, the Committee suggested that with the current trend of reducing pendency of cases and making India a more investment friendly nation, an initiative to mediate and settle disputes with the Department may also be relied upon in as many cases as possible.

9. The Ministry in their action taken reply have stated as under:

DIRECT TAXES

Though, it has been stated in the report that for Direct Taxes, the number of appeals pending in various Courts/tribunals stand at 70371 and amount locked in such appeals is to the tune of Rs. 3,04,491 crores, no mention of the FY or the Court/tribunal has been made to which these details pertain. However, as per data available, the pendency of appeals and amount locked in appeals at various appellate fora in respect of Direct Taxes is as under:

<i>Appellate Forum</i>	<i>Number of appeals pending</i>	<i>As on date</i>
CIT(Appeals)	2,83,843	28.02.2017
ITAT	88,730	31.12.2016
High Court	41,960	31.12.2016
Supreme Court	5,272	30.09.2016

The following table gives the details of the amount locked up (in Rs. Crore) in litigation:

Appellate Forum	Amount locked up in appeals
CIT (A)*	6,71,069
ITAT*	1,40,323
HC*	1,66,284
SC*	7,530

Source: Research & Statistics Wing, O/o Pr.DGIT (Logistics)

**The amounts locked up in dispute mentioned in the table above for current year before CIT(A) is as on 28.02.2017 and for ITAT,HC and SC the data is as on 30.09.2016.*

Regarding the recommendation for an immediate and thorough study to introduce the National Litigation Policy, wherein the Ministry and assesseees are restrained from frivolous and speculative litigation, it is submitted that with a view of curb frivolous and speculative litigation, the department has taken following steps towards effective litigation management:

- i). **Circulars issued on contentious issues:** In recent years, a number of important Circulars/Instructions on contentious issues have been issued by the Board. This has brought clarity in the tax regime and has thereby, eliminated/reduced tax-disputes on those issues. It is an on-going process.
- ii). **Circulars issued on settled issues:** To ensure that the litigation is reduced, CBDT has been regularly issuing Circulars on matters decided by Supreme Court or matters attaining finality at the High Court level. The officers of the Department are directed to not litigate on the matters covered in these settled view Circulars and appeals if any already filed on these matters are directed to be withdrawn or not pressed. The Circulars issued in this regard after 1.4.2016 are listed below.

I. No	Circular No.	Issue	Date
1.	9/2016	Commencement of limitation for penalty proceedings under sections 271D and 271E of Income-tax Act, 1961.	26.04.2016
2.	10/2016	Limitation for penalty proceedings under sections 271D and 271E of Income-tax Act, 1961.	26.04.2016
3.	11/2016	Payment of interest on refund under section 244A of excess TDS deposited under section 195 of Income-tax Act, 1961.	26.04.2016
4.	15/2016	Additional Depreciation under section 32(1)(ia) of Income-tax Act, 1961.	18.05.2016
5.	12/2016	Bad debts under sections 36(1)(vii) and 36(2) of Income-tax Act, 1961.	30.05.2016
6.	37/2016	Eligibility for Chapter-VIA deduction for profits enhanced by assessing officers	2.11.2016
7.	38/2016	Admissibility of expenditure incurred by a firm on keyman insurance policy in the case of a partner	22.11.2016
8.	39/2016	Deductibility of revenue subsidies under Chapter-VIA.	29.11.2016

- iii). **NJRS:** National Judicial Reference System is the largest repository of Income Tax appeals and judgments as on date. It is expected that the NJRS benefits in reducing litigation by avoiding appeals on decided issues and by bunching and overall improvement in litigation management. The NJRS team has been touring

various parts of the country to ensure the familiarisation of NJRS module to the field officers. Mandate for usage of NJRS for day-to-day work of field formations has also been given.

- iv). **CBDT Circular no. 8/2016:** This Circular has revised the earlier instructions relating to the guidelines and procedures for attending to Revenue Audit objections. In this Circular, it is clarified that remedial action will not be taken where the Pr. Commissioner of Income Tax finds the audit objection not acceptable. Further, appeal should not be preferred on revenue audit objections if the first appellate order is justified either in law or no facts. This is also a step towards reducing the litigation by the Income Tax Department.
- v). **DTDRS (Direct Tax Dispute Resolution Scheme):**-To reduce tax payer grievance and uncertainty caused due to long pending litigation before the Commissioner of Income Tax (Appeals), the scheme provides for various benefits if certain conditions are fulfilled. A total of 10,423 applications have been received under the Scheme amounting to tax arrears of Rs. 1,235 crore. Till date, the tax collected in pursuance of the declarations under the Scheme is Rs. 300 crore corresponding to orders passed in 5,371 cases.
- vi). **CBDT Circular No. 5/2017:** This Circular has sought to reiterate that the Income Tax appeals in cases of exceptions to the monetary limits provided vide Circular No. 21/2015 shall be filed only on merits.
- vii). **CBDT Instructions No. 6/2016 and 7/2016.** These instructions have provided for revised guidelines for engaging the Special Public Prosecutors and Standing Counsel, respectively, to effectively represent the Income Tax Department before various Courts. The Instructions have also increased the rates of fee payable to the Counsel, thereby ensuring quality representation before the courts.
- viii). **Early Hearings:** Field formations were directed to move applications for early hearings, in consultation with the Counsel, in cases which are pending before various appellate forums including High Courts. Also directions were issued to ensure that the Departmental Counsel do not take adjournments unless there are pressing circumstances.
- ix). **Single Member Case (SMC) Benches:** In order to liquidate the pendency of cases, the Act has provided for constitution of SMC Benches in the Tribunals to hear and decide cases with low disputed additions i.e., additions made to income by the assessing officers totalling less than Rs. 50 Lakh. The said limit was earlier Rs. 15 Lakh and was revised to Rs. 50 Lakh from 1.6.2016.
- x). **Collegium for withdrawal of appeals before High Courts:** To review and withdraw appeals before High Courts that are either frivolous or are covered by

earlier judgments, a collegium of two Chief Commissioners is constituted across the regions.

With respect to the recommendation that in tune with the current trend of reducing pendency of cases and making India a more investment friendly nation, an initiative to mediate and settle disputes with the Department may also be relied upon in as many cases as possible; it is submitted that already certain mechanisms are provided within the Income Tax Act to pre-empt litigation and ensure certainty to tax payers and to make India a more investment friendly nation. Some such mechanisms are as under:

- a. *Dispute Resolution Panel (DRP)*: Under section 144C of the Act, the draft assessment order is objected to, by certain eligible assessee, being a foreign company in cases of orders passed by Transfer Pricing Officer, before a collegium of three Pr. CsIT/ CsIT.
- b. *Income-tax Settlement Commission*: Constituted under section 245B, this mechanism allows for applicants who have made full and true disclosure of their income, which had not been disclosed before the assessing officer, to have their case settled by the settlement commission.
- c. *Authority for Advance Rulings (AAR)*: Chaired by a person who has been a Judge of the Supreme Court, the authority pronounces advance rulings in case of certain eligible applicants in relation to transactions which have been undertaken or are proposed to be undertaken and such rulings are binding on the applicants and the tax authorities in respect of the transactions.
- d. *Mutual Agreement Procedure (MAP)*: Provided for under the Double Taxation Avoidance Agreements, this is a procedure to resolve international taxation disputes arising out of juridical and economic double taxation of income of the same person.

INDIRECT TAXES

CBEC has taken numerous steps to reduce Litigation, which are as under:-

- The threshold limit below which appeals are not to be filed by the Department in CESTAT (Tribunal) and High Courts has been raised to Rs 10 lakhs and Rs 15 lakhs respectively. Pr. Commissioner on SCN of amount of Rs 50 lakhs and more has been introduced.
- The provisions of pre-deposit have been made mandatory for filing of appeals before Commissioner (appeals) and CESTAT. This will result into Appellate Authorities concentrating their time on main Appeals instead of disposal of Stay applications.
- Scope of the Settlement Commission and Authority for Advance Rulings has been further expanded.

- Monetary limit of the cases heard and disposed by Single Member Benches of CESTAT has been enhanced from Rs. 10 lakhs to Rs. 50 lakhs. Six additional Benches of CESTAT have been set up by the Government.
- Early hearing application in cases involving substantial revenue has been filed for quicker disposal.
- Special Leave Petitions received from the field formations for filing appeals in Supreme Court against High Court orders are examined critically at the Higher level in the Board and opinion of the Ld. Law officer (AG) also taken so that the SLPs are filed only in the deserving cases.
- Monetary limits of adjudicating have been revised amongst various adjudicating authorities to reduce pendency.
- Withdrawal of all cases in the High Court and CESTAT where there is a precedent Supreme Court decision and against which no review is contemplated by the Department,
- Zonal Chief Commissioner/ Principal Commissioners have been directed to identify the cases fit for withdrawal amongst the cases pending in appeal before CESTAT and High Court.

10. The Committee are alarmed to note that total sum of Rs. 9.85 lakh crores are locked in appeals at various levels as far as Direct Taxes are concerned and the intrinsic fact that out of above mentioned sum, more than Rs. 6.71 lakh crores are solely locked in appeals pending at CIT (A) level making the situation unimaginable with this kind of statements. Therefore, the Committee would recommend for massive and prompt steps to be taken to cease this trend including enactment of a law for time-bound, early disposal of cases. Further, even though the Committee are aware of provisions regarding mediation and other alternate mechanism for settlement of disputes, they intend to be briefed about specific steps taken in this direction and quantum of disputes resolved by the Ministry thereby.

Recommendation (Sl. No. 10)

Maintenance of Data

11. The Committee noted with concern that the Department does not maintain sector/category-wise data-base on important areas of revenue operations. Such data becomes more pertinent in the light of the fact that entities such as private hospitals, private educational institutions including coaching institutions, real estate entities etc. were prone to tax avoidance or evasion. In their earlier Report, the Committee had pointed out instances of misdeclaration and evasion in the guise of agricultural income.

Therefore, in the view of the Committee, a comprehensive data-base will strengthen the existing Management Information System (MIS) in the Department with visible outcomes regarding for tax monitoring, compliance and enforcement. Therefore, the Committee suggested that the Department should become pro-active and dynamic by going the whole hog in maintaining complete data-base, which is not a difficult proposition in this era of big data, analytics and technological advancements.

12. In their action taken replies, the Ministry have stated as under:

"Sector-wise data related to search and survey actions conducted by the Income Tax Department (ITD) is not maintained separately. However, the ITD has undertaken two new information technology based projects namely- **"Income Tax Business Application (ITBA)"** and **"Project Insight"** which are expected to capture such information electronically in future. ITBA is in advanced stages of implementation. A comprehensive data warehousing and analytical solution is being setup under **"Project Insight"** for leveraging analytics for tax administration.

13. **The Committee note with disapproval the casual response of the Ministry and their laid-back approach towards broadening of tax net. The Committee therefore, reiterate their earlier recommendation of maintaining sector / category - wise data base for entities such as private hospitals, private educational institutions including coaching institutions, real estate entities etc. In light of the above, the Committee would also like to be apprised of extent of implementation of Income Tax Business Application (ITBA) and 'Project Insight' within three months of the presentation / laying of this report in the Parliament.**

CHAPTER - II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No. 1)

BUDGETARY ALLOCATIONS AND UTILIZATIONS

1. For the Demand Number 33 relating to Department of Revenue, the Committee have taken note of decrease in budgetary provision from Rs.11925.01 at BE stage for the FY 2016-17 to Rs.11108.36 crore at RE stage of FY 2016-17, whereas only Rs.837.28 crore for the FY 2017-18 has been provided at BE stage on account of “no requirement of CST compensation to the states” for the upcoming financial year. However, the Committee are constrained to note that the Department has been persistently increasing the allocation figures under this head and then eventually surrendering the same at the end of the year. The Committee are displeased to observe that under Demand No.33, only 55.96% (of RE) of funds have been utilized till 31.12.2016. This may thus lead to the ‘March Rush’ for fund utilization, which cannot but reflect poorly upon efficiency of the Department. The Committee expect that as the GST bill is rolled out and becomes fully operational during the FY 2017-18, the Ministry must provide adequate resources to meet consequent demands, such as compensation for the possible losses to the States. For the Demand Number 34 (Direct Taxes), for FY 2016-17, the allocation has been enhanced from Rs.5389 crore at BE stage to Rs.5704 crore at RE stage. And again, only 74 percent of allocated fund has been utilized till 31.12.2016. Especially with current budgetary reforms like advancement of budget, the possibility of maximum utilization of the allocated funds at the fag end gets diminished. However, a similar practice is being reflected in case of Demand No.35 (Indirect Taxes), whereby only about 71 per cent of RE stage fund of Rs.5550.50 crore has been utilized till 31.11.2016. Therefore, the Committee urge the Ministry to review and re-modulate the mechanism for assessing figures at BE as well as RE stage. Further, there is also need for fixing accountability for estimation as well as execution processes carried out in this regard, so that the practice of over-estimation and under-utilization is curbed comprehensively at least now with the onset of budgetary reforms.

