

**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 Fifty-Eighth Report of the Standing Committee on Finance on 'Demands for Grants (2018-19)]

SIXTY-FOURTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2018 / Shravana, 1940 (Saka)

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STANDING COMMITTEE ON FINANCE
(2017-2018)

(SIXTEENTH LOK SABHA)

MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

[Action taken by the Government on the recommendations contained in Fifty-Eighth Report of the Standing Committee on Finance on 'Demands for Grants (2018-19)]

Presented to Lok Sabha on 9 August, 2018

Laid in Rajya Sabha on 9 August, 2018



LOK SABHA SECRETARIAT
NEW DELHI

August, 2018 / Shravana, 1940 (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
8. Shri Shyama Charan Gupta
9. Shri Rattan Lal Kataria
10. Shri Chandrakant Khaire
11. Shri Bhartruhari Mahtab
12. Shri Prem Das Rai
13. Shri Rayapati Sambasiva Rao
14. Prof. Saugata Roy
15. Shri Rajiv Pratap Rudy
16. Shri Jyotiraditya M. Scindia
17. Shri Gopal Shetty
18. Dr. Kiritbhai P. Solanki
19. Dr. Kirit Somaiya
20. Shri Dinesh Trivedi
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RAJYA SABHA

22. Shri Rajeev Chandrasekhar
23. Shri Anil Desai
24. Dr. Narendra Jadhav
25. Shri A. Navaneethakrishnan
26. Shri Mahesh Poddar
27. Dr. Mahendra Prasad
28. Shri C.M. Ramesh
29. Shri T.K. Rangarajan
30. Shri Digvijaya Singh
31. Dr. Manmohan Singh

SECRETARIAT

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

INTRODUCTION

I, the Chairperson of the Standing Committee on Finance, having been authorized by the Committee, present this Sixty-fourth Report on action taken by Government on the Observations / Recommendations contained in the Fifty-eighth Report of the Committee (Sixteenth Lok Sabha) on Demands for Grants (2018-19) of the Ministry of Finance (Department of Revenue).

2. The Fifty-eighth Report was presented to Lok Sabha / laid on the table of Rajya Sabha on 09 March, 2018. The Action Taken Notes on the Recommendations were received from the Government *vide* their communication dated 09 July, 2018.

3. The Committee considered and adopted this Report at their sitting held on 06 August, 2018.

4. An analysis of the action taken by the Government on the recommendations contained in the Fifty-eighth 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
06 August, 2018
15 Shravana, 1940 (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 58th Report (Sixteenth Lok Sabha) on Demands for Grants (2018-19) of the Ministry of Finance (Department of Revenue) which was presented to Lok Sabha / Laid in Rajya Sabha on 09 March, 2018.

2. The Action Taken Notes have been received from the Government in respect of all the 16 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, 4, 6, 8, 9, 10, 11, 12, 13, 14, 15 and 16

(Total 13)
(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. 3, 5, 7

(Total - 03)
(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. 1)

Budgetary Allocations and Utilisations

5. The Committee note that the BE under Demand no. 33 of Department of Revenue was Rs. 837.28 crore in 2017-18, which was steeply increased to Rs. 1,24,096.55 crore at the RE stage, primarily due to provisioning for payment of compensation to States, as has been stipulated under the GST (Compensation to States) Act, 2017. This Act provides for creation of a compensation fund in Public Account, in which all revenues raised through imposition of cess shall be credited. The compensation amount released to States shall be recouped entirely from the Public Account. The expenditure incurred under Demand (upto December, 2017) has been stated to be Rs. 25,032.72 crore only. For the fiscal 2018-19, an amount of Rs. 1,80,949.70 crore has been provided under this Demand as BE, which is again a substantial increase over the previous year's RE as also the Actual Expenditure (upto December, 2017). The Committee desire that the budgetary estimates under this Demand should be more accurately formulated and realistically projected, taking into account the monthly trends of net GST collections- both for Centre and States- and the quantum of revenue losses incurred by each State. The rate of compensation cess also needs to be determined accordingly. The Committee note that under Demand no. 33 {Major Head 2047(i)} which relates to expenditure on the Enforcement Directorate, the RE for 2017-18 has been substantially increased to Rs. 168.87 crore from BE of Rs. 125.32 crore; for 2018-19, BE has been pegged at Rs. 165.14 crore. The Committee would like to know the reasons behind this increase at RE stage and whether this was due to expansion of workforce, warranted by a much heavier workload on the organization and the administrative costs related thereto. In this context, the Committee would like to be apprised within a period of three months about the performance of the Enforcement Directorate, CBEC and CBDT for the last three years in terms of cases booked, investigated, properties attached including the valuation of properties attached in the recent bank frauds and related cases and those cases successfully prosecuted including the time period involved therein.

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

Goods and Service Tax was implemented w.e.f. 1st July, 2017 as per the Constitution (One Hundred and First Amendment) Act, 2016. Further under the Goods and Service Tax (Compensation to States) Act, 2017, compensation to States has to be released bi-monthly to compensate for the loss of revenue to State Governments. Compensation released in the 1st instalment for the month of July – August was rupees ten thousand eight hundred and seven (Rs10807.00) crores. Similarly, in the second instalment for the months of September and October 2018, an amount of rupees thirteen thousand six hundred and ninety-four (Rs13694.00) crores was released. During this period the average monthly cess collection was about rupees seven thousand and five hundred (Rs7500.00) crores. Keeping in view the figures of cess

collection and amount to be released on the basis of only 4 months' data, a projection was made by the Department of Revenue that the actual requirement on release may be around rupees sixty thousands and five hundred (Rs. 60,500.00) crores and the cess to be collected may be around rupees sixty-one thousands three hundred and thirty-one (Rs.61331.00) crores. Accordingly, the Revised Estimate for 2017-18 was made to Rs. 1,24,096.55 crores to meet the requirement of Rs. 60500.00 crores as GST compensation to States and Rs. 61331.00 crores for transfer into GST Compensation Fund along with some other establishment related expenditure. This also includes the release of Rs. 1384.57 crore to States on account of due CST compensation.

Therefore, it may be seen that the estimate was realistic and based on data available for collection of cess and release of compensation to States. As the provisions were made for the first time and we had no actual data on collection of cess/ amount to be released as compensation for a financial year, the projection for the FY 2018-19 was made keeping the ratio at same level and accordingly a budget provision of Rs.90000.00 crores has been kept for releasing GST compensation to States/UTs with legislatures and an equal amount of Rs. 90,000.00 crores to be collected as cess and to be transferred to GST Compensation Fund. So far as rate of compensation cess is concerned, it is not a part of budgetary projection of compensation to be released and decision in this regard is in the domain of the GST Council.

Yes, the increase of budget provision for Enforcement Directorate at RE 2017-18 as well as BE 2018-19 is due to increase in working strength and implementation of several digitization projects. The working strength of ED increased from 881 to 941 in 2017-18. This increase in the work force has increased the expenditure on salary and other administrative costs. It may also be submitted that the Directorate is in the process of implementing various modernization projects like Cyber Lab, Digitization, Centralised Monitoring System etc. therefore the budget granted under IT head was revised at RE stage to meet the requirement on implementation of above said projects. Recently Special Incentive Allowance (SIA) has been allowed to officials of ED that may again raise the expenditure on salary head in the current FY 2018-19.

Direct Tax

The performance of CBDT for the last three years in terms of cases booked, investigated properties attached is as under:-

F.Y.	Number of groups searched	Total assets seized (In Rs. Crore)	Undisclosed Income admitted (In Rs. Crore)
2015-16	447	712.32	11226.02
2016-17	1152	1469.45	15496.73
*2017-18	581	997.17	15754.95

*(Figures are provisional)

Further, The Income-tax Department (ITD) has recently taken various actions in cases of recent bank frauds involving Nirav Modi Group, Mehul Choksi Group and Rotomac Group, which include, inter-alia, the following:

Nirav Modi Group:

The ITD has attached as many as 32 immovable properties located in various cities including Mumbai, Surat, Jaipur and Delhi. The ITD has attached 141 bank accounts/ F.D.s of this group. The cumulative credit balance in these accounts is Rs 145.74 crore. The ITD has attached as many as 173 paintings and artworks. Further, four prosecutions have been filed against Sh. Nirav Modi u/s 276C(1), 277 and 277A of the Income Tax Act, 1961. An arrest warrant has been issued by the Competent Court which has been served on the Police Authorities for due compliance. Supplementary Prosecution Complaint filed against 31 persons/individuals/entities u/s 276C(1), 277A and 278 of the Income Tax Act, 1961. Look Out Notice/Blue Corner Notice has been opened against Nirav Modi by Bureau of Immigration on 22/02/2018 after request from ITD. It is valid till 21/02/2019. Three notices u/s 10(1) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 issued against Sh. Nirav Modi.

Mehul Choksi Group:

Seven immovable properties in Mumbai belonging to Gitanjali Group have been attached u/s 281B of the Income Tax Act. Further, land, building and fixed assets valued at Rs. 1278 crore of a group subsidiary have been provisionally attached. About 244 bank accounts / F.D.s having a total credit balance of Rs 101.78 crore have been attached. Look Out Notice/Blue Corner Notice opened against Sh. Mehul Choksi and the same is valid till 21/02/2019.