Reply of the Government

1. For Demand No. 33 (Department of Revenue)

The budget provisions for CST Compensation were made on the basis of claims received from the States/UTs and as per guidelines of the decisions taken/likely to be taken by the Government.

In this regard, it is submitted that pending introduction of GST, Union Cabinet decided on 17.03.2015 for payment of 100% CST compensation for 2010-11, 75% CST

compensation for 2011-12 and 50% CST compensation for 2012-13 to all the States/ UTs to be worked out as per CST guidelines dated 22.08.2008 as per recommendation of EC in its meeting held in Bhubaneswar on 29.01.2013. Accordingly the admissible CST compensation for year 2010-11 and 2011-12 to all the States/ UTs has already been released during FY 2014-15 and 2015-16 respectively.

Amount of Rs. 10172.40 crore was admissible to all the States and Rs. 1537.01 crore was admissible to UTs [**Total (State+UTs)= Rs. 11709.41 crore**] towards CST compensation for year 2012-13 and same was proposed to be released in FY 2016-17 for which necessary budget provisions of only Rs. 10469.48 crore (Rs. 8887.47 crore under Head 3601 for States and Rs. 1582.01 crore under Head 3602 for UTs) was made in BE 2016-17. As per decision taken by Hon'ble FM in meeting with all Finance Ministers of State Government on 14.06.2016, payment of such CST compensation was to be made in two instalments. 1st instalment of Rs. 5854.73 crore was released in July 2016 as CST compensation to all the States/ UTs. There was a additional requirement of **Rs. 1284.94 crore** under Head 3601 to release the balance amount of CST compensation to States whereas there was surplus provision of Rs. 45 crore under Head 3602, which was surrendered under Head 3602.

However, required Budget provision of additional fund of **Rs. 1284.94 crore** in this regard could not be made under Head 3601 in last batch of supplementary for FY 2016-17. Therefore, it was decided with approval of Hon'ble FM to release balance CST compensation to all the States on pro-rata basis as per budget availability under Head 3601 & Head 3602 (i.e. 74.74% amount balance CST compensation to States and full CST compensation to UTs for year 2012-13). Accordingly, second instalment of Rs 4469.75 crore was released to all the States/ UTs in March, 2017. The balance amount of Rs. 1284.94 crore as CST compensation for year 2012-13 to the all the State is now proposed to be released in FY 2017-18 for which token provision of Rs. 3 lakh has already been provided in BE 2017-18 and the same would be raised to Rs. 1284.94 crore. This is final CST Compensation to States/UT's as per aforesaid Cabinet decision dated 17.03.2015 and commitment given by FM to States/ UTs.

Further, as per the Goods and Service Tax (Compensation to States), Bill, 2017, the GST Council has recommended that a separate GST compensation cess shall be imposed on certain goods, and this amount shall be credited to the GST compensation fund from which the GST compensation amount shall be paid to States and UTs. The GST compensation fund shall be maintained in the public account and this would ensure that all payments made for CST compensation shall be budget neutral.

2. For the Demand No. 34 (Direct Taxes)

The Budget Estimate 2016-17 under Grant No. 38- Direct Taxes (for F.Y. 2017-18 the Grant No. is 34) was Rs.5389.00 crore which was enhanced by Rs.315.00 crore at RE stage to 5704.00 crore over BE 2016-17. The increase in the Grant was primarily to meet the expenditure under Salary Head due to implementation of 7th Pay Commission and to meet the expenditure under Advertisement & Publicity Head for publicity of Income Tax Declaration Scheme 2016 and Tax Dispute Resolution Scheme 2016.

With regard to observation of Hon'ble Standing Committee on Finance that only 74% of the allocated grant was utilized till 31.12.2016, it is submitted that the expenditure till 31.12.2016 was proportionate for the three quarters and further till 31.03.2017, the fund utilized under Grant No. 38- Direct Taxes (for F.Y. 2017-18 the Grant No. is 34) stands at 99.47% of the RE 2016-17.

The Observation/ recommendation of the Hon'ble Standing Committee has been communicated to all the Budgetary Controlling Authorities (BCAs) and Directorate of Income Tax (Infrastructure) which is the nodal agency for Capital Projects. All concerned have been requested to:-

- a) ensure that Budgets are formulated in a realistic manner and that there is a sound mechanism for assessing figures at B.E. as well as R.E. stage.
- b) develop a mechanism for fixing accountability for estimation as well as execution process carried out in this regard.
- c) ensure that the practice of over-estimation and under-utilization is curbed at least now with the onset of budgetary reforms.

Further, the Addl. Director General (Expenditure Budget) is also proactively monitoring the process of budget formulation and utilization by sensitizing the field formations i.e. BCAs/ HoDs/ DDOs at various stations across India, impressing upon them the need for realistic budget formulation and utilization of allocated fund in timely manner so as to avoid lapse and surrender of funds.

3. For Demand No. 35 (Indirect Taxes)

Under Demand No. 35 (Indirect Taxes), the BE allocation in FY 2016-17 was Rs.5340.50 crore. The expenditure incurred till 30.11.2016 was Rs.3939.12 crore which was 73.77% of the BE 2016-17. RE 2016-17 was revised to Rs.5550.50 crore after inclusion of Supplementary Grants of Rs.210.00 crore under 2nd batch of supplementary demands much latter on 06.01.2016, therefore the expenditure till 30.11.2016 has been reflected as about 71% of RE. After inclusion of 2nd supplementary of Rs.210.02 crore and 3rd Supplementary of Rs.280.00 crore, total grants under Demand NO. 35 (Indirect Taxes) comes to Rs.5830.50 crore. As the total expenditure for the financial year 2016-17 is Rs.5770.81 crore i.e. 98.98% of the total grant of the Rs.5830.50 crore. Thus, there was no over estimation and underutilization of funds under Demand No. 35.

However, Department of Revenue is making efforts for realistic estimation and utilization of funds.

[Ministry of Finance (Department of Revenue), O.M No.H-11015/4/2017 - Parl., dated 20.07.2017]

Recommendation (Sl. No. 2)

Tax-GDP Ratio and Tax Base

2. The Committee are concerned to note the rather low level of Tax-GDP ratio of our economy, which stands at 16.6 per cent. This requires to be re-visited in comparable parameters with BRICS countries. The concerns of the Committee get accentuated in the light of the fact elucidated in the Economic Survey that India's abysmally low tax to GDP ratio has been the prime factor responsible for the ever-widening income inequality, allowing less scope for the state to spend more on areas like primary healthcare and education. Further, the Committee are constrained to note that the measures adopted by the Ministry so far to address this issue, have proved to be incremental and thus insufficient. This fact gets fortified by the findings of the Shome panel (Tax Administrative Reforms Commission-TARC) that in the last ten years, though the direct tax collection has increased by more than 700 percent, the number of tax payers has merely grown by 35 per cent. Therefore, the Committee would suggest for harnessing the tax potential of un-organised sector and in particular those categories, not subject to regular TDS; making even avoidance of tax an offence at par with evasion inviting heavy penalties; prompt implementation of Goods and Services Tax (GST); doing away with unnecessary tax exemptions and case by case exemption-wise impact assessment; and arresting the rampant tax evasion in our flourishing informal market ecosystem. Further, the Committee would also reiterate their earlier recommendation of implementing various suggestions made by TARC (Tax Administration Reforms Commission) and RV Eashwar Committee on simplification and tax reforms. Efforts should also be simultaneously made to gradually move towards Tax Deductible at Source or Tax Collectible at Source, which will help widen and deepen the tax base in the most non-intrusive manner. The Committee desire to be apprised of the future road map to tap the real potential of tax, which would enable our economy to surpass other comparable economies in raising the tax-GDP ratio. The personal income tax collection figures made available to the Committee clearly suggest that most of the tax-payers fall in the lower income brackets. In the Budget speech 2017, it was clearly mentioned that out of a total individual taxpayers of 3.7 crore, 99 lakh show income below the exemption limit of Rs. 2.5 lakh per year and 1.95 crore show income between Rs. 2.5 lakh to Rs. 5 lakh. 52 lakh show income between Rs. 5 lakh and Rs. 10 lakh and only 24 lakh show income above Rs. 10 lakh. Of the 76 lakh individual assesseees who declare income above Rs. 5 lakh, 56 lakh are from salaried class. The Committee also note that this indicates pathetic levels of tax collection from non-

salaries class and the lax effort of income tax department in ensuring tax compliance. This is indicative of a broader tax-base at the bottom only in terms of number but not actual tax collections. Such an approach of adding the numbers at the bottom cannot obviously result in even a semblance of tax buoyancy, as incomes would naturally stagnate at that level. This method will soon thus inevitably hit a "tax plateau", if it has not done so already. Furthermore, the Committee understand that there are about roughly 8 crore BPL families with an average of five members in a family, thus keeping approximately 40 crore persons out of the tax net. In addition, there are also about 13 crore farmer families who are exempt from tax. The Committee also find that posts in the income tax department have been created on the basis of the number of tax payers and returns rather than the actual increase in tax collections and tax buoyancy. The Committee therefore feel that if such additional posts do not bring in additional revenue, these posts should be reviewed. Therefore, the Committee would expect the Department of Revenue to overhaul their direct tax policy and the basic approach to tax buoyancy, so that the present income tax slabs and the prescribed rates of tax do not prove to be a 'dead horse', whose flogging yields very little and may rather force the honest tax payer to look for avenues to avoid/evade taxation. The Committee thus recommend a review in this regard with better calibrated slabs and tax rates, which will support widening of tax net, bring about tax buoyancy and compliance besides being truly reflective of actually prevailing personal incomes, wealth and consumption. Accordingly, the standard deduction, which was earlier available for those drawing income under the head 'salaries' corresponding to the deductions allowed on business expenditure available under the head 'Income from Business or Profession' may be restored to a reasonable level to provide much-needed relief to the salaries class, who have been admittedly shouldering a large burden of personal income tax collections. In this context, the Committee would like to point out that the methodology of computing tax should be reviewed and made more just and fair. For example, those assessee declaring agricultural income along with other income end up in a higher tax bracket due to the addition of exempted agricultural income to other income for determining the slab, whereas those who do not declare "any other income" get full exemption for their agricultural income. As suggested by the Committee earlier, the excise duty structure for products such as pan masala etc. should also be rationalized in a manner that does not result in needless complexity and revenue loss to government. Adequate caution should be exercised so that tax rates does not incentivise or become an instrument for illicit trade.

Reply of the Government

DIRECT TAXES

It is submitted that tax component in the developed countries also includes social security contributions and due to this reason their tax-GDP ratio is higher. Moreover there is a component of state taxes in the Indian economy which is not aggregated with the central tax figures, which reduces the tax-GDP ratio. A large segment of the Indian economy is agrarian. This component of the GDP does not contribute to the direct taxes, thereby reducing the tax-GDP ratio which is also a reason of lower tax-GDP ratio than the developed economies. It is also submitted that per capita income in the country is low but the basic exemption limits are quite high. Accordingly, the small and very small proprietorship businesses may not contribute to direct taxes, even though they contribute to GDP, which is also a reason for a low tax-GDP ratio.

In so far as harnessing the tax potential of unorganized sector and in particular those categories, not subject to regular TDS is concerned, it is submitted that the Finance Act, 2016 expanded the scope of presumptive taxation for small businesses by increasing the threshold limit of income from Rs. 1 crore to Rs. 2 crore for being eligible for presumptive taxation scheme. Further, it also provided for new presumptive taxation regime in case of professionals to bring small taxpayers within the tax fold and reduce the compliance burden of maintenance of books of accounts in case of small business and professionals covered in the presumptive taxation regime thereby widening the tax base also.