Rotomac Group:

In this case, four immovable properties and 29 bank accounts have been attached by the ITD. Six prosecutions have been initiated against Sh. Vikram Kothari, main person of the Rotomac Group. Further, 18 prosecutions have been launched against M/s Rotomac Global (P) Ltd.

As far as successful prosecution is concerned, the performance of CBDT during the last three years is as under:-

F.Y	Prosecution cases filed in court during the year	No. of cases in which Court conviction passed order during F.Y.
1	2	3
2015-16	552	28
2016-17	1252	16
2017-18	4524	75

State Tax

In this regard, it is submitted that in pursuance of the provision of the Constitution (One Hundred and First Amendment) Act, 2016, the Goods and Services (Compensation to States) Act, 2017 has been enacted by Parliament for providing compensation to the States on account of Revenue loss due to implementation of GST w.e.f. 01.07.2017 for a period of five years. Accordingly, budgetary provision of Rs. 60,499.98 crore has been made under Head 3601 & 3602 (Rs. 58999.99 cr in 3601 and 1499.99 cr in 3602) to compensate States/ UTs on account of revenue loss to states due to implementation of GST. Accordingly, GST Compensation of Rs. 41146 crore has been paid to the States/ UTs on bimonthly basis for the period of July 2017 to February, 2018 and balance Rs. 17500 crore as amount of GST compensation for November & December 2017 and January & February, 2018 has been adjusted against IGST settlement in February, 2018 as per 25th GST Council decision. Therefore, funds provided in RE 2017-18 under Head 3601& 3602 for GST compensation were not utilized fully in FY 2017-18. Apart from this, budget provision made of Rs. 1384.59 crore for balance CST compensation for year 2012-13 has been utilized completely and accordingly, balance CST compensation of Rs. 1384.58 crore for year 2012-13 has been released to States in FY 2017-18.

It is further submitted that GST (Compensation to States) Act, 2017 has been enacted w.e.f. 01.07.2017. Therefore, it was not possible to estimate the exact budgetary requirement for BE 2017-18. Further, as per provisions of GST (Compensation to States) Act, 2017, the admissible GST compensation is calculated on the basis of monthly revenue collected by States/ UTs. Therefore, the actual budget requirement cannot be assessed before the data is received from States about bimonthly GST compensation w.e.f July, 2017. However, the budgetary estimate made by this division in RE 2017-18, are correct and would have been utilized fully, if the IGST settlement of Rs. 17500 crore had not been adjusted against the GST Compensation for the month of November & December 2017 and January & February, 2018 as per 25th GST Council decision.

Further, it will be ensured in future to make budgetary estimates under this Demand more accurate and realistic, taking into account the monthly trends of revenue collection by States/ UTs during July, 2017 to March 2018 to avoid surrender of fund.

Enforcement Directorate

It is submitted that the funds provided in the BE 2017-18 under salary head were much lower than the funds demanded under the said head. While submitting the demands for RE 2016-17 and BE 2017-18 Enforcement Directorate had requested to provide Rs. 90 Crores under the Salary head in BE 2017-18 due to implementation of 7th CPC and fast increasing work force of the Directorate. However, only Rs. 66.34 crores were provided in the BE 2017-18 under salary head which were much lower than the requirement of the Directorate. Therefore, additional funds amounting to Rs. 17.66 crores were demanded in the RE 2017-18 under the salary head to meet the requirement of the Directorate.

Here it is pertinent to mention that the working strength of Enforcement Directorate increased from 881 as on 06.03.2017 to 941 on 01.03.2018. This increase in the work force has increased the Administrative costs related there. Further, the work load on the organization had also increased substantially and it resulted in increased requirement of funds under Budget heads like professional services, SSF etc.

Further, it is submitted that the Directorate is in the process of implementing various modernization projects like Cyber Lab, Digitization, CMS etc. The budget granted under the IT head in BE 2017-18 was only Rs. 8 crores which was not sufficient for implementation of initial phase of said projects. Therefore, additional funds amounting to Rs. 17 crores over and above the budget grant of Rs. 8 crores under IT head in BE 2017-18 were included in RE 2017-18. Due to above stated reasons RE 2017-18 increased substantially from BE 2017-18.

Performance of Enforcement Directorate for the last 3 years (PMLA and FEMA) is as follows:

PMLA						
Year	Cases booked	Cases Investigated	Properties Attached	Value of properties Attached (in lacs)	Value of properties attached in recent bank fraud cases (in lacs)	No. of Prosecutions
2015	120	721	Immovable, Movable	205529.39	38353.65	77
2016	199	621	Immovable, Movable	1141897.29	612338.23	93
2017	160	549	Immovable, Movable	702185.616	292890.37	108

FEMA						
Year	Cases booked	Cases Investigated	Properties Attached	Value of properties Attached (in lacs)	Value of properties attached in recent bank fraud cases (in lacs)	No. of Prosecutions
2015	1565	2754	Immovable, Movable	241.52	0	500
2016	2189	2595	Immovable, Movable	946.3	0	290
2017	3760	3733	Immovable, Movable	2985.58	0	367

7. The Committee note that the Ministry have furnished details regarding the performance of Enforcement Directorate for the last three years. However, the Committee desire that they may be specifically apprised whether the initial estimates made by the Enforcement Directorate regarding value of seizures etc. have been fully realised eventually at the end of the legal process. Accordingly, the details furnished to the Committee may clearly indicate the divergence / discrepancy, if any between the original estimation and the final realisation of revenue. The Committee further note that workload and responsibilities of Enforcement Directorate have further increased after the enactment of the Fugitive Economic Offenders Act, 2018, although their resources have been curtailed and large number of vacancies remain to be filled. The Committee, therefore, desire that the vacancies should be immediately filled up and resources of the Enforcement Directorate sufficiently augmented so that they can discharge all the responsibilities entrusted to them in an efficient and time-bound manner.

(Recommendation Sl. No. 3)

Non -Tax Revenue

8. The Committee have taken note of the general trend in non-tax revenue which has shown a declining trend over the years. Non- Tax revenue in 2017-18 (BE) was rs. 2,88,757 crore, whereas the RE was pegged down to Rs. 2,35,974 crore which has been now revised in BE for 2018-19 as Rs.2,45,089 crore. The actuals for the year 2016-17 has been stated as Rs.2,72,831 crore. No actuals has been provided for the year 2017-18. The committee would, therefore, suggest that the Department should look into the reasons behind such reduction in collection of non-tax revenue and take necessary measures for enhanced revenue mobilization including additional avenues thereof. The Government should think of alternate options, such as utilization of surplus land for commercial exploitation instead of just depending on disinvestment of PSUs alone, which is akin to selling the family silver.

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

The observation of the Committee is noted for future reference. The suggestion of the Committee to utilize surplus land for commercial exploitation has been sent to the concerned Ministry i.e. Ministry of Housing & Urban Affairs for further necessary action.

10. The Committee note that the reply of the Department with regard to the reasons behind declining trend in non-tax revenue collection over the years is evasive. The Department has not responded as to how they would arrest such declining trend in non-tax revenue collection. The Committee, therefore, reiterate their recommendation that the Department should look into the reasons behind reduction in collection of non-tax revenue and take necessary measures for enhanced revenue mobilization. The Committee may be apprised of the action taken in this regard at the earliest.

(Recommendation Sl. No. 5)

Refunds

11. The Committee are alarmed to observe that in direct tax, more than Rs. 1.26 lakhcore has been paid as refunds upto January, 2018 (for FY 2017-18) with interest outgo of Rs. 10,312 crore (in FY 2016-17), which has substantially increased from Rs. 6889 crore in FY 2015-16. This raises an apprehension that the assesseees may be constrained to pay excess advance tax to fulfill revenue targets of the Department. Such over-estimation naturally results in excess refund of taxes. Also, there is an apprehension that this practice of excess refunds may encourage connivance between tax officials and assesseees to the detriment of the Department. The provisional figures of refund in indirect taxes is also alarmingly pegged at Rs. 47,218 crore. Therefore, the Committee desire that the Department must look into the reasons behind excess refunds and accordingly take corrective measures.

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

Direct Tax

Processing, determination, issuance and encashment of Income-tax refunds is an ongoing and computer driven process, largely operated by the Centralized Processing Centres at Bangalore and Ghaziabad. It does not involve any direct interface with the tax payer. Connivance between tax officials and assesseees is, therefore, reduced to a minimum. With the aim of widening the tax base, various measures have been taken by the Department which have resulted in sustained increase in the number of ITRs filed in the last four financial years as follows:-

FY	Total ITRs Filed (including revised)	Number of Refunds Generated	Total Amount of Refund paid (in ₹ Crore)	Percentage of refunds to number of returns
2014-15	4,24,80,486	135,78,605	1,12,198	31.96
2015-16	4,75,26,241	210,22,122	1,22,266	44.23
2016-17	5,49,37,217	175,66,508	1,19,293	31.97
2017-18	6,84,93,894	195,16,877	1,26,731	28.49

13. The above table shows that there has been an increase both in the total number of ITRs filed and the quantum of refunds issued. However, in percentage terms the amount of refunds issued vis a vis the number of returns filed has decreased both in FYs 2016-17 and 2017-18, allaying apprehensions that revenue targets are fulfilled by compelling taxpayers to pay more advance tax. Moreover, only a small part of the total refund is on account of excess Advance Tax paid while the bulk of the refunds arise due to excess TDS and orders of Courts/Tribunal. However, the Government is taking various measures to expedite timely issuance of refund so that the burden of interest is minimized.