With respect to the Committee's suggestion for making even avoidance of tax an offence at par with evasion inviting heavy penalties, it may be mentioned that to counteract aggressive tax planning with the use of sophisticated structures, statutory provisions, namely, the General Anti Avoidance Rules (GAAR), to be applicable from 01.04.2014, was introduced by Finance Act, 2012 as Chapter X-A of the Act.

GAAR is the doctrine of "substance over form" where the real intention of the parties and effect of transactions and purpose of an arrangement is taken into account for determining the tax consequences, irrespective of the legal structure that has been superimposed to camouflage the real intent and purpose. Under GAAR, an arrangement, the main purpose of which is to obtain a tax benefit, would be considered an impermissible avoidance arrangement. The provisions allow the tax authority to declare an "arrangement" which the assessee has entered into, as an "impermissible avoidance arrangement". Once an "arrangement" has been declared as an "impermissible avoidance arrangement", the consequence as regards the tax liability would also be determined.

The implementation of GAAR provisions has been deferred for a period of two years and it would now be applicable from AY 2018-19 onwards, i.e., to income of FY 2017-18 onwards. Further, the investments made upto 31.03.2017 have been grandfathered.

Regarding doing away with unnecessary tax exemptions, the Finance Minister in his Budget Speech for 2015-16 announced intention of Government to phase out various exemptions and deductions under the Act along with phased reduction of corporate tax rates. Accordingly, the detailed phase out plan of various tax incentives has been laid out by Finance Act, 2016.

Regarding implementing various suggestions made by TARC (Tax Administration Reforms Commission), the following major TARC recommendations have been accepted and have been implemented/ are under implementation by CBDT:

- Placing in public domain data of taxpayers who have been granted certificates for being charitable organizations. The data of all organisation granted certificates u/s 80G is available on the Income Tax Website.
- Review of Citizen's Charter to give details of services and timelines within which such services are delivered.
- Shifting of all key-operations within the Department to the digital platform. All major taxpayer services are now online. Returns are filed online and processed by CPC, Bengaluru without any human intervention. Refunds are also issued through Refund Banker (SBI). Selection of cases for scrutiny is also based on Computerised Selection Process without any human intervention.
- Digitization of all key-internal processes with the help of information and communication technology(ICT) systems and re-engineering of business processes accordingly. The Income Tax Business Application (ITBA) project is being rolled out for bringing all the digital applications at one single platform.
- Online tracking of Dak/ Grievances/ Applications etc. through Aayakar Sewa Kendras.
- Establishment of a dedicated vertical for taxpayer services within the Board and at all levels in the field.
- Establishment of High Level Committee for giving recommendations for clarity in tax laws and procedure.
- Development of PAN as a common business identifier (CBIN).
- Enlarging the scope of presumptive taxation to professionals also.
- Pre-filled returns for individual taxpayers. In respect of ITR-1 and ITR 4S , personal details as well as tax payment details are pre-filled. In respect of other ITRs the

facility is available in offline mode- the option for pre-filling the personal details as well as tax payments details is available.

- Inclusion of assets and liabilities of individuals in their income tax returns where total income exceeds Rs.50,00,000/-. Wealth tax has since been abolished.
- Selection of cases for scrutiny through a broad based risk assessment matrix. The computer aided scrutiny selection (CASS) is already implemented for last few years.
- Dispensing with personal presence in simple scrutiny cases and seeking data/information through an e-system. Pilot projects are already initiated in 7 major cities.
- Issue of clarificatory circulars for reducing disputes and litigations. CBDT has issued more than 25 clarificatory circulars during last two years.
- Special measures for review and liquidation of disputes including withdrawal of departmental appeals pending in ITAT, High Court and Supreme Court. Monetary limits for filing departmental appeals have been enhanced upwards with retrospective effect. More than 15000 appeals have been since withdrawn by the Department.
- Extending the scope of Authority for Advance Rulings (AAR) to domestic taxpayers also. Also establishment of more benches of AAR.
- Effective action for weeding out officers who are inefficient or of doubtful integrity. Regular reviews are being undertaken.

Based on the recommendations of Easwar committee, certain measures have been taken, details of which are as under:

- a) Section 43 of the Act has been amended to provide that where any capital asset in respect of which deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of sub-section (7B) of the said section, the actual cost to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purposes of business since the date of its acquisition.
- b) A new sub-section (5A) in section 45 of the Act has been inserted so as to provide that in case of an assessee being individual or Hindu undivided family, who enters into a specified agreement for development of a project, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.
- c) Section 47 of the Act has been amended to provide that the conversion of preference share of a company into its equity share shall not be regarded as transfer.
- d) Section 55 of the Act has been amended so as to provide that the cost of acquisition of an asset acquired before 01.04.2001 shall be allowed to be taken as fair market value as on 1st April, 2001 and the cost of improvement shall include only those capital expenses which are incurred after 01.04.2001.
- e) A new clause (x) in sub-section (2) of section 56 of the Act has been inserted so as to provide that receipt of the sum of money or the property by any person without

consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient under the head "Income from other sources".

- f) Section 115BBDA of the Act has been amended so as to provide that the provisions of said section shall be applicable to all resident assessee except domestic company and certain funds, trusts, institutions, etc.
- g) Section 44AB of the Act has been amended to exclude the eligible person, who declares profits for the previous year in accordance with the provisions of sub-section (1) of section 44AD and his total sales, total turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year, from requirement of audit of books of accounts under section 44AB.
- h) In order to address the grievance of delay in issuance of refund in genuine cases which are routinely selected for scrutiny assessment, provisions of section 143(1D) of the Act shall cease to apply in respect of returns furnished for assessment year 2017-18 and onwards. However, to address the concern of recovery of revenue in doubtful cases, a new section 241A has been inserted in the Act to provide that, for the returns furnished for assessment year commencing on or after 1st April, 2017, where refund of any amount becomes due to the assessee under section 143(1) of the Act and the Assessing Officer is of the opinion that grant of refund may adversely affect the recovery of revenue, he may, for the reasons recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, withhold the refund upto the date on which the assessment is made.
- i) Sections 90 and 90A of the Act has been amended to provide that where any 'term' used in an agreement entered into under sub-section (1) of Section 90 and 90A of the Act, is defined under the said agreement, the said term shall be assigned the meaning as provided in the said agreement and where the term is not defined in the agreement, but is defined in the Act, it shall be assigned the meaning as definition in the Act or any explanation issued by the Central Government.

Further, widening of tax base to achieve growth in tax collection is a continuous process which involves legislative as well as administrative measures and is also a data driven exercise.

Legislative Measures:

5. Finance Act, 2017 has taken the following measures for widening tax base:

- a) The tax rate for the slab of income from Rs.2.50,000 to 5,00,000 has been reduced from 10% to 5%. This shall encourage voluntary compliance and promote people to file tax returns.
- b) A new section 194-IB of the Act has been inserted in the Act to provide that Individuals or a HUF (other than those covered under 44AB of the Act), responsible for paying to a resident any income by way of rent exceeding fifty

thousand rupees for a month or part of month during the previous year, shall deduct an amount equal to five per cent. of such income as income-tax thereon

- c) Finance Act, 2017 has amended section 115BBDA of the Act so as to provide that the provisions of this section shall be applicable to all resident assessee except domestic company and certain funds, trusts, institutions etc.

6. Finance Act, 2016 has taken the following measures for widening tax base.

- a) Finance Act, 2016 expanded the scope of TCS and provided for TCS at the rate of 1% on sale of motor vehicle of the value exceeding ten lakh rupees and sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding two lakh rupees.
 - b) Further the Finance Act, 2016 expanded the scope of presumptive taxation for small businesses and provided for new presumptive taxation regime in case of professionals to bring small tax payers within the tax fold by reducing the compliance burden of maintenance of books of accounts in case of small business and professionals covered in the presumptive taxation regime thereby widening the tax base also.
 - c) Besides it may also be noted that The Finance Act, 2016 inserted a new Chapter VIII "Equalisation Levy" to levy tax on e-commerce transactions. The Central Government vide Notification. No 37(SO 1904E), dated 27th May 2016 appointed 1st of June, 2016 as the date from which the provisions of this Chapter will come into force. The revenue accrued for the Government exchequer through the equalization levy amounts to 274.2 Crore rupees from 1st June 2016 to the latest 21st February 2017.
 - d) Finance Act, 2016 inserted section 115BBDA in the Act to provide for additional chargeability of income exceeding Rs ten lakhs by way of dividends @10% in the hands of shareholders being individuals/ HUFs/ firms.
7. For expanding the ambit of the TDS provisions, the Finance Act, 2015 expanded the scope of TDS on interest on bank deposits by bringing the interest on recurring deposits within the ambit of TDS and also provided that interest for the purpose of TDS by a bank having core banking solution shall calculate the interest bank wise to discourage the practice of splitting the deposits among various branches of the bank to avoid TDS.
8. Following measures were also taken by the recent Finance Acts for expanding the scope of TDS/TCS:-

- d) Finance Act, 2012 introduced TCS at the rate of 1 % on sale of minerals being Coal, Lignite, and Iron ore for trading purpose.
- e) Finance Act, 2012 introduced TCS at the rate of 1 % on sale in cash of bullion in excess of Rs 2 Lakhs and jewellery in excess of Rs 5 Lakhs.
- f) Finance Act, 2013 introduced TDS at the rate of 1 % on payment for acquisition of immovable property (other than rural agricultural land) having value of Rs 50 lakhs or more.

The department is also undertaking various measures such as making PAN mandatory for certain transactions and collection of data from third parties, etc. The Department is also using the data of cash deposit in bank accounts after demonetization for identification of new taxpayers together with detection of unaccounted income.

Further, the general thrust of Government towards creation of digital/cashless economy is also likely to generate audit trails which go a long way towards achieving the goals of widening the tax net.

The issue of widening and deepening of tax base has been dealt with more elaborately in reply to Para No. 11. All these steps would also further enable tax buoyancy to be maximized and compliance ensured.

With respect to the recommendation that Standard deduction may be restored to a reasonable level, it is submitted that there is no economic justification for allowing standard deduction against salaried income particularly in the context of concessional treatment of a large number of perquisites already availed of by the salaried tax payers. Therefore, to ensure horizontal equity and neutrality across classes of income, restoration of standard deduction is not feasible.

With respect to the recommendation that the methodology of computing tax should be reviewed and made more just and fair and the example that those assesseees declaring agricultural income along with other income end up in a higher tax bracket due to the addition of exempted agricultural income to other income for determining the slab, whereas those who do not declare "any other income" get full exemption for their agricultural income; it is submitted that in the scheme of direct taxes at present, income from agriculture is utilized for rate purpose only in cases where the income from other sources exceeds the income not chargeable to tax and net agricultural income exceeds five thousand rupees. This system of aggregation of agricultural income with non-agricultural income for rate purpose was introduced by Finance Act, 1973. The system has been continued by the annual Finance Act since then. It may also be mentioned that where it is found by the investigations carried out by the Income Tax Department

that any income has been wrongly shown as agricultural income only to avail of the benefit of exemption, the same is brought to tax and all other consequences follow.

INDIRECT TAXES

GST is scheduled to be operational from 01.07.2017 and it incorporates many of the suggestions of the Committee, i.e. extensive use of information technology so as to plug evasion, decisions on exemptions to be taken jointly by the Centre & States in the GST Council etc. The assesses base would increase in GST era wherein, almost the entire value chain of business would be subject to tax. Exemptions relating to central excise duty have been reviewed and a few of these have been proposed to be continued in GST era.

Excise duty on Pan Masala and Chewing Tobacco products is levied under the simplified Compounded Levy Scheme, wherein, duty payable is calculated based on the speed of a machine, number of packing machines installed and the Retail Sale Price (RSP) of the pouch.

[Ministry of Finance (Department of Revenue), O.M No.H-11015/4/2017 - Parl., dated 20.07.2017]

Comments of the Committee

(Please see Para No. 7 of Chapter I)

Recommendation (Sl. No. 3)

Quantum of Non-Filers

3. The Committee are unhappy to observe the persistent increase in numbers of non-filers with potential tax liabilities, who carried out high value transactions, discovered under the Non-Filer Monitoring System (NMS). In NMS cycle 1 (2013), the number of non-filers are 12.19 lakh, which increased to 58.95 lakh in NMS cycle 4 (2015). NMS cycle (5) for 2015-16 has identified 67.54 lakh potential non-filers. The Committee have taken note of the measures undertaken by the Ministry in this regard, such as collection of data in respect of various types of high-value transactions, various legislative measure, quoting of Permanent Account Number (PAN) for all transactions above Rs. 2 lakh etc. However, the Committee observe that apart from meticulous and comprehensive data collection mechanism, follow up action is needed in a targeted but nonintrusive manner, without any laxity so that this trend is arrested comprehensively. Use of digital tools including linkages with Aadhar should be operationalised to check non-compliance.

Reply of the Government

Action against non-filers is an on-going process. Extensive use of information technology and digital tools is being made to check non-compliance. The increase in number of taxpayers has been due to efforts of the Income Tax Department (ITD), through enforcement actions, better application of technology and increased availability and capture of information. As a result of follow-up action of Non-filers Monitoring System (NMS) initiative, which is taken in a targeted and non-intrusive manner, non-filers file their Income-tax returns and pay taxes.

Further, a compliance management CPC will be set up under **Project Insight** in a phased manner in FY 2017-18 for targeted follow-up of the non-filers in a non-intrusive manner.

Regarding, the suggestion of the Committee for linking of Aadhar number with PAN, it is submitted that in the Finance Act, 2017, the Government has made the Aadhar number mandatory for filing Income-tax returns and while applying for a new Permanent Account Number (PAN) from July 1, 2017. PAN cards not linked to Aadhar numbers before the July deadline will be deemed invalid, as per the amended law. Those who do not have their Aadhar cards as yet will be required to submit their enrollment numbers.

[Ministry of Finance (Department of Revenue), O.M No.H-11015/4/2017 - Parl., dated 20.07.2017]

Recommendation (Sl. No. 4)

Revenue Forgone

4. The Committee are alarmed to observe that despite the Government's resolve to phase out exemptions and incentives, revenue forgone in the case of corporate tax rose from Rs. 76,858 crore in FY 2016-17 to Rs. 83,492 crore in FY 2016-17. In the case of indirect taxes (customs and excise), revenue foregone increased from Rs. 1,48,442 crore to Rs. 154,822 crore over the same period. The Committee take note of the fact that the problem of exemptions on indirect taxes will be taken care of to a large extent with the onset of Goods and Services Tax regime. However, for the direct taxes, the Committee believe that the time has come for a fresh appraisal and comprehensive cost-benefit and impact assessment analysis of existing exemptions and incentives case by case and if they are not found to be serving the purpose, such exemptions straightaway need to be phased out as soon as possible. Further, the Committee would like to reiterate their earlier recommendation of early revival of the Direct Taxes Code towards this end, which would simplify, streamline and rationalise the direct taxes regime along the lines of GST. The Committee are of the view that if the reform

measures outlined in the Direct Taxes Code and Tax Reform Commission / Committee are not considered and implemented, the gains accruing from GST may well be neutralized. Since the Direct Taxes Code has undergone detailed scrutiny by this Committee, it can be considered for implementation at the earliest. Bringing repeated amendments in the existing Income Tax Act would only compound matters, defeating the very objective of tax reforms.

Reply of the Government

DIRECT TAXES

The Finance Minister in his Budget Speech for 2015-16 announced intention of Government to phase out various exemptions and deductions under the Act along with phased reduction of corporate tax rates. Accordingly, the detailed phase out plan of various tax incentives has been laid out by Finance Act, 2016. However, it may be noted that the Finance Act, 2016 has implemented the policy of phasing out of exemptions and deductions over a period of four years starting with AY 2018-19 relevant to previous year 2017-18 to AY 2021-22 relevant to previous year 2020-21. Therefore, the benefit of the exemptions and deductions continues to be availed of in the successive years as well and this is the reason why the revenue foregone in the budget for 2017-18 has increased despite the policy of the Government to phase out exemptions and deductions. Further, Finance Act, 2016 provided that in the case of domestic companies having total turnover or gross receipts not exceeding Rs.5 crore in the financial year 2014-15, the income-tax shall be charged @ 29%. Besides, the domestic companies incorporated on or after 1st March,2016 and engaged solely in manufacture and production of articles and things, may, at their option, pay tax @25% if they do not claim any accelerated depreciation, investment allowance, profit linked deductions and investment linked deductions.

With respect to the Direct Taxes Code, the stated policy of the government was expressed by Finance Minister in Para 129 of his budget speech for 2015-16 which is reproduced as under, *“Enactment of a Direct Taxes Code (DTC) has been under discussion for quite some time. Most of the provisions of the DTC have already been included in the Income-tax Act. Among the very few aspects of DTC which were left out, we have addressed some of the issues in the present Budget. Further, the jurisprudence under the Income-tax Act is well evolved. Considering all these aspects, there is no great merit in going ahead with the Direct Tax Code as it exists today”*.

INDIRECT TAXES

The GST is set to be implemented from 01.07.2017. All the exemptions from excise duty have been reviewed and a few of these have been proposed to be continued in GST era.

With likely increase in the assesses base and with minimal exemptions in GST era, it is expected that the Revenue foregone may come down.

Correspondingly, the revenue foregone due to CVD exemptions (equivalent to central excise duty) for imports would also come down.

[Ministry of Finance (Department of Revenue), O.M No.H-11015/4/2017 - Parl., dated 20.07.2017]

Recommendation (Sl. No. 5)

REFUNDS

5. The Committee are constrained to note that the quantum of refunds has risen from Rs. 1.22 lakh crore (FY 2015-16) to Rs. 1.41 lakh crore (FY 2015-16, upto 31.01.2017) The Committee have been persistently observing that the issue of tax refunds is a case of "double jeopardy" for the exchequer. Upon seeing the figures in hand, the Committee can only reiterate that the Department of Revenue has failed to take this menace head on. The Department appears to be entangled in the vicious web of raising of unrealistic demands, and then subsequently making refunds and paying huge interest thereupon. It is high time a thorough probe is made in this regard and the tax processes are reviewed so that the need for raising unrealistic demands as also payment of disproportionately large advance tax by assesseees is obviated. In this context, the Committee would reiterate their earlier recommendation that the interest component involved in tax refunds should be reflected in the Union Budget so that it passes through the Parliament scrutiny and has a deterrent effect on the concerned officials.

Reply of the Government

Refunds arise mainly on account of processing of returns or on account of giving effect to the appellate orders.

So far as the processing of returns is concerned, as per the provisions of Income-tax Act 1961(the Act), Return of Income (ROI) pertaining to a particular financial year can be filed up to one year from the end of the relevant assessment year or before completion of assessment, whichever is earlier; and ROI received in a particular financial year can be processed up to one year from the end of the financial year in

which return is received. The tax returns are thus filed by the taxpayers over a period of time after the completion of the financial year and are processed thereafter. However, income tax is either deducted/collected at source or/and is paid by the taxpayers voluntarily as advance tax as per their own judgment during the financial year itself. Refunds may arise on processing if the taxes already paid/deducted are more than the taxes actually due.

Similarly, in cases of refunds arising out of giving effect to the appellate orders, the quantum and value of refunds is dependent on the court order.

It is, therefore, submitted that the Department as such does not directly exercise much control on the quantum of refund claims.

However, since there is a time lag between the payment of tax and completion of assessment(2 to 3 years), interest of a significant amount also becomes payable along with the excess of prepaid taxes. Interest payable on refund of tax is a statutory payment, which is non-discretionary in nature. It is an integral part of the refund payable to the tax payer and is granted in accordance with the legislative provisions of Section 244A of the Income-tax Act. Section 244A of the Act provides that where refund of tax becomes due to the taxpayer, he shall be entitled to receive, in addition to the refund, interest thereon at the prescribed rate and for the prescribed period. However, since the excess of tax paid by the taxpayers is utilized by the Government for various fiscal purposes, there is no revenue implication in issuance of refunds or grant of interest, which is legitimately due to the assesseees.

Also, the issue of accounting procedure and budgetary treatment of interest on refunds of taxes has already been comprehensively commented upon by the Public Accounts Committee (PAC) in its 96th Report laid before the Parliament on 06.02.2014, wherein the PAC had *interalia* recommended that suitable budgetary provisions be made for the expenditure on interest payments on refunds while submitting the Demand for Grants for approval by the Parliament.

The PAC had also directed this Ministry to seek legal opinion of Ld Attorney General of India on this issue. The matter was referred accordingly, and **Ld Attorney General, in his opinion dated 16.05.2013**, has concurred with the view of CBDT that **refund of excess tax, as also interest thereon, is not an expenditure within the meaning of Article 112 of the Constitution of India**. The same practice is also followed by a large number of State Governments in respect of refund of State taxes. Further, the rate of interest on refunds payable to the taxpayer @ 6% per annum is lower than the market rate and perhaps also lower than the average cost of borrowing of the Government.

The recommendations contained in 96th report of PAC were not accepted, with the approval of Finance Minister, on the basis of the opinion of Ld Attorney General holding the current practice of treating interest on refunds as reduction of revenue, as constitutionally valid, and also on the grounds that the same practice is being followed by most of the States, apart from administrative difficulties in implementing the recommendations.

The Ministry still abides by these views for the reasons discussed in foregoing paragraphs.

[Ministry of Finance (Department of Revenue), O.M No.H-11015/4/2017 - Parl., dated 20.07.2017]

Recommendation (Sl. No. 6)

Pendency of Court Cases regarding Arrears

6. The Committee observe with dismay that the data supplied by the Ministry indicate that for direct taxes, number of appeals pending in various courts/tribunals stands at 70,371 and amount locked in such appeals is to the tune of Rs. 3,04,491 crore, whereas, for indirect taxes, the number of appeals stood at 1,01,839 involving a whopping figure of Rs. 238385.73 crores. In the light of such glaring facts, the Committee would like to recommend for an immediate and thorough study by the Ministry to introduce the National Litigation Policy, wherein the Ministry and assesseees are restrained from frivolous and speculative litigation. Further, the Committee suggest that with the current trend of reducing pendency of cases and making India a more investment friendly nation, an initiative to mediate and settle disputes with the Department may also be relied upon in as many cases as possible.

Reply of the Government

DIRECT TAXES

Though, it has been stated in the report that for Direct Taxes, the number of appeals pending in various Courts/tribunals stand at 70371 and amount locked in such appeals is to the tune of Rs. 3,04,491 crores, no mention of the FY or the Court/tribunal has been made to which these details pertain. However, as per data available, the pendency of appeals and amount locked in appeals at various appellate fora in respect of Direct Taxes is as under:

<i>Appellate Forum</i>	<i>Number of appeals pending</i>	<i>As on date</i>
CIT(Appeals)	2,83,843	28.02.2017
ITAT	88,730	31.12.2016

High Court	41,960	31.12.2016
Supreme Court	5,272	30.09.2016

The following table gives the details of the amount locked up (in Rs. Crore) in litigation:

Appellate Forum	Amount locked up in appeals
CIT (A)*	6,71,069
ITAT*	1,40,323
HC*	1,66,284
SC*	7,530

Source: Research & Statistics Wing, O/o Pr.DGIT (Logistics)

**The amounts locked up in dispute mentioned in the table above for current year before CIT(A) is as on 28.02.2017 and for ITAT, HC and SC the data is as on 30.09.2016.*

Regarding the recommendation for an immediate and thorough study to introduce the National Litigation Policy, wherein the Ministry and assesseees are restrained from frivolous and speculative litigation, it is submitted that with a view of curb frivolous and speculative litigation, the department has taken following steps towards effective litigation management:

- (i) **Circulars issued on contentious issues:** In recent years, a number of important Circulars/Instructions on contentious issues have been issued by the Board. This has brought clarity in the tax regime and has thereby, eliminated/reduced tax-disputes on those issues. It is an on-going process.
- (ii) **Circulars issued on settled issues:** To ensure that the litigation is reduced, CBDT has been regularly issuing Circulars on matters decided by Supreme Court or matters attaining finality at the High Court level. The officers of the Department are directed to not litigate on the matters covered in these settled view Circulars and appeals if any already filed on these matters are directed to be withdrawn or not pressed. The Circulars issued in this regard after 1.4.2016 are listed below.