Indirect Tax

14. As per Pr CCA, CBEC revenue reports, the provisional figure of total indirect tax refund, duty drawback and GST refund (including ITC & IGST refund to exporters) in FY 2017-18 is Rs.70,732 Crore which is -1.4% less than the actual refunds in FY 2016-17 of Rs.71,702 Crore. The refunds are issued by the CBIC, DoR under legal provisions / rules and after proper verification of refunds (s) claimed / filed by assesses/ exporters.

15. The Committee are not convinced with the reply of the Department that only a small part of the total refund in Direct Tax is on account of excess Advance Tax paid while bulk of the refunds arise due to excess TDS and orders of Courts/Tribunal. The Committee, however, believe that over-estimation to fulfill revenue targets may be one of the factors behind excess refund of taxes, which thus needs a re-appraisal by the Department. The Committee, therefore, reiterate their recommendation that the Department must look into the reasons behind excess refunds and accordingly take corrective measures. The Committee further desire that the details of top fifty cases of refunds during the last three years may be furnished to the Committee within a month of presentation of this Report.

Recommendation (Sl. No. 7)

Pendency of Appeal Cases

16. The Committee are also extremely concerned about the latest figures of pending appeals, wherein in respect of direct taxes nearly 4.8 lakh appeals are pending at different fora with corresponding tax effect (excluding ITAT) of approx. Rs. 8 lakh crore. As far as indirect taxes are concerned, more than Rs. 1.93 lakh crore is locked in appeals at various fora. Cumulatively thus, more than Rs. 10 lakh crore is locked in

appeals at various fora (no tax effect locked up in appeal is maintained by ITAT Registry). Further, a big chunk of appeals are also pending at the level of Tribunal, High Courts and Supreme Court. The Committee are surprised that large number of appeals are still going to the High Courts in spite of the Tribunals being in place, which were created in the first place only to relieve the courts of their burden as also to fast track the process. This purpose does not seem to have been served. The functioning of these Tribunals should therefore be reviewed.

17. Further, considering that most of the departmental appeals get quashed, the Committee would like to recommend for review and bring out a pragmatic National Litigation Policy to reduce unnecessary litigation from Government side and for reducing the pendency at various fora.

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

Direct Tax

I. The Hon'ble Committee has observed that in 4.8 lakhs of appeals pending before all fora, tax effect around 8 lakh crores (excluding ITAT) of direct taxes is locked in appeals. In this regard, it is submitted that total tax effect of 8.72 lakh crore (excluding ITAT) is locked in 4,60,220 appeals. The details are as under: -

Appellate Authority	No. of appeals pending during 2017-18	Tax effect involved (in crores)
CIT(A)	3,21,843	6,37,897
ITAT	92,766	Data not maintained by ITAT registry
HC	39,028	2,23,404
SC	6583	10,923
Total	4,60,220	8,72,213

Note:

- The figures for pendency of appeals and tax effect locked is as per data provided by R&S Wing for HC and SC for the quarter ending Dec, 2017. However, the figures for CsIT(A) are as per ITBA data as on 31.03.2018
- The figures of pendency for ITAT are based upon the flash figures of ITAT Registry, Mumbai for FY 2017-18 as on 31.03.2018.

From the above, it is noticed that more than 50 % of the total tax effect locked in appeals pertains to the appeals pending before CsIT(A). Taking cognizance of the high tax effect locked in appeals before the CsIT(A), the CBDT had issued directions to the CsIT(A) in F.Y 2016-17 for the disposal of appeals having tax effect of more than Rs.100 crore. This has resulted in disputed demand of Rs.1.92 lakh crore being unlocked in 362 appeals. In FY 2017-18 also, the CsIT(A) have been directed to dispose of all appeals involving tax effect of above 50 crore pending on 31.03.2017. Till

31.03.2018, 10846 such appeals have already been disposed of unlocking tax effect of Rs. 3.61 lakh crore.

II. The Committee has further observed that big chunk of appeals is pending with ITAT, High Courts (HC) & Supreme Court (SC) and large numbers of appeals are still going to the HC.

The details of pendency of appeals before all forums during the FY 2017-18 are as under: -

Appellate Authority	No. of appeals pending	% of appeals pending against the total pendency
CIT (A)	3,21,843	70%
ITAT	92,766	20.1%
HC	39,028	8.4%
SC	6583	1.43%
Total	4,60,220	100 %

- *The figures for pendency of appeals is as per data provided by R&S Wing for HC and SC for the quarter ending Dec, 2017. However, the figures for CsIT(A) are as per ITBA data as on 31.03.2018*
- *The figures of pendency for ITAT are based upon the flash figures of ITAT Registry, Mumbai for FY 2017-18 as on 31.03.2018.*

From the above it is seen that, out of total pendency of 4,60,220 appeals in F.Y. 2017-18; 1,38,377 appeals are pending with ITAT, HC & SC which is around 30% of the total pendency of appeals before all fora and out of them only 39,028 appeals i.e. 8.48% are pending before the HC. Balance 3,31,843 appeals are pending with CIT(A).

In view of the fact that the pendency of appeals before CIT(A) was much more as compared to the other fora, the Department has focussed on reducing the pendency before CsIT(A). Accordingly, the target for disposal of appeals by CsIT(A) was increased in the Central Action Plan for FY 2017-18. Due to increased target for disposal of appeals before CsIT(A), the disposal of appeals as a percentage of appeals instituted has gone up considerably for FY 2017-18. The data for the same is as per the following chart:

Financial Year	Appeals instituted	Appeals disposed	% of Disposal to Institution
2014-15*	97,866	73,736	75%
2015-16*	1,20,265	94,093	78%
2016-17*	1,48,454	1,17,945	79%
2017-18 (As per ITBA)	1,17,150	1.23.480	105%

*Source: R&S Wing

III. Sub-section (3) of section 255 of the Act has been amended vide Finance Act, 2016, so as to provide that a bench constituted of a single member of ITAT may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifty lakh rupees.

Since the administrative control of ITAT is not in the purview of this Department, a separate O.M. is being issued to MOLJ to take appropriate action on the aforesaid observations of the Hon'ble Committee.

IV. The following steps taken to reduce unnecessary litigation from Government side and for reducing the pendency at various fora may be mentioned:

Legislative steps:

- (a) Vide Finance Act, 2016, in line with the decision of the Government to minimise litigation, sub-sections (2A) and (3A) of section 253 of the Act were omitted to do away with the filing of appeal by the AO against the order of the DRP. Consequent amendments have been made in sub-section (3A) and (4) of the said provision.
- (b) The safe harbour rules, i.e., the circumstances in which the income-tax authorities shall accept the transfer price declared by the assessee, for International Transactions and Specified Domestic Transactions were liberalised.
- (c) The transfer pricing regime has been modified to bring it in line with international best practices. The "range concept" and use of "multiple year data" has been allowed. This would lead to certainty and reduction of disputes in the area of transfer pricing.
- (d) Sub-section (3) of section 255 of the Act has been amended vide Finance Act, 2016, so as to provide that a bench constituted of a single member of ITAT may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifty lakh rupees.
- (e) In order to reduce the huge backlog of cases and to enable the Government to realise its dues expeditiously, 'the Direct Tax Dispute Resolution Scheme, 2016' was introduced in relation to tax arrears in respect of which appeals pending before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals) as on 29th February, 2016 and in respect of any tax determined in consequence of or is validated by an amendment made with retrospective effect in the Act or Wealth-tax Act, as the case may be, for a period prior to the date of enactment of such amendment and a dispute in respect of which was pending as on said date. The Direct Tax Dispute Resolution Scheme was operative till 31.01.2017. The scheme provided certain benefits subject to fulfilment of specific conditions. Under this scheme, 8653 orders have been passed resulting in tax collection to the tune of Rs.631 crore.