I. No	Circular No.	Issue	Date
1.	9/2016	Commencement of limitation for penalty proceedings under sections 271D and 271E of Income-tax Act, 1961.	26.04.2016
2.	10/2016	Limitation for penalty proceedings under sections 271D and 271E of Income-tax Act, 1961.	26.04.2016
3.	11/2016	Payment of interest on refund under section 244A of excess TDS deposited under section 195 of Income-tax Act, 1961.	26.04.2016
4.	15/2016	Additional Depreciation under section 32(1)(ia) of Income-tax Act, 1961.	18.05.2016
5.	12/2016	Bad debts under sections 36(1)(vii) and 36(2) of Income-tax Act, 1961.	30.05.2016

6.	37/2016	Eligibility for Chapter-VIA deduction for profits enhanced by assessing officers	2.11.2016
7.	38/2016	Admissibility of expenditure incurred by a firm on keyman insurance policy in the case of a partner	22.11.2016
8.	39/2016	Deductibility of revenue subsidies under Chapter-VIA.	29.11.2016

- (iii) **NJRS:** National Judicial Reference System is the largest repository of Income Tax appeals and judgments as on date. It is expected that the NJRS benefits in reducing litigation by avoiding appeals on decided issues and by bunching and overall improvement in litigation management. The NJRS team has been touring various parts of the country to ensure the familiarisation of NJRS module to the field officers. Mandate for usage of NJRS for day-to-day work of field formations has also been given.
- (iv) **CBDT Circular no. 8/2016:** This Circular has revised the earlier instructions relating to the guidelines and procedures for attending to Revenue Audit objections. In this Circular, it is clarified that remedial action will not be taken where the Pr. Commissioner of Income Tax finds the audit objection not acceptable. Further, appeal should not be preferred on revenue audit objections if the first appellate order is justified either in law or no facts. This is also a step towards reducing the litigation by the Income Tax Department.
- (v) **DTDRS (Direct Tax Dispute Resolution Scheme):**-To reduce tax payer grievance and uncertainty caused due to long pending litigation before the Commissioner of Income Tax (Appeals), the scheme provides for various benefits if certain conditions are fulfilled. A total of 10,423 applications have been received under the Scheme amounting to tax arrears of Rs. 1,235 crore. Till date, the tax collected in pursuance of the declarations under the Scheme is Rs. 300 crore corresponding to orders passed in 5,371 cases.
- (vi) **CBDT Circular No. 5/2017:** This Circular has sought to reiterate that the Income Tax appeals in cases of exceptions to the monetary limits provided vide Circular No. 21/2015 shall be filed only on merits.
- (vii) **CBDT Instructions No. 6/2016 and 7/2016.** These instructions have provided for revised guidelines for engaging the Special Public Prosecutors and Standing Counsel, respectively, to effectively represent the Income Tax Department before various Courts. The Instructions have also increased the rates of fee payable to the Counsel, thereby ensuring quality representation before the courts.
- (viii) **Early Hearings:** Field formations were directed to move applications for early hearings, in consultation with the Counsel, in cases which are pending before various appellate forums including High Courts. Also directions were issued to

ensure that the Departmental Counsel do not take adjournments unless there are pressing circumstances.

- (ix) **Single Member Case (SMC) Benches:** In order to liquidate the pendency of cases, the Act has provided for constitution of SMC Benches in the Tribunals to hear and decide cases with low disputed additions i.e., additions made to income by the assessing officers totalling less than Rs. 50 Lakh. The said limit was earlier Rs. 15 Lakh and was revised to Rs. 50 Lakh from 1.6.2016.
- (x) **Collegium for withdrawal of appeals before High Courts:** To review and withdraw appeals before High Courts that are either frivolous or are covered by earlier judgments, a collegium of two Chief Commissioners is constituted across the regions.

With respect to the recommendation that in tune with the current trend of reducing pendency of cases and making India a more investment friendly nation, an initiative to mediate and settle disputes with the Department may also be relied upon in as many cases as possible; it is submitted that already certain mechanisms are provided within the Income Tax Act to pre-empt litigation and ensure certainty to tax payers and to make India a more investment friendly nation. Some such mechanisms are as under:

- a. *Dispute Resolution Panel (DRP):* Under section 144C of the Act, the draft assessment order is objected to, by certain eligible assessee, being a foreign company in cases of orders passed by Transfer Pricing Officer, before a collegium of three Pr. CsIT/ CsIT.
- b. *Income-tax Settlement Commission:* Constituted under section 245B, this mechanism allows for applicants who have made full and true disclosure of their income, which had not been disclosed before the assessing officer, to have their case settled by the settlement commission.
- c. *Authority for Advance Rulings (AAR):* Chaired by a person who has been a Judge of the Supreme Court, the authority pronounces advance rulings in case of certain eligible applicants in relation to transactions which have been undertaken or are proposed to be undertaken and such rulings are binding on the applicants and the tax authorities in respect of the transactions.
- d. *Mutual Agreement Procedure (MAP):* Provided for under the Double Taxation Avoidance Agreements, this is a procedure to resolve international taxation disputes arising out of juridical and economic double taxation of income of the same person.

INDIRECT TAXES

CBEC has taken numerous steps to reduce Litigation, which are as under:-

- The threshold limit below which appeals are not to be filed by the Department in CESTAT (Tribunal) and High Courts has been raised to Rs 10 lakhs and Rs 15 lakhs respectively. Pr. Commissioner on SCN of amount of Rs 50 lakhs and more has been introduced.
- The provisions of pre-deposit have been made mandatory for filing of appeals before Commissioner (appeals) and CESTAT. This will result into Appellate Authorities concentrating their time on main Appeals instead of disposal of Stay applications.
- Scope of the Settlement Commission and Authority for Advance Rulings has been further expanded.
- Monetary limit of the cases heard and disposed by Single Member Benches of CESTAT has been enhanced from Rs. 10 lakhs to Rs. 50 lakhs. Six additional Benches of CESTAT have been set up by the Government.
- Early hearing application in cases involving substantial revenue has been filed for quicker disposal.
- Special Leave Petitions received from the field formations for filing appeals in Supreme Court against High Court orders are examined critically at the Higher level in the Board and opinion of the Ld. Law officer (AG) also taken so that the SLPs are files only in the desiring cases.
- Monetary limits of adjudicating have been revised amongst various adjudicating authorities to reduce pendency.
- Withdrawal of all cases in the High Court and CESTAT where there is a precedent Supreme Court decision and against which no review is contemplated by the Department,
- Zonal Chief Commissioner/ Principal Commissioners have been directed to identify the cases fit for withdrawal amongst the cases pending in appeal before CESTAT and High Court.

[Ministry of Finance (Department of Revenue), O.M No.H-11015/4/2017 - Parl., dated 20.07.2017]

Comments of the Committee

(Please see Para No. 10 of Chapter I)

Recommendation (Sl. No. 7)

Levying of Cess and Surcharge

7. The Committee would also reiterate their earlier recommendation that the practice of levying Cess and Surcharge should progressively be done away with, as their proceeds are not shared with the States and their utilisation is also not being made wholly for the intended purpose. Further, it also distorts the tax structure. Even if such a

levy is warranted, it should be done only as an interim and provisional measure for a limited period and in respect of higher levels of incomes, with a threshold of say Rs. 50 lakh or above. Thereafter, it should be withdrawn or subsumed if necessary in the regular tax.

Reply of the Government

DIRECT TAXES

Surcharge is levied for the purposes of the Union under Article 271 of the Indian Constitution to meet the revenue requirements of the Union.

Cesses, being “Education Cess on income-tax” and “Secondary and Higher Education Cess on income-tax”, are levied by the Union so as to fulfil the commitment of the Government to finance and provide universalized quality basic education and secondary and higher education respectively. The benefit of spending on education percolates to the states indirectly as this is meant to provide and finance education which adds to building of human resource. The cesses so collected are utilized by the concerned Ministry for meeting the specific purpose for which they are levied.

With respect to the levy being confined to higher levels of income, it is submitted that surcharge is levied at the rate of fifteen per cent on individuals having total income exceeding Rs. 1 crore. Further, vide Finance Act, 2017 surcharge has also been levied the rate of ten per cent on individuals having total income between Rs. 50 lakh and Rs. 1 crore. Thus, the recommendations of the Committee already stand implemented.

INDIRECT TAXES

During the last three Budgets, the following cesses were abolished.

Cesses abolished in Budget 2015-16

1. Education Cess on taxable services
2. Secondary & Higher Education Cess on taxable services
3. Education Cess on excisable goods [This was exempted with effect from 01.03.2015 and is now proposed to be abolished vide the Taxation Laws Amendment Act, 2017]
4. Secondary & Higher Education Cess on excisable goods [This was exempted with effect from 01.03.2015 and is now proposed to be abolished vide the Taxation Laws Amendment Act, 2017]

Cesses abolished in Budget 2016-17

1. The Mica Mines Labour Welfare Fund Act, 1946
2. The Salt Cess Act, 1953
3. The Merchant Shipping Act, 1958

4. The Textile Committee Act, 1963
5. The Limestone and Dolomite Mines Labour Welfare Funds Act, 1972 [2 cesses]
6. The Tobacco Cess Act, 1975
7. The Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976 [3 cesses]
8. The Cine-workers Welfare Cess Act, 1981
9. Cess on cement [by notification]
10. Cess on strawboard [by notification]

Cesses abolished in Budget 2017-18

1. Research & Development Cess Act, 1986

The following cesses are proposed to be abolished in the Taxation Laws Amendment Act, 2017

1. The Rubber Act, 1947 – Cess on Rubber
2. The Industries (Development and Regulation) Act, 1951 – Cess on Automobile
3. The Tea Act, 1953 – Cess on Tea
4. The Coal Mines (Conservation and Development) Act, 1974 – Cess on Coal
5. The Beedi Workers Welfare Cess Act, 1976 – Cess on bidis
6. The Water (Prevention and Control of Pollution) Cess Act, 1977 – Cess levied on water consumed by certain industries and by local authorities
7. The Sugar Cess Act, 1982, The Sugar Development Fund Act, 1982– Cess on Sugar
8. The Jute Manufacturers Cess Act, 1983 – Cess on jute goods manufactured or produced wholly or in part of jute
9. The Finance (No. 2) Act, 2004 – Education Cess on excisable goods
10. The Finance Act, 2007 – Secondary & Higher Education Cess on excisable goods
11. The Finance Act, 2010 – Clean Energy Cess
12. The Finance Act, 2015 – Swachh Bharat Cess
13. The Finance Act, 2016 – Infrastructure Cess and KrishiKalyan Cess

Following Cesses shall continue to be levied under the GST regime:

1. The Finance (No. 2) Act, 2004 – Education Cess on imported goods
2. The Finance Act, 2007 – Secondary & Higher Education Cess on imported goods
3. Cess on crude petroleum oil under the Oil Industry Development Act, 1974
4. Additional Duty of Excise on Motor Spirit (Road Cess)
5. Additional Duty of Excise on High Speed Diesel Oil (Road Cess)
6. Special Additional Duty of Excise on Motor Spirit
7. NCCD on tobacco and tobacco products, and crude petroleum oil.

Further, the suggestion of the Committee is noted for guidance.

[Ministry of Finance (Department of Revenue), O.M No.H-11015/4/2017 - Parl., dated 20.07.2017]

Recommendation (Sl. No. 8)

Curbing of Unaccounted / Black Money

8. While appreciating the steps taken by the Government in curbing the menace of unaccounted or black money through measures such as transparency in electoral funding, setting limit in cash transaction etc., the Committee hope that these measures will be implemented in their letter and spirit with concrete outcomes therefrom. Further, the Committee would like to be apprised about the extent of unaccounted income detected and tax realised from the two amnesty schemes implemented by the Government, one before demonetisation and the other subsequently. The Committee recommend that the Government should also present a detailed White Paper to Parliament indicating all details on unaccounted money / wealth stashed abroad and also income generated / concealed within the country and the extent to which Justice M.B. Shah Task Force recommendations have been implemented.