Other steps:

- (a) The Department has initiated several measures for reducing litigation with the Tax-payer. One of such measures is the creation of a platform in the form of Central Technical Committee (CTC) to formulate Departmental view on contentious issues. The CTC examines contentious issues and suggests for issue of circulars or amendments in the Act. From August 2012 to December 2017, 30 circulars clarifying the Departmental view on contentious issues have been issued by the CBDT on the basis of inputs provided by the CTC. Further, up to December 2017, 27 references have been submitted to the TPL Division of CBDT, suggesting amendments. Further, the Department is taking steps to identify issues, which have been accepted by the Department and also to give wide publicity of these issues so that the officers of Department, as well as the Tax-payers, will be aware, which will reduce the litigation.
- (b) Standard procedure for applying provisions u/s 14A and 68 of the Income Tax Act which were generating substantial litigation have been issued. The standard procedure for recording satisfaction u/s 147 has also been issued. It is expected that these will go a long way in minimizing litigation.
- (c) Two broad categories of appeals pending before CIT (A) are those having tax effect locked in appeals below and above Rs.10 lakh. 66% of the appeals in numbers where tax effect is below Rs. 10 lakh account for only 1.6% of tax effect, whereas 34% of the high demand appeals involving tax effect of more than 10 lakh account for 98.4% of the total tax effect locked in all appeals before CIT (A). Taking cognizance of the high tax effect locked in such appeals, the Board had issued directions in F.Y 2016-17 for disposal of appeals having tax effect of more than Rs.100 crore. This resulted in disputed demands of Rs.1.92 lakh crore being unlocked in 362 appeals. This Financial Year also the CIT(A) have been directed to dispose of all appeals involving tax effect of above 50 cr. which are pending on 31.03.2017. Till 31.01.2018, 669 such appeals have already been disposed of unlocking tax effect of Rs. 2.14 lakh crore.
- (d) In order to increase disposal by CIT(A) the target for disposal has been increased.
- (e) The monetary limits for filing appeals before ITAT, HC & SC have been enhanced with retrospective effect with the directions to withdraw appeals covered by the new monetary limits.
- (f) Extensive workshops are held by the Directorate of Income Tax (Legal & Research) at various field stations and Training Institutes to sensitize/train officers about improving quality of litigation.
- (g) Field formations have been directed to move applications for early hearings, in consultation with the Counsel, in cases which are pending before various appellate forums. Instructions have been issued that Departmental Representatives before ITAT should desist from taking adjournments, particularly

in the cases where demand has been stayed. It has also been directed that proper representation must be ensured before ITAT.

- (h) Department has introduced a new functionality of CsIT(A) on the Income Tax Business Application platform for e-filing of the appeals before CsIT (A). The same ensures transparency and ease of doing business. About 85% of the 1.42 lakh appeals filed in FY 2016-17 were e-filed on ITBA. Filing of appeals and their disposal of the same is recorded on ITBA. ITBA has enabled generation of MIS for effective monitoring of appeals.
- (i) The Central Board of Direct Taxes has taken up an initiative to create an electronic database containing all appeals and decisions of the ITATs, High Courts and the Supreme Court of India, in Direct Tax matters. This project is titled as "National Judicial Reference System"(NJRS) and is a repository of appeals and judgments. It will help in identifying issues, that have already attained finality avoiding litigation on settled issues, bunching of similar cases, prioritization of important cases, capacity building and in tax policy analysis.
- (j) The Central Board of Direct Taxes has entered into several Advance Pricing Agreements (APAs) to avoid disputes relating to transfer pricing and international taxation. A total number of 189 APAs have been signed by CBDT till December, 2017 which includes 173 Unilateral APAs and 16 Bilateral APAs.
- (k) Disputes relating to transfer pricing and international taxation are also resolved through the mechanism of Mutually Agreed Procedure (MAP).

Indirect Tax

All appeals against the orders passed by Commissioners of Customs, Central Excise and Service tax lie before a Tribunal, viz. the Customs, Excise and Service Tax Appellate Tribunal (CESTAT). The filing of Appeals lies before the Supreme Court against the orders of CESTAT on matters relating, amongst other things, to the determination of any question having a relation to the rate of duty of Customs / Central Excise or Service Tax or to the value of goods / services for purposes of assessment. Against an order of CESTAT, on a question not relating to duty or to classification of goods, an appeal lies to the High Court. Further, an appeal lies to the Supreme Court against any judgment of the High Court.

To reduce litigation, monetary limits have been fixed below which departmental appeals cannot be filed before CESTAT, High Court and Supreme Court. It has also been decided to withdraw departmental Appeals pending in High Court / CESTAT, where the Supreme Court has already decided on an identical matter.

19. The Committee are alarmed to note that pendency of Appeal Cases in Direct Taxes for the Financial Year 2017-18 were 460220. Further, an alarming number of 138377 appeals are pending with ITAT, High Courts and Supreme

Court which is around 30% of the total pendency of appeals before all fora and 331843 appeals are pending with CIT(A) which is 70% of total pendency of appeals. Since the pendency of appeals before CIT(A) is much more as compared to the other fora, the Committee had suggested that the Department should focus on reducing the pendency before CIT(A) by way of fixing time bound target before CIT(A) for disposal of appeals. The tax effect of pendency of direct tax cases may go far beyond the figure of Rs. 8,72,213 crore in different fora as furnished by the Department of Revenue, if we include the cases pending ITAT, which presently is not maintaining any data relating to tax effect of pending matters. Keeping in view the huge pendency of appeals at various fora, the Committee would thus reiterate their recommendation for bringing out a pragmatic National Litigation Policy to reduce unnecessary litigation from Government side and also to reduce the pendency of cases at various levels/fora including curbing tendencies for high-pitched assessment at lower levels. The Committee would like to be apprised of the action taken by the Government in this regard. The Department of Revenue may also furnish data regarding withdrawal of cases from litigation, if any.

The Committee also note that the CBDT has created an electronic database 'National Judicial Reference System' containing all appeals and decisions of ITATs, High Courts and the Supreme Court of India. The Committee are of the opinion that such data base should be gainfully used in identifying problematic issues in tax collection, avoiding litigation in settled issues, tax policy analysis and capacity building of assessing officers. The Committee also desire that since provisions u/s 14A (Expenditure incurred in relation to income not includible in total income) and 68 (cash credits) of the Income Tax Act are generating substantial tax litigation, they may be reviewed for amendments, if required.

The Committee further note that to address the issue of rationalizing and simplifying the Direct Tax law, Central Government has constituted a Task Force in order to review the Income Tax Act and to draft a new direct tax law in consonance with the economic needs of the country. The progress made by the Government in this regard may be placed before the Committee at the earliest.

CHAPTER - II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No. 1)

Budgetary Allocations and Utilizations

1. The Committee note that the BE under Demand no. 33 of Department of Revenue was Rs. 837.28 crore in 2017-18, which was steeply increased to Rs. 1,24,096.55 crore at the RE stage, primarily due to provisioning for payment of compensation to States, as has been stipulated under the GST (Compensation to States) Act, 2017. This Act provides for creation of a compensation fund in Public Account, in which all revenues raised through imposition of cess shall be credited. The compensation amount released to States shall be recouped entirely from the Public Account. The expenditure incurred under Demand (upto December, 2017) has been stated to be Rs. 25,032.72 crore only. For the fiscal 2018-19, an amount of Rs. 1,80,949.70 crore has been provided under this Demand as BE, which is again a substantial increase over the previous year's RE as also the Actual Expenditure (upto December, 2017). The Committee desire that the budgetary estimates under this Demand should be more accurately formulated and realistically projected, taking into account the monthly trends of net GST collections- both for Centre and States- and the quantum of revenue losses incurred by each State. The rate of compensation cess also needs to be determined accordingly.

The Committee note that under Demand no. 33 {Major Head 2047(i)} which relates to expenditure on the Enforcement Directorate, the RE for 2017-18 has been substantially increased to Rs. 168.87 crore from BE of Rs. 125.32 crore; for 2018-19, BE has been pegged at Rs. 165.14 crore. The Committee would like to know the reasons behind this increase at RE stage and whether this was due to expansion of workforce, warranted by a much heavier workload on the organization and the administrative costs related thereto. In this context, the Committee would like to be apprised within a period of three months about the performance of the Enforcement Directorate, CBEC and CBDT for the last three years in terms of cases booked, investigated, properties attached including the valuation of properties attached in the recent bank frauds and related cases and those cases successfully prosecuted including the time period involved therein.

Reply of the Government

Goods and Service Tax was implemented w.e.f. 1st July, 2017 as per the Constitution (One Hundred and First Amendment) Act, 2016. Further under the Goods and Service Tax (Compensation to States) Act, 2017, compensation to States has to be released bi-monthly to compensate for the loss of revenue to State Governments. Compensation released in the 1st instalment for the month of July – August was rupees ten thousand eight hundred and seven (Rs10807.00) crores. Similarly, in the second

installment for the months of September and October 2018, an amount of rupees thirteen thousand six hundred and ninety-four (Rs13694.00) crores was released. During this period the average monthly cess collection was about rupees seven thousand and five hundred (Rs7500.00) crores. Keeping in view the figures of cess collection and amount to be released on the basis of only 4 months' data, a projection was made by the Department of Revenue that the actual requirement on release may be around rupees sixty thousands and five hundred (Rs. 60,500.00) crores and the cess to be collected may be around rupees sixty-one thousands three hundred and thirty-one (Rs.61331.00) crores. Accordingly, the Revised Estimate for 2017-18 was made to Rs. 1,24,096.55 crores to meet the requirement of Rs. 60500.00 crores as GST compensation to States and Rs. 61331.00 crores for transfer into GST Compensation Fund along with some other establishment related expenditure. This also includes the release of Rs. 1384.57 crore to States on account of due CST compensation.

Therefore, it may be seen that the estimate was realistic and based on data available for collection of cess and release of compensation to States. As the provisions were made for the first time and we had no actual data on collection of cess/ amount to be released as compensation for a financial year, the projection for the FY 2018-19 was made keeping the ratio at same level and accordingly a budget provision of Rs.90000.00 crores has been kept for releasing GST compensation to States/UTs with legislatures and an equal amount of Rs. 90,000.00 crores to be collected as cess and to be transferred to GST Compensation Fund. So far as rate of compensation cess is concerned, it is not a part of budgetary projection of compensation to be released and decision in this regard is in the domain of the GST Council.

Yes, the increase of budget provision for Enforcement Directorate at RE 2017-18 as well as BE 2018-19 is due to increase in working strength and implementation of several digitization projects. The working strength of ED increased from 881 to 941 in 2017-18. This increase in the work force has increased the expenditure on salary and other administrative costs. It may also be submitted that the Directorate is in the process of implementing various modernization projects like Cyber Lab, Digitization, Centralised Monitoring System etc. therefore the budget granted under IT head was revised at RE stage to meet the requirement on implementation of above said projects. Recently Special Incentive Allowance (SIA) has been allowed to officials of ED that may again raise the expenditure on salary head in the current FY 2018-19.

Direct Tax

The performance of CBDT for the last three years in terms of cases booked, investigated properties attached is as under:-

F.Y.	Number of groups searched	Total assets seized (In Rs. Crore)	Undisclosed Income admitted (In Rs. Crore)
2015-16	447	712.32	11226.02
2016-17	1152	1469.45	15496.73
*2017-18	581	997.17	15754.95

*(Figures are provisional)

Further, The Income-tax Department (ITD) has recently taken various actions in cases of recent bank frauds involving Nirav Modi Group, Mehul Choksi Group and Rotomac Group, which include, *inter-alia*, the following:

Nirav Modi Group:

The ITD has attached as many as 32 immovable properties located in various cities including Mumbai, Surat, Jaipur and Delhi. The ITD has attached 141 bank accounts/ F.D.s of this group. The cumulative credit balance in these accounts is Rs 145.74 crore. The ITD has attached as many as 173 paintings and artworks. Further, four prosecutions have been filed against Sh. Nirav Modi u/s 276C(1), 277 and 277A of the Income Tax Act, 1961. An arrest warrant has been issued by the Competent Court which has been served on the Police Authorities for due compliance. Supplementary Prosecution Complaint filed against 31 persons/individuals/entities u/s 276C(1), 277A and 278 of the Income Tax Act, 1961. Look Out Notice/Blue Corner Notice has been opened against Nirav Modi by Bureau of Immigration on 22/02/2018 after request from ITD. It is valid till 21/02/2019. Three notices u/s 10(1) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 issued against Sh. Nirav Modi.

Mehul Choksi Group:

Seven immovable properties in Mumbai belonging to Gitanjali Group have been attached u/s 281B of the Income Tax Act. Further, land, building and fixed assets valued at Rs. 1278 crore of a group subsidiary have been provisionally attached. About 244 bank accounts / F.D.s having a total credit balance of Rs 101.78 crore have been attached. Look Out Notice/Blue Corner Notice opened against Sh. Mehul Choksi and the same is valid till 21/02/2019.

Rotomac Group:

In this case, four immovable properties and 29 bank accounts have been attached by the ITD. Six prosecutions have been initiated against Sh. Vikram Kothari, main person of the Rotomac Group. Further, 18 prosecutions have been launched against M/s Rotomac Global (P) Ltd.

As far as successful prosecution is concerned, the performance of CBDT during the last three years is as under:-

F.Y	Prosecution cases filed in court during the year	No. of cases in which Court passed conviction order during F.Y.
1	2	3
2015-16	552	28
2016-17	1252	16
2017-18	4524	75

State Tax

In this regard, it is submitted that in pursuance of the provision of the Constitution (One Hundred and First Amendment) Act, 2016, the Goods and Services (Compensation to States) Act, 2017 has been enacted by Parliament for providing compensation to the States on account of Revenue loss due to implementation of GST w.e.f. 01.07.2017 for a period of five years. Accordingly, budgetary provision of Rs. 60,499.98 crore has been made under Head 3601 & 3602 (Rs. 58999.99 cr in 3601 and 1499.99 cr in 3602) to compensate States/ UTs on account of revenue loss to states due to implementation of GST. Accordingly, GST Compensation of Rs. 41146 crore has been paid to the States/ UTs on bimonthly basis for the period of July 2017 to February, 2018 and balance Rs. 17500 crore as amount of GST compensation for November & December 2017 and January & February, 2018 has been adjusted against IGST settlement in February, 2018 as per 25th GST Council decision. Therefore, funds provided in RE 2017-18 under Head 3601& 3602 for GST compensation were not utilized fully in FY 2017-18. Apart from this, budget provision made of Rs. 1384.59 crore for balance CST compensation for year 2012-13 has been utilized completely and accordingly, balance CST compensation of Rs. 1384.58 crore for year 2012-13 has been released to States in FY 2017-18.

It is further submitted that GST (Compensation to States) Act, 2017 has been enacted w.e.f. 01.07.2017. Therefore, it was not possible to estimate the exact budgetary requirement for BE 2017-18. Further, as per provisions of GST (Compensation to States) Act, 2017, the admissible GST compensation is calculated on the basis of monthly revenue collected by States/ UTs. Therefore, the actual budget requirement cannot be assessed before the data is received from States about bimonthly GST compensation w.e.f July, 2017. However, the budgetary estimate made by this division in RE 2017-18, are correct and would have been utilized fully, if the IGST settlement of Rs. 17500 crore had not been adjusted against the GST Compensation for the month of November & December 2017 and January & February, 2018 as per 25th GST Council decision.

Further, it will be ensured in future to make budgetary estimates under this Demand more accurate and realistic, taking into account the monthly trends of revenue collection by States/ UTs during July, 2017 to March 2018 to avoid surrender of fund.

Enforcement Directorate

It is submitted that the funds provided in the BE 2017-18 under salary head were much lower than the funds demanded under the said head. While submitting the demands for RE 2016-17 and BE 2017-18 Enforcement Directorate had requested to provide Rs. 90 Crores under the Salary head in BE 2017-18 due to implementation of 7th CPC and fast increasing work force of the Directorate. However, only Rs. 66.34 crores were provided in the BE 2017-18 under salary head which were much lower than the requirement of the Directorate. Therefore, additional funds amounting to Rs. 17.66 crores were demanded in the RE 2017-18 under the salary head to meet the requirement of the Directorate.

Here it is pertinent to mention that the working strength of Enforcement Directorate increased from 881 as on 06.03.2017 to 941 on 01.03.2018. This increase in the work force has increased the Administrative costs related there. Further, the work load on the organization had also increased substantially and it resulted in increased requirement of funds under Budget heads like professional services, SSF etc.

Further, it is submitted that the Directorate is in the process of implementing various modernization projects like Cyber Lab, Digitization, CMS etc. The budget granted under the IT head in BE 2017-18 was only Rs. 8 crores which was not sufficient for implementation of initial phase of said projects. Therefore, additional funds amounting to Rs. 17 crores over and above the budget grant of Rs. 8 crores under IT head in BE 2017-18 were included in RE 2017-18. Due to above stated reasons RE 2017-18 increased substantially from BE 2017-18.

Performance of Enforcement Directorate for the last 3 years (PMLA and FEMA) is as follows:

PMLA						
Year	Cases booked	Cases Investigated	Properties Attached	Value of properties Attached (in lacs)	Value of properties attached in recent bank fraud cases (in lacs)	No. of Prosecutions
2015	120	721	Immovable, Movable	205529.39	38353.65	77
2016	199	621	Immovable, Movable	1141897.29	612338.23	93
2017	160	549	Immovable, Movable	702185.616	292890.37	108

FEMA						
Year	Cases booked	Cases Investigated	Properties Attached	Value of properties Attached (in lacs)	Value of properties attached in recent bank fraud cases (in lacs)	No. of Prosecutions
2015	1565	2754	Immovable, Movable	241.52	0	500
2016	2189	2595	Immovable, Movable	946.3	0	290
2017	3760	3733	Immovable, Movable	2985.58	0	367

[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl., dated 09.07.2018]

Comments of the Committee

(Please see Para No. 7 of Chapter I)

Recommendation (Sl. No. 2)

Tax-base

2. The Committee have taken note of the alarming fact that the total number of individual taxpayers as on September 30, 2017 was 6.08 crore which constitutes only 4.86% of the total population of 125 crore. This fact gets accentuated when we put it in common frame with comparable G-20 countries. This clearly demonstrates the regressive nature of our direct tax regime and the narrow base the Department operates on. Therefore, The Committee would like the Department to review and re-orient their strategies with appropriate tax policy so that we can have a broader as well as deeper tax-base vis-a-vis other comparable and emerging economies. For this, the Government needs to eliminate distortions and inequities embedded in the present system which should also be seen to be fair and just. The long-awaited Direct Taxes Code should squarely address this issue at the policy level while simplifying/ rationalizing the process and procedures. The slabs/rates in respect of GST may also be rationalized with a view to broadening the tax base and increasing tax compliance so that the objectives of the tax reform can be fully achieved.

The Committee find that the gross tax revenue was budgeted at Rs. 19,11,579 crore in the year 2017-18 (with actuals of Rs. 17,15,822 crore in 2016-17) which was revised to Rs. 19,46,119 crore at the RE stage. This has been now substantially increased for BE 2018-19 and pegged at Rs. 22,71,242 crore. The Committee believe that these revenue targets may prove to be ambitions, as the buoyancy experienced in 2017-18 could be attributable to demonetization and the tax amnesty scheme. The

Committee would thus await the progress of tax collections in the course of the Ministry's action taken replies.