Reply of the Government

The Government is committed to curb the menace of black money. Under **Income Declaration Scheme, 2016** (closed on 30th September, 2016), an amount of Rs. 67,382 crore was declared by 71,726 declarants. The dates specified for payment of tax, penalty and surcharge under the Scheme are 30.11.2016, 31.03.2017 and 30.09.2017. In view of the same, the total amount collected under the Scheme can be ascertained only after 30.09.2017.

The figures of disclosure under the **Pradhan Mantri Garib Kalyan Yojana (PMGKY)** are under compilation as the time for filing declaration under the Scheme was extended to 10th May, 2017.

Action against black money is an on-going process. The details of steps taken by the Government in this direction are enclosed as **Annexure-1**. In view of this, it is submitted that white paper in the matter would not be required.

The details of extent to which recommendations of Justice M.B Shah Task Force have been implemented is enclosed as **Annexure-2**.

[Ministry of Finance (Department of Revenue), O.M No.H-11015/4/2017 - Parl., dated 20.07.2017]

Recommendation (Sl. No.9)

Searches, Seizures and Surveys

9. The Committee note that searches and surveys are amongst the main evidence collecting mechanisms that are used in cases where tax evasion is involved. However,

they note that there is a time-lag between the search/survey and passing of the assessment orders and final disposal of all the concerned appeals, which defeats its intended purpose. Further, going through the data in hand, the Committee observe that the rise in quantum of detection of undisclosed income has generally not been satisfactory. Therefore, the Committee would recommend for speedy assessment orders, apart from infusing more prudence and rationality to these searches and surveys, so that it is prevented from becoming an instrument of harassment and even corruption. There should be reasonable outcomes from these operations. Furthermore, confidentiality of documents seized should be strictly maintained and, officials should be made accountable, if leakages are made or unverified information is disclosed to the press. The Committee may also be apprised of the number of closures that have been made in respect of these operations during the last three years. The Committee would also take this opportunity to express their concern regarding the Finance Bill, 2017 proposal empowering tax officials not to disclose the 'reason to believe' to conduct a search, which may invite criticism of high-handedness and arbitrariness. The Committee would, therefore, like the Ministry to re-consider this proposal with a view to enhancing tax payer's confidence and trust.

Reply of the Government

For search cases, the assessment orders are passed under provisions of Section 153A/153C of the Income-tax Act, 1961 and the time barring period starts with reference to the end of the Financial Year in which the last of the authorizations or requisition was executed.

For survey cases, the CBDT issues guidelines for compulsory manual scrutiny case selection every year. Once a case is selected for scrutiny, the I.T. Act itself (Section 153) provides for speedy assessment. Presently, the time limit for completion of assessment is 21 months from the end of the assessment year [for current year assessment scrutiny cases] and 9 months from the end of financial year in which reopening notice was served (in case of older reopened returns). Finance Act 2017 has further reduced the time for making assessment wherein from the assessment year 2018-19, the time limit for making an assessment order under sections 143 or 144 shall be reduced from existing 21 months to 18 months from the end of the assessment year, and for the assessment year 2019-20 and onwards, the said time limit shall be 12 months from the end of the assessment year in which the income was first assessable. The assessment orders passed by the Assessing Officers are subject to appeals at various appellate stages which also include Appellate Tribunal, High Court and Supreme Court which are independent of the tax administration.

The outcomes of search and survey cases depend upon the facts of each case, evidences gathered during such actions, other material on record and the legal position.

Regarding recommendation for confidentiality, as per section 138 of I.T Act, 1961 and Rule-11 of CCS (Conduct) Rules, 1964 unauthorized disclosure of information is

prohibited. Further, section 280 of the I.T. Act, 1961 provides for rigorous imprisonment against violation of section 138 of the I.T. Act, 1961.

As desired, it is submitted that during last three years (F.Y. 2014-15 to 2016-17), 2144 search and 21989 survey actions have been carried out by the Income Tax Department. Further, during the same period 2473 prosecution complaints have been filed while 1306 cases have been settled by the Income Tax Settlement Commission.

Regarding empowering tax officials not to disclose the 'reason to believe' to conduct a search, it is reiterated that confidentiality and sensitivity are the hallmarks of proceedings under section 132 and section 132A of the Act. However, certain judicial pronouncements had created ambiguity in respect of the disclosure of 'reason to believe' or 'reason to suspect' recorded by the income-tax authority to conduct a search under section 132 or to make requisition under section 132A. Hence the proposal to insert an Explanation to sub-section (1) and to sub-section (1A) of section 132 and to sub-section (1) of section 132A to declare that the 'reason to believe' or 'reason to suspect', as the case may be, shall not be disclosed to any person or any authority or the Appellate Tribunal. These amendments take effect retrospectively from the date of enactment of the said provisions viz. to sub-section (1) of section 132 from 1st April, 1962 and to sub-section (1A) of section 132 and to sub-section (1) of section 132A from 1st October, 1975.

In this context, it is reiterated that even the Assessing Officer who conducts assessment in search cases is not privy to the satisfaction note. Providing satisfaction note to the Commissioner (Appeals) and ITAT shall serve no beneficial purpose for the assessee as the assessment of income is based on the documentary evidence collected during the search or post search enquiries which are duly confronted to the assessee and reasonable opportunity is provided to explain the same. More so, disclosing the satisfaction note will:

- i). compromise the secrecy of identity of informants;
- ii). deter potential informants in future from furnishing confidential information to revenue thereby adversely affecting the unearthing of black money;
- iii). expose the tools and techniques used by the department for investigation;
- iv). caution other suspected tax evaders which may find a mention in this satisfaction note but due to administrative constraints may not be covered in one go; and
- v). lead to uncalled for litigation on technical grounds.

In view of above stated reasons and owing to the fact that this has been the stand of the Department since the relevant legislation was enacted, these amendments have been made retrospectively.

[Ministry of Finance (Department of Revenue), O.M No.H-11015/4/2017 - Parl., dated 20.07.2017]

Recommendation (Sl. No. 10)

Maintenance of Data

10. The Committee note with concern that the Department does not maintain sector/category-wise data-base on important areas of revenue operations. Such data becomes more pertinent in the light of the fact that entities such as private hospitals, private educational institutions including coaching institutions, real estate entities etc. are prone to tax avoidance or evasion. In their earlier Report, the Committee had pointed out instances of misdeclaration and evasion in the guise of agricultural income. Therefore, in the view of the Committee, a comprehensive data-base will strengthen the existing Management Information System (MIS) in the Department with visible outcomes regarding for tax monitoring, compliance and enforcement. Therefore, the Committee would suggest that the Department should become pro-active and dynamic by going the whole hog in maintaining complete data-base, which is not a difficult proposition in this era of big data, analytics and technological advancements.

Reply of the Government

Sector-wise data related to search and survey actions conducted by the Income Tax Department (ITD) is not maintained separately. However, the ITD has undertaken two new information technology based projects namely- “**Income Tax Business Application (ITBA)**” and “**Project Insight**” which are expected to capture such information electronically in future. ITBA is in advanced stages of implementation. A comprehensive data warehousing and analytical solution is being setup under “**Project Insight**” for leveraging analytics for tax administration.

[Ministry of Finance (Department of Revenue), O.M No.H-11015/4/2017 - Parl., dated 20.07.2017]

Comments of the Committee

(Please see Para No. 13 of Chapter I)

Recommendation (Sl. No. 11)

Reforms in Tax Administration

11. The Committee are of the firm view that reform is the only 'sanjeevani' which can rekindle the transformation of tax administration and eventually making our economy more progressive, vibrant and inclusive. Therefore, the Committee would like to strongly suggest the following measures which can transform our tax administration:-

- a. Widening and deepening of tax base;

- b. Increasing the focus on unorganised sectors of economies to plug evasion, and ensuring better tax collections from higher brackets of income;
- c. Efficient targeting of subsidies and phasing out of tax exemptions: The exemptions in the taxable income have grown at a much faster rate than the income. This needs to be arrested as it jeopardizes tax buoyancy;
- d. Fast tracking of resolution of tax disputes as a key component of better tax administration;
- e. Implementation of Direct Taxes Code and recommendations of the TARC (Tax Administration Reforms Commission) and R.V. Easwar Committee leading to a non-adversarial and simpler tax regime.
- f. Expedite the implementation of GST by taking all necessary steps to be inclusive.
- g. Enforcing accountability of tax officials for specific acts of Commission and Omission.

Reply to Para 11(a) & 11(b)

DIRECT TAXES

The widening of tax base to achieve growth in tax collection is a continuous process which involves both legislative as well as administrative measures.

Legislative Measures:

1. Finance Act, 2017 has taken the following measures for widening tax base:

- a. The tax rate for the slab of income from Rs.2.50,000 to 5,00,000 has been reduced from 10% to 5%. This shall encourage voluntary compliance and promote people to file tax returns.
- b. A new section 194-IB of the Act has been inserted in the Act to provide that Individuals or a HUF (other than those covered under 44AB of the Act), responsible for paying to a resident any income by way of rent exceeding fifty thousand rupees for a month or part of month during the previous year, shall deduct an amount equal to five per cent of such income as income-tax thereon
- c. Finance Act, 2017 has amended section 115BBDA of the Act so as to provide that the provisions of this section shall be applicable to all resident assessee except domestic company and certain funds, trusts, institutions etc.

2. Finance Act, 2016 has taken the following measures for widening tax base.

- a. Finance Act, 2016 expanded the scope of TCS and provided for TCS at the rate of 1% on sale of motor vehicle of the value exceeding ten lakh rupees and sale in cash of any goods (other than bullion and jewellery), or providing of any services

(other than payments on which tax is deducted at source under Chapter XVII-B) exceeding two lakh rupees.

- b. Further the Finance Act, 2016 expanded the scope of presumptive taxation for small businesses and provided for new presumptive taxation regime in case of professionals to bring small tax payers within the tax fold by reducing the compliance burden of maintenance of books of accounts in case of small business and professionals covered in the presumptive taxation regime thereby widening the tax base also.
- c. Besides it may also be noted that The Finance Act, 2016 inserted a new Chapter VIII "Equalisation Levy" to levy tax on e-commerce transactions. The Central Government vide Notification. No 37(SO 1904E), dated 27th May 2016 appointed 1st of June, 2016 as the date from which the provisions of this Chapter will come into force. The revenue accrued for the Government exchequer through the equalization levy amounts to 274.2 Crore rupees from 1st June 2016 to the latest 21st February 2017.
- d. Finance Act, 2016 inserted section 115BBDA in the Act to provide for additional chargeability of income exceeding Rs ten lakhs by way of dividends @10% in the hands of shareholders being individuals/ HUFs/ firms.

3. For expanding the ambit of the TDS provisions, the Finance Act, 2015 expanded the scope of TDS on interest on bank deposits by bringing the interest on recurring deposits within the ambit of TDS and also provided that interest for the purpose of TDS by a bank having core banking solution shall calculate the interest bank wise to discourage the practice of splitting the deposits among various branches of the bank to avoid TDS.

4. Following measures were also taken by the recent Finance Acts for expanding the scope of TDS/TCS:-

- A. Finance Act, 2012 introduced TCS at the rate of 1 % on sale of minerals being Coal, Lignite, and Iron ore for trading purpose.
- B. Finance Act, 2012 introduced TCS at the rate of 1 % on sale in cash of bullion in excess of Rs 2 Lakhs and jewellery in excess of Rs 5 Lakhs.
- C. Finance Act, 2013 introduced TDS at the rate of 1 % on payment for acquisition of immovable property (other than rural agricultural land) having value of Rs 50 lakhs or more.

Administrative Measures:

- i). Quoting of Permanent Account Number (PAN) has been made mandatory for all transactions above Rs.2 Lakh and for specified transactions in respect of property, shares, bonds, insurance, foreign travel, demat account etc.

- ii). The mechanisms for collection and verification of financial information have been broadened and strengthened. These include collection of data in form of Annual Information Return (AIR) in respect of additional types of high-value transactions, and collection of information on high-value expenditure from commercial establishments by Central Information Branch (CIB) of the Income Tax Department. The reporting regime of Annual Information Reports (AIR) has now been expanded to cover a larger segment of transactions including personal consumption expenditure on goods and services. Further the **AIR has been replaced with the Statement of Financial transaction (SFT) which is required to be filed in a new Form.** The new rule 114E regarding furnishing of SFT has been notified on 30.12.2015 and has come into effect from 1.4.2016. This new regime enabling capture of high value cash transactions in select sectors would help achieve multiple benefits of widening of tax base through identification of new tax payers, non-filers and stop filers, curb tax evasion in non-intrusive manner, improve compliance of tax laws and encourage use of payment cards. **“Project Insight”** has been conceptualized as a robust and comprehensive data warehousing and business intelligence system. Upon implementation, the Project would play a key role in data mining to track tax evaders and widening of the tax-base. Further, the objectives of Operation Clean Money launched by the ITD on 31st January, 2017 includes completion of on-line verification process to select potential cases for detailed scrutiny/investigation for deepening the tax base and identification of new tax payers from cash deposit data for widening the tax base. Post demonetization, more than 91 lakh people have been added to the tax-net as a result of the action taken by the ITD.
- iii). The Income Tax Department has implemented the Non - Filer Monitoring System (NMS) which analyses and assimilates all in-house information as well as transactional data received from third-parties, including Annual Information Return (AIR), Tax Deduction at source (TDS) and Tax collection at Source (TCS) statements, Central Information Bureau (CIB) data etc. to identify such persons/entities who have undertaken high value financial transactions but have not filed return. About **1.37 Crore non-filers** with potential tax liability have been identified under NMS and more than **95 Lakh returns** have been filed by the target segment and self-assessment tax of about **Rs.16500 Crore** has been paid.

INDIRECT TAXES

After a long span, the growth in indirect tax collection has shown a turnaround in the recent financial years. The indirect tax collections in FY 2015-16 and FY 2016-17 have been very buoyant and represented a growth of about 30.3% and 21.6%

respectively (y-o-y). High buoyancies in FY 2015-16 and FY 2016-17 are mainly attributed to the measures taken for additional resource mobilization in the Budget, 2015-16 and 2016-17.

Certain sectors of the economy are kept out of tax net by way of exemptions. GDP includes the economic activities of unorganized/informal sectors falling under manufacturing and service categories. Non-taxation of agricultural and allied sectors, relatively higher threshold for small scale industries and fiscal concessions in the form of exemptions for socio-economic reasons are mainly attributable as reasons for existing tax-GDP ratio in India.

A numbers of steps have been taken to increase the tax-GDP ratio, like, widening the tax base by comprehensive taxation of all services (introduction of Negative List approach to taxation of services w.e.f 1st July 2012) and reduction of exemptions in Central Excise, Customs and Service Tax wherever possible. The Negative List has been further pruned in successive budgets and exemptions have been rationalized. Similarly on the Central Excise side exemptions are reviewed continuously and where feasible these have been rationalized.

Besides, other measures taken to improve the compliance levels are mandatory e-filing and e-payment of taxes, high interest rates for delayed payment, extensive use of third party sources such as State VAT department, Income Tax etc. for compliance verification, taxpayer education and media campaign.

The broad approach towards levy of customs /central excise duties on goods and service tax on services since the last few Budgets has been to move towards a comprehensive taxation of all goods and services by reviewing and withdrawing tax exemptions, broadening the tax base.

Measures taken w.r.t. Service Tax by the Government in the Union Budget 2016-17 to augment the indirect tax –GDP ratio is mentioned below:

Service Tax

- Central Government has imposed a Krishi Kalyan Cess on all the taxable services at a rate of 0.5% on the value of such taxable services. The levy came into force with effect from 1st June 2016.
- The Negative List entry covering ‘service of transportation of passengers, with or without accompanied belongings, by a stage carriage’ has been omitted [section 66D (o) (i)]. Consequently, service tax is leviable on transportation of passengers, with or without accompanied belongings, by air-conditioned stage carriage.

- Finance Act, 1994 was amended vide Finance Act, 2015 so as to make any service (and not only support services) provided by Government or local authority to business entities taxable from a date to be notified later. 1st April, 2016 was notified as the date, from which any service provided by Government or local authority to business entities is taxable.
- Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof has been infused as declared service in section 66E of Finance Act 1994.
- Exemption has been withdrawn in respect of the following services,-
 - (i) Services provided by a person represented on an arbitral tribunal to an arbitral tribunal.
 - (ii) Exemption to the services of transport of passengers, by ropeway, cable car or aerial tramway has been withdrawn.
 - (iii) Exemption to construction, erection etc., of monorail or metro, in respect of contracts entered into on or after 1st March 2016.
- Abatement on shifting of used household goods by a Goods Transport Agency has been rationalized at the rate of 60%.

In pre-budget 2017-18 following steps were taken to broaden the tax base:-

- i). Withdrawal of exemption from service tax on provision of Online Information and Database Access or Retrieval (OIDAR) services, with effect from 1st December, 2016, which are received from a provider of service located in non-taxable territory (cross-border supply of services) by Government, local authority, government authority, or an individual in relation to any purpose other than commerce, industry or any other business or profession.
- ii). Services provided by person located in non-taxable territory to a person located in non-taxable territory are exempt from service tax. However, such exemption to import freight service when provided by a foreign flag ship to a foreign charter with respect to goods destined for India has been withdraw w.e.f 22nd January,2017

In view of likely GST implementation, the Hon'ble FM has mentioned in his Budget speech, 2017-18 that "I have preferred not to make many changes in current regime of Excise & Service Tax because the same are to be replaced by GST soon".

In order to ensure that the tax base is widened in Service Tax, a comprehensive system of taxation based on a Negative List was introduced w.e.f. 01.07.2012. Under this all services barring certain exception are taxed. In contrast, prior to 01.07.2012, only 119 specified services were liable to be taxed. In addition the department spreads awareness through advertisement and surveys so that assesseees who are not in the tax net are covered. In order to ensure that the tax base is wide, exemptions are kept at minimum Data received from third party sources regarding provision of services is

matched with data in the service tax returns, to identify possible evasion. GST is scheduled to be operational from 01.07.2017 and in the GST regime, policy decisions shall be taken by GST Council. The GST is set to be implemented from 01.07.2017. The assesses base would increase in GST era wherein, almost the entire value chain of business would be subject to tax

Para 11(c): The exemptions in the taxable income have grown at a much faster rate than the income. This needs to be arrested as it jeopardizes tax.

DIRECT TAXES

The Finance Minister in his Budget Speech for 2015-16 announced intention of Government to phase out various exemptions and deductions under the Act along with phased reduction of corporate tax rates. Accordingly, the detailed phase out plan of various tax incentives has been laid out by Finance Act, 2016. However, it may be noted that the Finance Act, 2016 has implemented the policy of phasing out of exemptions and deductions over a period of four years starting with AY 2018-19 relevant to previous year 2017-18 to AY 2021-22 relevant to previous year 2020-21. Therefore, the benefit of exemptions and deductions continues to be availed of in the successive years as well and this is the reason as to why the revenue foregone in the budget for 2017-18 has increased despite the policy of the Government to phase out exemptions and deduction. Further, Finance Act,2016 provided that in the case of domestic companies having total turnover or gross receipts not exceeding Rs.5 crore in the financial year 2014-15, the income-tax shall be charged @ 29%. Besides, the domestic companies incorporated on or after 1st March,2016 and engaged solely in manufacture and production of articles and things, may, at their option, pay tax @25% if they do not claim any accelerated depreciation, investment allowance, profit linked deductions and investment linked deductions.

INDIRECT TAXES

All the exemptions relating to central excise duty have been reviewed and a few of these have been proposed to be continued in GST.

11 (d): Fast tracking of resolution of tax disputes as a key component of better tax administration.

DIRECT TAXES

The department has taken following steps towards effective litigation management:

- i. **Circulars issued on contentious issues:** In recent years, a number of important Circulars/Instructions on contentious issues have been issued by the Board. This has brought clarity in the tax regime and has thereby, eliminated/reduced tax-disputes on those issues. It is an on-going process.

- ii. Circulars issued on settled issues:** To ensure that the litigation is reduced, CBDT has been regularly issuing Circulars on matters decided by Supreme Court or matters attaining finality at the High Court level. The officers of the Department are directed to not litigate on the matters covered in these settled view Circulars and appeals if any already filed on these matters are directed to be withdrawn or not pressed. The Circulars issued in this regard after 1.4.2016 are listed below.

S. No	Circular No.	Issue	Date
1.	9/2016	Commencement of limitation for penalty proceedings under sections 271D and 271E of Income-tax Act, 1961.	26.04.2016
2.	10/2016	Limitation for penalty proceedings under sections 271D and 271E of Income-tax Act, 1961.	26.04.2016
3.	11/2016	Payment of interest on refund under section 244A of excess TDS deposited under section 195 of Income-tax Act, 1961.	26.04.2016
4.	15/2016	Additional Depreciation under section 32(1)(iia) of Income-tax Act, 1961.	18.05.2016
5.	12/2016	Bad debts under sections 36(1)(vii) and 36(2) of Income-tax Act, 1961.	30.05.2016
6.	37/2016	Eligibility for Chapter-VIA deduction for profits enhanced by assessing officers	2.11.2016
7.	38/2016	Admissibility of expenditure incurred by a firm on keyman insurance policy in the case of a partner	22.11.2016
8.	39/2016	Deductibility of revenue subsidies under Chapter-VIA.	29.11.2016

- iii. NJRS:** National Judicial Reference System is the largest repository of Income Tax appeals and judgments as on date. It is expected that the NJRS benefits in reducing litigation by avoiding appeals on decided issues and by bunching and overall improvement in litigation management. The NJRS team has been touring various parts of the country to ensure the familiarisation of NJRS module to the field officers. Mandate for usage of NJRS for day-to-day work of field formations has also been given.

- iv. CBDT Circular no. 8/2016:** This Circular has revised the earlier instructions relating to the guidelines and procedures for attending to Revenue Audit objections. In this Circular, it is clarified that remedial action will not be taken where the Pr. Commissioner of Income Tax finds the audit objection not acceptable. Further, appeal should not be preferred on revenue audit objections if the first appellate order is justified either in law or no facts. This is also a step towards reducing the litigation by the Income Tax Department.

- v. **DTDRS (Direct Tax Dispute Resolution Scheme)**:-To reduce tax payer grievance and uncertainty caused due to long pending litigation before the Commissioner of Income Tax (Appeals), the scheme provides for various benefits if certain conditions are fulfilled. A total of 10,423 applications have been received under the Scheme amounting to tax arrears of Rs. 1,235 crore. Till date, the tax collected in pursuance of the declarations under the Scheme is Rs. 300 crore corresponding to orders passed in 5,371 cases.
- vi. **CBDT Circular No. 5/2017**: This Circular has sought to reiterate that the Income Tax appeals in cases of exceptions to the monetary limits provided vide Circular No. 21/2015 shall be filed only on merits.
- vii. **CBDT Instructions No. 6/2016 and 7/2016**. These instructions have provided for revised guidelines for engaging the Special Public Prosecutors and Standing Counsel, respectively, to effectively represent the Income Tax Department before various Courts. The Instructions have also increased the rates of fee payable to the Counsel, thereby ensuring quality representation before the courts.
- viii. **Early Hearings**: Field formations were directed to move applications for early hearings, in consultation with the Counsel, in cases which are pending before various appellate forums including High Courts. Also directions were issued to ensure that the Departmental Counsel do not take adjournments unless there are pressing circumstances.
- ix. **Single Member Case (SMC) Benches**: In order to liquidate the pendency of cases, the Act has provided for constitution of SMC Benches in the Tribunals to hear and decide cases with low disputed additions i.e., additions made to income by the assessing officers totalling less than Rs. 50 Lakh. The said limit was earlier Rs. 15 Lakh and was revised to Rs. 50 Lakh from 1.6.2016.
- x. **Collegium for withdrawal of appeals before High Courts**: To review and withdraw appeals before High Courts that are either frivolous or are covered by earlier judgements, a collegium of two Chief Commissioners is constituted across the regions.

Para 11 (e): Implementation of Direct Taxes Code and recommendations of the TARC (Tax Administration Reforms Commission) and R.V. Easwar Committee leading to a non-adversarial and simpler tax regime.