Direct tax

I Widening/Deepening of tax base and increasing the tax-GDP ratio is a continuous process. In this direction, the following legislative steps have been taken in recent years:

- (a) To ensure reporting of transactions in the mining sector, TCS at the rate of 1% was introduced on sale of minerals being Coal, Lignite, and Iron ore for trading purpose;
- (b) In order to ensure that proper tax is paid in real-estate transactions, TDS was introduced at the rate of 1% on payment for acquisition of immovable property (other than rural agricultural land) having value of Rs. 50 lakh or more;
- (c) For expanding the ambit of the TDS provisions, the scope of TDS on interest on bank deposits was expanded by bringing the interest on recurring deposits within the ambit of TDS;
- (d) In order to ensure reporting of purchase of high-end vehicles the scope of TCS has been expanded by providing for TCS at the rate of 1% on sale of motor vehicle of the value exceeding Rs. 10 lakh;
- (e) The scope of presumptive taxation for small businesses has also been expanded vide Finance Act, 2016 by providing for new presumptive taxation regime in case of professionals to bring small tax payers and the unorganized sector within the tax fold;
- (f) A new tax in the form of "Equalisation Levy" (inserted vide Chapter VIII to the Finance Act, 2016) at the rate of 6% of the amount paid was imposed on e-commerce transactions;
- (g) A new section 115BBDA was inserted in the Income-tax Act, 1961 (the Act) to provide for additional chargeability of tax on income exceeding Rs. 10 lakh by way of dividends @10% in the hands of shareholders being individuals/Hindu Undivided Family (HUF)/ Firms;
- (h) The Finance Act, 2016 amended the Act to provide that the non-compete fee received/receivable in relation to not carrying out any profession will be chargeable to tax as an income from business or profession;
- (i) Through the Finance Act, 2016 many incentives (Profit linked Deductions/weighted deduction) available under the Act were phased out which in turn shall enhance tax collection in future;

- (j) Through the Finance Act, 2017, the tax rate for the slab of income from Rs. 2.5 lakh to Rs. 5 lakh was reduced from 10% to 5% in order to encourage voluntary compliance and promote filing tax returns;
- (k) Through the Finance Act, 2017, a new section 194-IB has been inserted in the Act to provide that individuals or HUF (other than those covered under 44AB of the Act) responsible for paying to a resident any income by way of rent exceeding Rs. 50,000 for a month or part of month during the previous year shall make TDS at the rate of 5% of such income as income-tax thereon;
- (l) Various measures have also been taken to increase the number of tax payers by not only bringing new tax payers into the tax net, but also to encourage non-filers to file their tax returns. In order to achieve this, information is being collected in a non-intrusive manner. The scope of information collection under the Statement of Financial Transactions (SFT) to be furnished under the amended rule 114E of the Income-tax Rules, 1962 (the Rules) has been widened. Keeping in view the economic framework of the country and policy intent to curb generation and circulation of black money, the threshold limit for reporting specified transactions under rule 114E of the Rules has also been rationalized. Moreover, non-intrusive data collection has also been introduced vide insertion of section 139AA in the Act which mandates quoting of AADHAR – the unique identity number – in the Return of Income and PAN application Form. Further, rule 114B of the Rules has been amended to inter alia link specified bank account of an account holder, maintained with a banking company or co-operative bank with the PAN or Form No.60, as the case may be; and
- (m) Vide successive Finance Acts; filing of returns has been made mandatory in respect of Mutual Funds, Securitisation Trusts, Venture Capital Companies/ Funds, trade unions/ associations, infrastructure debt funds, etc. as referred to in Section 10 of the Act. Similarly, filing of returns has been made mandatory for a resident individual having an asset or financial interest in an entity located outside India, even if he or she may not be earning income chargeable to tax in India.

II. Besides the above, following legislative steps have also been taken in Finance Act, 2018 in order to widen/deepen the tax base and increase the direct tax-GDP ratio:

- (a) Every person, not being an individual, which enters into a financial transaction of an amount aggregating to Rs. 2.5 lakhs or more in a financial year, and the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer or any person competent to act on behalf of such person shall be required to apply for allotment of PAN;
- (b) The scope of the term 'accumulated profits' has been widened so as to provide that in the case of an amalgamated company, accumulated profits, whether capitalised or not, or losses as the case may be, shall be increased by the accumulated profits of the amalgamating company, whether capitalized or not, on the date of amalgamation;

- (c) Deemed dividends has also been brought under the scope of dividend distribution tax under section 115-O of the Act and such deemed dividend shall be taxed at the rate of 30% (without grossing up) in order to prevent camouflaging dividend in various ways such as loans and advances;
- (d) In order to minimize economic distortions and curb erosion of tax base, exemption under section 10(38) of the Act has been withdrawn and a new section 112A in the Act has been introduced to provide that long term capital gains arising from transfer of a long term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust shall be taxed at 10% of such capital gains exceeding one lakh rupees. Foreign Institutional Investors (FIIs) will also be liable to tax on such long term capital gains only in respect of amount of such gains exceeding one lakh rupees;
- (e) With a view to providing a level playing field between growth oriented funds and dividend paying funds, in the wake of new capital gains tax regime for unit holders of equity oriented funds, any income which is distributed by an equity-oriented Mutual Fund, the mutual fund shall be liable to pay additional income tax at the rate of 10% on income so distributed;
- (f) In line with the provisions of OECD's Multilateral Instrument (MLI), the scope of 'Permanent Establishment' has been widened to provide that "business connection" shall also include any business activities carried through a person who, acting on behalf of the non-resident, habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by the non-resident, subject to certain conditions specified in section 9 of the Act; and
- (g) In order to bring a large segment of compensation receipts in connection with business and employment within the purview of taxation and thereby prevent base erosion and revenue loss, section 28 of the Act has been amended to provide that any compensation received or receivable, whether revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be taxable as business income.

III. To address the issue of rationalizing and simplifying the tax laws, Central Government has constituted a Task Force in order to review the Act and to draft a new direct tax law in consonance with economic needs of the country. The Terms of Reference of the Task Force are to draft an appropriate direct tax legislation keeping in view the following:

- (i) The direct tax system prevalent in various countries;
- (ii) The international best practices; and
- (iii) The economic needs of the country.

IV. The Budget Estimates of direct taxes for 2018-19 are fixed at Rs. 11,50,000 crore, which is 14.6% higher than the actual collection of 2017-18 at about Rs. 10.03

lakh crore. The target has to be viewed in the light of the fact that direct tax growth rate was 14.6% in 2016-17 and 18% in 2017-18. Moreover, the GDP growth in 2018-19 is expected to be around 7.5% (source: Economic Survey) which should lead to higher revenue collection. The Department is also geared up to use the large amount of information in its possession to ensure better tax compliance from the non-filers and tax-evaders.

Indirect Tax

- (i) Goods and Service Tax was introduced from 01.07.2017 subsuming most indirect Central and State levies including several Central Cesses. The decision with regard to change in GST tax slabs/ rates falls under the jurisdiction of GST Council.
- (ii) Exemptions relating to central excise duty have been reviewed, and many exemptions including the following have been withdrawn: -
 - a) Area based exemptions
 - b) Textile Sector
 - c) Precious metals including Gold and Silver
 - d) Ships and Vessels
 - e) Aircrafts
 - f) Edible Oils
 - g) Most of the end-use based exemptions.
- (iii) In addition, 5% GST has been imposed on food grains, pulses, flours put up in unit containers and bearing a brand name.
- (iv) Indirect tax revenue (GST & Non-GST) target (BE) for FY 2018-19 is Rs.10,26,000 Crore (exclusive of GST – Compensation Cess). The indirect tax RE 2017-18 was Rs.8,75,044 Crore (against indirect tax BE 2017-18 of Rs.9,26,900 crore) which did not include the GST revenue for the month of March, 2018. The GST revenue for March, 2018 will be realised in April, 2018 in fiscal 2018-19. Therefore, if indirect Tax BE 2018-19 is compared with indirect tax BE 2017-18, the required rate of growth for 2018-19 is 10.7%, which is achievable.

**[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl.,
dated 09.07.2018]**

Recommendation (Sl. No. 4)

Tax Exemptions and Benefits

3. The Committee have taken note of the fact that in the budget for FY 2018-19, the corporate tax rate was reduced to 25% from 30% for companies with turnover of upto Rs. 250 crore. The Government has also promised to eventually bring the rate down to 25% for all companies. However, the Committee believes that this reduction in rate should be correspondingly matched with phasing out of various exemptions, which distort the tax structure and significantly lower the effective tax yield. As the quantum of such exemptions/ benefits is still more than Rs. 1 lakh crore, these should be constantly reviewed, rationalized and accordingly scrapped, regardless of the terminology used to describe them.

Reply of the Government

The current policy of the Government is to phase out exemptions/ deductions along with the reduction in corporate tax rate from 30% to 25%.

Accordingly, Finance Act, 2016 phased out the deductions/ exemptions under the Act by providing a sunset date for all the existing profit linked deductions allowed under the various provisions of the Act. These deductions have not been abruptly withdrawn but provided with a sunset date. The deductions for these assesseees have been grandfathered and they have been allowed to avail the benefits of deductions for the unexpired period. As the deductions and exemptions were not withdrawn immediately but were grandfathered, the quantum of revenue foregone in respect of these exemption/deduction would be reduced periodically over the years.

[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl.,
dated 09.07.2018]

Recommendation (Sl. No. 6)

Tax Arrears

4. It is alarming to note that the Department of Revenue seems to be caught up in the vicious cycle of tax arrears, as more than Rs. 11.50 lakh crore (Rs. 9,30,741 crore in direct taxes and Rs. 2,28,530 crore in indirect taxes) which is almost the size of an economy are outstanding in the form of tax arrears. Further, as far as arrears in direct taxes are concerned, more than 94% of it has been categorized under 'demand difficult to recover', whereas in indirect taxes, only 22.84% are said to be clearly recoverable. Considering the fact that tax arrears have been increasing year after year, the Committee would recommend for devising a concrete action-plan and a roadmap to clear the backlog through a time-bound fast track mechanism. Tribunals / Courts should be regularly moved for early / expeditious hearing of cases and particularly for vacation of stay orders. The Committee may be kept abreast of the action plan and achievements thereof.

Reply of the Government

Direct Tax

The demand difficult to recover often pertains to cases where action by numerous agencies like ED, EOW, Police, SEBI, etc. is involved over which the department may not have control due to operation of statutory provisions as applicable thereto (including pending judicial proceedings under various laws which have longer gestation period due to strict adherence to principles of natural justice at various levels). Consequent collection of demand from assets seized by numerous agencies is subject to outcome of judicial intervention / resolution in courts, leading to such demands becoming long standing and difficult to recover.

The Department has already put in place a multi-pronged strategy to systematically liquidate arrears of taxes. The strategies and targets in this regard are laid down as part of the annual Central Action Plan document of the Department. The approach of the Department to liquidate arrears, inter alia, includes:

- (i) Expeditious disposal of pending litigation at the level of CIT (Appeals).
- (ii) Stringent recovery action in respect of confirmed arrears.
- (iii) Field formations have been directed to move applications for early hearings, in consultation with the Counsel, in cases which are pending before various appellate forums. Instructions have been issued that Departmental Representatives before ITAT should desist from taking adjournments, particularly in the cases where demand has been stayed. It has also been directed that proper representation must be ensured before ITAT.

As a result of these measures, an amount of Rs. 97,170 crore was collected and Rs. 2,79,894 crore was reduced from the arrears in FY 2017-18.

Indirect Tax

More than 80% of the arrears are locked in litigation (Supreme Court / High Court / CESTAT etc) or under restrained category (BIFR / Debt Recovery Tribunal / Official Liquidators / NCLT). These are judicial / statutory bodies over which departments have no control and they do not entertain any interference / request in their working from the department. However, measures like bunching of similar cases / application for early hearing / increase in threshold to file appeal have already been taken by field formation / Board.

Comparing the total pendency of arrears with actual recoveries to arrive at a success percentage of arrears recovery is like comparing the incomparables. The two are not comparable because more than 80% of pendency is locked up in litigation / restraint, which are not recoverable till the judicial fora takes a final decision which may take more than five years in many cases. Our efforts are mainly concentrated only on the remaining less than 20%; even in these 20% cases more than half of such cases relate to untraceable defaulters / closed units. Hence actual recoverable arrears are much less.

Arrears are not amenable to automatic 10% - 20% annual increase like revenue realisation. Hence there is no automatic increase. Arrear recovery is a 50:50 combination of effort by the department as well as luck & circumstances. Hence fixing a target is only a notional goalpost and it cannot be a hard-fixed target which can be achieved / exceeded.

The following figures of realisation in last five years indicate growth in the recovery of arrears:-

(Rs. in crore)

Years	Target	Arrears Realisation	Total Pending Arrears	Pending Recoverable Arrears
2013-2014	4,000	3,689	1,49,128	20,210
2014-2015	5,000	3,468	1,64,985	13,295
2015-2016	7,000	4,080	1,88,371	14,977
2016-2017	5,000	5,256	2,28,690	17,478
2017-2018	6,000	5,216*	2,35,279	21,303

(*Slight decrease is due to GST introduction & consequent reorganisations).

The above chart indicates:-

- (i) 87% of target of Rs. 6000 crore for 2017-18 (i.e. Rs. 5216 crore, provisional) has been achieved, despite introduction of GST and consequent reorganisations
- (ii) It is less than target but almost equal to Rs. 5256 crore achieved in 2016-17; this is inspite of slowdown in all activities in field due to introduction of GST and consequent reorganisation of field formation and assesses during 2017-18.
- (iii) In last five years, it is second successive time that realisation of arrears has crossed Rs. 5000 crore.
- (iv) In Feb & March, 2018, the highest ever monthly realisation in last five years has been achieved.
- (v) In 2016-17, target was exceeded for the first time in last five years; it was also the highest ever realisation in last five years.

For 2018-19, the target has been fixed by Board at Rs.10,000 crore, which is almost double of last year; it covers almost all the clearly recoverable arrears as on 31.03.2018.

[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl.,
dated 09.07.2018]

Recommendation (Sl. No. 8)

Detection of unaccounted income and Tax Evasion

5. The Committee would like to point out that we still do not know the quantum of tax realized as a consequence of exchange of notes during the course of demonetization. The Committee find that the tax collected from the amnesty scheme, Pradhan Mantri Garib Kalyan Yojana (PMGKY) seems to be very small in the context of the expectation created at the time of its launch. The perception that demonetization would yield huge benefits in terms of income tax, does not seem to have happened so far. Although, the department has claimed higher tax, buoyancy and increase in tax base during the post-demonetisation period, the Committee would still await the final account of the yield at the end of this fiscal. The Committee would also like to be apprised on the tax yield arising from unaccounted money/ wealth stashed abroad including the follow-up on financial information received so far from foreign sources. Details of enforcement action initiated under the Benami Transactions (Prohibition) Act and the various search & seizure operations conducted post- demonetization and the net revenue yield therefrom may also be furnished to the Committee within three months of the presentation of this Report to Parliament. The Committee would seek to be re-assured in this regard by the Department of Revenue that the quantum of unaccounted money in the economy has become minimal post-demonetisation. The Committee are concerned about the prevalence of black money in the economy by way of virtual currency etc., and would thus like to be apprised about the monitoring by the department regarding generation of such unaccounted income through these alternate forms such bitcoins and extent to which they have been able to contain it. A detailed action taken reply may be furnished to the Committee in matter.

Reply of the Government

I. “The Committee would also like to be apprised on the tax yield arising from unaccounted money/wealth stashed abroad including the follow-up on financial information received so far from foreign sources.”

(i) HSBC cases

Information regarding certain Indians holding bank accounts in HSBC bank in Switzerland was obtained from the Government of France under the Double Taxation Avoidance Convention (DTAC) between India and France. As a result of systematic investigations, undisclosed income of about Rs.8448 crores has been brought to tax on account of deposits made in unreported foreign bank accounts. Tax demand of about Rs.5447 crores has been raised. Concealment penalty of about Rs.1290 crore has

been levied in 164 cases. So far, 199 prosecution complaints have been filed in 84 cases.

(ii) ICIJ cases

Sustained investigations conducted in the cases revealed by International Consortium of Investigative Journalists (ICIJ) have led to detection of more than Rs.11,010 crore of credits in the undisclosed foreign accounts so far. 75 prosecution complaints have been filed before criminal courts in 34 cases.

(iii) Panama Papers:

The Government constituted a Multi-Agency Group (MAG) on 4th April 2016, inter alia, for facilitating co-ordinated and speedy investigation in the cases of Indian persons allegedly having undisclosed foreign assets and whose names are reportedly included in Panama Papers leaks. The Group consists of the officers of Investigation Division of the Central Board of Direct Taxes (CBDT), Foreign Tax & Tax Research Division of CBDT, Enforcement Directorate (ED), Financial Intelligence Unit (FIU) and Reserve Bank of India and its Convenor is Chairman, CBDT.

The Panama papers contained details of 426 persons. Investigations have revealed that out of 426 cases, 341 cases are presently non-actionable for following reasons:

- 104 cases are of non-residents
- In 125 cases, no irregularity has been found
- In 59 cases, their whereabouts in India are not known despite best efforts by ITD and member agencies of MAG
- In 53 cases, the responses from foreign jurisdiction are pending

In the 85 presently actionable cases,

- Invasive actions have been conducted in 58 cases (Search & Seizure in 46 cases and Surveys in 12 cases).
- Criminal prosecution complaints have been filed in 16 cases
- Notices under section 10 of the Black Money Act issued in 27 cases.
- Undisclosed foreign investments detected amount to Rs. 1088 Crores (approx).