Reply:

DIRECT TAXES

i. Implementation of direct tax code

The stated policy of the government in this regard was expressed by Finance Minister in Para 129 of his budget speech for 2015-16 which is reproduced as under, “*Enactment*

of a Direct Taxes Code (DTC) has been under discussion for quite some time. Most of the provisions of the DTC have already been included in the Income-tax Act. Among the very few aspects of DTC which were left out, we have addressed some of the issues in the present Budget. Further, the jurisprudence under the Income-tax Act is well evolved. Considering all these aspects, there is no great merit in going ahead with the Direct Tax Code as it exists today. ”

ii. Implementation of recommendations of R.V. Easwar Committee for simplification of the provisions of the Income-tax Act.

Based on the recommendations of Easwar committee, certain measures have been taken, details of which are as under:

- a. Section 43 of the Act has been amended to provide that where any capital asset in respect of which deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of sub-section (7B) of the said section, the actual cost to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purposes of business since the date of its acquisition.
- b. A new sub-section (5A) in section 45 of the Act has been inserted so as to provide that in case of an assessee being individual or Hindu undivided family, who enters into a specified agreement for development of a project, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.
- c. Section 47 of the Act has been amended to provide that the conversion of preference share of a company into its equity share shall not be regarded as transfer.
- d. Section 55 of the Act has been amended so as to provide that the cost of acquisition of an asset acquired before 01.04.2001 shall be allowed to be taken as fair market value as on 1st April, 2001 and the cost of improvement shall include only those capital expenses which are incurred after 01.04.2001.
- e. A new clause (x) in sub-section (2) of section 56 of the Act has been inserted so as to provide that receipt of the sum of money or the property by any person without consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient under the head "Income from other sources".

- f. Section 115BBDA of the Act has been amended so as to provide that the provisions of said section shall be applicable to all resident assessee except domestic company and certain funds, trusts, institutions, etc.
- g. Section 44AB of the Act has been amended to exclude the eligible person, who declares profits for the previous year in accordance with the provisions of sub-section (1) of section 44AD and his total sales, total turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year, from requirement of audit of books of accounts under section 44AB.
- h. In order to address the grievance of delay in issuance of refund in genuine cases which are routinely selected for scrutiny assessment, provisions of section 143(1D) of the Act shall cease to apply in respect of returns furnished for assessment year 2017-18 and onwards. However, to address the concern of recovery of revenue in doubtful cases, a new section 241A has been inserted in the Act to provide that, for the returns furnished for assessment year commencing on or after 1st April, 2017, where refund of any amount becomes due to the assessee under section 143(1) of the Act and the Assessing Officer is of the opinion that grant of refund may adversely affect the recovery of revenue, he may, for the reasons recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, withhold the refund upto the date on which the assessment is made.
- i. Sections 90 and 90A of the Act has been amended to provide that where any 'term' used in an agreement entered into under sub-section (1) of Section 90 and 90A of the Act, is defined under the said agreement, the said term shall be assigned the meaning as provided in the said agreement and where the term is not defined in the agreement, but is defined in the Act, it shall be assigned the meaning as definition in the Act or any explanation issued by the Central Government.

(iii) Major TARC recommendations accepted and implemented/under implementation by CBDT.

- Placing in public domain data of taxpayers who have been granted certificates for being charitable organizations. The data of all organisation granted certificates u/s 80G is available on the Income Tax Website.
- Review of Citizen's Charter to give details of services and timelines within which such services are delivered.
- Shifting of all key-operations within the Department to the digital platform. All major taxpayer services are now online. Returns are filed online and processed by CPC, Bengaluru without any human intervention. Refunds are also issued

through Refund Banker (SBI). Selection of cases for scrutiny is also based on Computerised Selection Process without any human intervention.

- Digitization of all key-internal processes with the help of information and communication technology(ICT) systems and re-engineering of business processes accordingly. The Income Tax Business Application (ITBA) project is being rolled out for bringing all the digital applications at one single platform.
- Online tracking of Dak/ Grievances/ Applications etc. through Aayakar Sewa Kendras.
- Establishment of a dedicated vertical for taxpayer services within the Board and at all levels in the field.
- Establishment of High Level Committee for giving recommendations for clarity in tax laws and procedure.
- Development of PAN as a common business identifier (CBIN).
- Enlarging the scope of presumptive taxation to professionals also.
- Pre-filled returns for individual taxpayers. In respect of ITR-1 and ITR 4S , personal details as well as tax payment details are pre-filled. In respect of other ITRs the facility is available in offline mode- the option for pre-filling the personal details as well as tax payments details is available.
- Inclusion of assets and liabilities of individuals in their income tax returns where total income exceeds Rs.50,00,000/-. Wealth tax has since been abolished.
- Selection of cases for scrutiny through a broad based risk assessment matrix. The computer aided scrutiny selection (CASS) is already implemented for last few years.
- Dispensing with personal presence in simple scrutiny cases and seeking data / information through an e-system. Pilot projects are already initiated in 7 major cities.
- Issue of clarificatory circulars for reducing disputes and litigations. CBDT has issued more than 25 clarificatory circulars during last two years.
- Special measures for review and liquidation of disputes including withdrawal of departmental appeals pending in ITAT, High Court and Supreme Court. Monetary limits for filing departmental appeals have been enhanced upwards with retrospective effect. More than 15000 appeals have been since withdrawn by the Department.

- Extending the scope of Authority for Advance Rulings (AAR) to domestic taxpayers also. Also establishment of more benches of AAR.
- Effective action for weeding out officers who are inefficient or of doubtful integrity. Regular reviews are being undertaken.

Further, as stated above, regarding non-adversarial and simpler tax regime, in last two years, scrutiny assessments proceedings are being conducted electronically in a large number of cases, thereby greatly reducing the interface with the Assessing Officer during the assessment process. Proper record of the assessment proceedings is being maintained electronically which has greatly enhanced transparency of the assessment process. This system is being deepened and improved upon year by year.

INDIRECT TAXES

There are totally 279 recommendations made in all the four reports of TARC which pertains to Tax Administrative Department. Out of these, total of 27 recommendations pertain to CBDT, 47 recommendations have not been accepted/implemented. 128 recommendations have been accepted and implemented and 77 recommendations are at various stages of implementation.

11(f): Expedite the implementation of GST by taking all necessary steps to be inclusive.

- a) With the objective of early rollout of GST, four key legislations, namely, Integrated Goods and Services Tax, Union Territories Goods and Services Tax and Compensation Bills have been approved by GST Cell. Thereafter, the same has been passed by the Parliament. The countrywide IT framework is also being developed by GSTN and will be in place before the rollout.
- b) As for inclusive implementation, Government is conducting training and workshop for trade and industry especially for MSME's. Besides, advertisement campaigns through Print and Television media along with participation in Trade Fair is being carried out to popularize GST. Besides, schemes like GST Suvidha providers (GSPs), GST practitioners, establishment of facilitation centres are expected to make GST rollout more inclusive and smooth.

11(g): Enforcing accountability of the tax officials for specific acts of commission and omission.

DIRECT TAXES

The Department has an institutional mechanism for ensuring proper accountability of Assessing Officers for their work. Any act of commission or omission is dealt with as per the prescribed norms.

To further enhance the accountability of Assessing Officers, especially for assessments orders being passed by them, with effect from reporting year 2015-2016, Board has modified the Annual Performance Appraisal Report (APAR) of the Assessing Officers with the objective to ensure that assessments are framed by them in a judicious manner. Passing quality assessments orders is one of the parameters for evaluating the performance of an Officer.

Further, the mechanisms of Audit, Review and Inspection also help in ensuring accountability of the officers.

INDIRECT TAXES

The Government has put in place adequate provisions to enforce accountability. Further, any enforcement action by tax officials requires approvals from higher officers.

[Ministry of Finance (Department of Revenue), O.M No.H-11015/4/2017 - Parl., dated 20.07.2017]

CHAPTER - III

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

NIL

CHAPTER - IV

**RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE
GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE**

NIL

CHAPTER- V

**RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL REPLIES
OF THE GOVERNMENT ARE STILL AWATED**

NIL

**New Delhi;
18 December 2017
27 Agrahayana, 1939 (Saka)**

**DR. M. VEERAPPA MOILY
Chairperson
Standing Committee on Finance**

Minutes of the Fourth sitting of the Standing Committee on Finance (2017-18)
The Committee sat on Thursday, the 16 November, 2017 from 1500 hrs. to 1800
hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Dr. M. Veerappa Moily - Chairperson

LOK SABHA

2. Shri Kunwar Pushpendra Singh Chandel
3. Shri Bandaru Dattatreya
4. Shri Nishikant Dubey
5. Shri Venkatesh Babu T.G.
6. Shri P.C. Gaddigoudar
7. Shri Shyama Charan Gupta
8. Shri Rattan Lal Kataria
9. Shri Chandrakant Khaire
10. Shri Bhartruhari Mahtab
11. Shri Prem Das Rai
12. Prof. Saugata Roy
13. Shri Rajiv Pratap Rudy
14. Shri Gopal Shetty
15. Shri Kirit Somaiya
16. Shri Dinesh Trivedi
17. Shri Shivkumar Udasi

RAJYA SABHA

18. Shri A. Nvaneethakrishnan
19. Dr. Mahendra Prasad
20. Shri Ajay Sancheti
21. Dr. Manmohan Singh

SECRETARIAT

- | | | | |
|----|------------------------------|---|---------------------|
| 1. | Smt. Abha Singh Yaduvanshi | - | Joint Secretary |
| 2. | Shri Rajesh Ranjan Kumar | - | Director |
| 2. | Shri Ramkumar Suryanarayanan | - | Additional Director |
| 3. | Shri Kulmohan Singh Arora | - | Deputy Secretary |

WITNESSES

2.	XX	XX	XX	XX	XX	XX
	XX	XX	XX	XX	XX	XX.
3.	XX	XX	XX	XX	XX	XX
	XX	XX	XX	XX	XX	XX.

(The witnesses then withdrew)

4. Thereafter, the Committee took up the following draft reports for consideration and adoption:

- (i) Draft Report on 'Review of NSSO and CSO and Streamlining of Statistics Collection Machinery in the Country, including Management Information System for Project Monitoring / Appraisal' of the Ministry of Statistics and Programme Implementation.
- (ii) Draft Report on Action Taken by the Government on the Recommendations contained in the 44th Report on Demands For Grants (2017-18) of the Ministry of Corporate Affairs.
- (iii) Draft Report on Action Taken by the Government on the Recommendations contained in the 45th Report on Demands For Grants (2017-18) of the Ministry of Statistics and Programme Implementation.
- (iv) Draft Report on Action Taken by the Government on the Recommendations contained in the 46th Report on Demands For Grants (2017-18) of the Ministry of Finance (Departments of Economics Affairs, Expenditure, Financial Services and Investment and Public Asset Management).
- (v) Draft Report on Action Taken by the Government on the Recommendations contained in the 47th Report on Demands For Grants (2017-18) of the Ministry of Finance (Department of Revenue).
- (vi) Draft Report on Action Taken by the Government on the Recommendations contained in the 48st Report on Demands For Grants (2017-18) of the Ministry of Planning.

After some deliberations, the Committee adopted the above draft Reports with minor modifications and authorised the Chairperson to finalise them and present these Reports to Parliament.

A verbatim record of the proceedings has been kept

The Committee then adjourned.

APPENDIX

(Vide Para 4 of the Introduction)

ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS CONTAINED IN THE FORTY SEVENTH REPORT OF THE STANDING COMMITTEE ON FINANCE (SIXTEENTH LOK SABHA) ON DEMANDS FOR GRANTS (2017-18) OF THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

	Total	% of total
(i) Total number of Recommendations	11	
(ii) Recommendations/Observations which have been accepted by the Government (vide Recommendation at Sl. Nos. 1,2,3,4,5,6,7,8,9,10 & 11)	11	100%
(iii) Recommendations/Observations which the Committee do not desire to pursue in view of the Government's replies	Nil	0.00
(iv) Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee (vide Recommendation at Sl. No. 5)	Nil	0.00
(v) Recommendations/Observations in respect of which final reply of the Government are still awaited	Nil	0.00