(iv) Paradise Papers

On November 6, 2017 and on subsequent dates the International Consortium of Investigative Journalists (ICIJ), a Washington based organization and their collaborating

newspapers across the world, released details of offshore entities set up by two law firms M/s Appleby and Asiaciti spread across 19 no tax/low tax /foreign jurisdictions. On 6/11/2017, the Multi Agency Group (MAG) was reconstituted with Chairman CBDT as convener for investigating the Paradise Papers along with Panama Paper Leaks. The Paradise Papers database was released on the website of ICIJ late evening on 17.11.2017. On the same day a meeting of MAG was held to sensitise the member agencies. A list of 336 persons has been prepared after the analysis and has been disseminated to respective DsGIT (Inv) for further investigation. Investigations have been closed in 122 cases as nothing adverse has been found after examination and investigation as either the persons are non-residents or the relevant information has been explained satisfactorily or is disclosed in the tax returns. In 3 cases, search and seizure action has been conducted. References under DTAA are in progress. In 22 cases, proceedings under Black Money Act, 2015 have been initiated. CBDT is co-ordinating with Financial Intelligence Unit (FIU) for exchange of information about these cases.

II. “Details of enforcement action initiated under the Benami Transactions (Prohibition) Act and the various search & seizure operations conducted post – demonetisation and the net revenue yield therefrom may also be furnished to the Committee within three months of the presentation of this Report to Parliament”

- (i) Due to intensive efforts undertaken by the Department, as on 31/03/2018, provisional attachment has been made in more than 1380 cases of properties under the Prohibition of Benami Properties Transactions Act. These include plots of land, flats, shops, jewellery, vehicles, deposits in bank accounts, fixed deposits etc. The value of properties under attachment is more than Rs. 4100 crore including immovable properties of more than Rs. 3200 crores. The provisional attachments of benami properties, amounting to approx. Rs.170 crore have been confirmed by the Adjudicating Authority.
- (ii) Post demonetization enforcement actions were intensified by the ITD. As an outcome, more than 1,100 search, seizure and survey actions were taken by the ITD during the period 9th November 2016 to 10th January 2017 wherein undisclosed income detected in these actions (as on 10th January 2017) was more than Rs. 6,000 crores. These actions led to seizure of valuables of more than Rs. 610 crore, which includes cash of approx. Rs. 515 crore (including new currency of more than Rs 110 crore).
- (iii) During F.Y. 2017-18, search and seizure actions were carried out in over 580 groups. The actions in these cases led to seizure of assets worth over Rs. 990 crores and an admission of undisclosed income of over Rs. 15700 crores.

- (iv) The Income-tax Department seizes the unexplained assets like cash, jewellery etc. found during the search and seizure operations. On the basis of the evidences gathered during search operation and the subsequent investigation, tax assessments are finalized and a tax demand is raised. However, the income assessed and the tax thereupon get crystallised conclusively only when appeals, if any, preferred before CIT(A), ITAT, High Court and Hon'ble Supreme Court are decided. Hence, the outcomes of the inquiry conducted and the actual amount of recovery and revenue generated to Government can be determined only after the finalization of these appeals. Taxes collected by the ITD form part of the revenues of Union Government.

III. "The Committee are concerned about the prevalence of black money in the economy by way of virtual currency etc., and would thus like to be apprised about the monitoring by the Department regarding generation of such unaccounted income through these alternate forms such as bitcoins and the extent to which they have been able to contain it. A detailed action taken reply may be furnished to the Committee in the matter."

The scope of total income for taxation as provided in section 5 of the Income Tax Act, 1961, envisages total income to include all income from whatever source derived. Thus, it is a settled position that for taxation purposes, the legality of income is of no consequence. Under the existing provisions of the Income-tax Act, 1961, the gains arising from the transfer of crypto currencies is liable to tax depending upon the nature of holding of the same.

The Income Tax Department conducted surveys u/s 133A of the IT Act, 1961 on several Bitcoin/Crypto currency exchanges in December, 2017. Notices were issued in appropriate/high risk cases. Verifications conducted so far have resulted in admission of additional income of approximately Rs. 95 crores. Further inquiries are going on.

The Union Finance Minister in his budget speech in 2018 had clarified that the Government does not consider crypto-currencies legal tender or coin and will take all measures to eliminate use of these crypto-assets in financing illegitimate activities or as part of the payment system. The RBI thereafter vide circular dated 6/4/2018 has prohibited with immediate effect all entities regulated by it from dealing in virtual currencies or providing services for facilitating any person or entity in dealing with or settling Virtual currency transactions.

IV. "The Committee would seek to be re-assured in this regard by the Department of Revenue that the quantum of unaccounted money in the economy has become minimal post-demonetisation."

Due to various enforcement measures taken by the Department post demonetization, there has been an exceptional surge in the quantum of revenue collection and increase in the tax base. Net direct tax collections for 2017-18 amounted to Rs. 10.03 lakh crore, which is **18%** higher than the collections for 2016-17. The collections for 2016-17 were also 14.6% higher than the collections for 2015-16. On the other hand, the growth rates in 2015-16 and 2014-15 were only 6.6% and 9.0%, respectively. The growth rate of 18% for 2017-18 is the highest in last seven financial years.

There has also been remarkable growth in the revenue flow from Advance Tax and Self-Assessment Tax under Personal Income Tax (PIT). In 2017-18, PIT Advance Tax collections increased by **23.4%** and PIT Self-Assessment Tax by **29.2%** over those for 2016-17, corroborating the premise that demonetization and the subsequent use of bank deposit data by the I-T Department had a major impact on voluntary tax payments by the non-corporate/ individual taxpayers.

The robust growth in direct tax revenue in the year of demonetization and the year after that is indicative of a positive impact of demonetization on the level of tax compliance in the country and of the fact that substantial portion of the unaccounted money has been deposited in bank accounts and offered for taxation.

During FY 2017-18, **6.86 crore Income Tax Returns (ITRs)** were filed with the Income Tax Department as compared to 5.48 crore ITRs filed during FY 2016-17, showing a growth of **25%**. This growth rate is the best growth rate achieved in last five years. There was also a 19% increase in the number of ITRs filed in 2016-17 over the figures of 2015-16.

During FY 2017-18, the number of **new ITR filers** has also increased to **1.07 crore** as compared to 85.51 lakh new ITR filers added during FY 2016-17, which translates into a growth of **25%**. In 2016-17 also, 85.51 lakh new return filers were added at a growth rate of **29%**. In earlier years, the new filers were between 50 lakh and 66 lakh.

During FY 2017-18, **938,620** returns by corporate taxpayers were filed as compared to 801,115 returns filed during FY 2016-17, showing a growth of **17.2%**. This growth rate is more than 5 times higher than the growth rate of 3.0% in 2016-17 and 3.5% in 2015-16.

The spurt in I-T returns filed in the year of demonetization and the following year is a definite indicator of raised compliance level in the wake of demonetization and consequent reduction in unaccounted income and non-filers/ tax evaders to that extent.

[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl.,
dated 09.07.2018]

Recommendation (Sl. No. 9)

Non-Filers

6. The Committee note that there has been a huge quantum of non-filers with potential tax liabilities, discovered under the Non-Filer Monitoring System (NMS), in Cycle 6 (2017), 35.10 lakh cases have been identified, with a decline from the figures of Cycle 5 (2016), where 67.54 lakh cases were identified. Therefore, the Committee observe that apart from a comprehensive data collection/mining mechanism along with clearly targeted non-intrusive follow-up action has been yielding some results for the department. While taking cognizance of this initiative of the Government, the Committee would thus expect this momentum to be sustained.

Reply of the Government

The recommendations of the Hon'ble Committee are noted.

Cycle 6 of NMS has run its course. The number of identified non-filers in Cycle 6 were 35,25,783. Out of this, only 32,00,914 cases were pushed on the Compliance Portal of Project Insight because in 3,24,869 cases, ITRs had been received before pushing data on Compliance Portal. In 8,31,281 cases, ITRs have been filed and self-assessment tax of Rs. 1572.47 Crores have been received.

The following actions have been taken during the financial year:

- (a) E-Mails and SMS campaign were used to make target segment aware about identification of non-filers and requirement of submission of information by them on compliance portal.
- (b) A new functionality "Compliance Portal" has been developed under Project Insight platform to enable taxpayer to submit a detailed response.

In addition to the above, cases were pushed for Field Formation for further follow up action.

Cycle 7 of NMS has been initiated and total number of non-filers identified are 38,81,233. The NMS programme of the Government shall continue to operate in full momentum, apart from the efforts made by the field units at local level to educate the taxpayer groups and promote voluntary compliance.

In F.Y. 2017-18, the Government added 1.07 crore new I-T return filers, taking the total number of returns filed to 6.86 crore.

**[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl.,
dated 09.07.2018]**

Recommendation (Sl. No. 10)

Goods and Service Tax (GST)

7. The Committee are constrained to observe the not-so-encouraging monthly revenue collections from GST, which still have not stabilized with frequent changes in rates and issue of notifications every now and then. Further, the Committee are surprised to learn that no GST revenue targets have been fixed by the Government. The frequent revisions in rates has no doubt affected the regime stability, with adverse impact on trade and business. The States have also been reporting losses in collection, which will only increase the compensation budget of the Central Government. The Committee hope the grievances of the States, if any, will be duly addressed under the mechanism of the GST Council so that the financial health of the States does not suffer. The Committee would expect the Government to sort out all the lingering issues relating to GST soon, including the operational problems/hassles faced by businesses, particularly the smaller ones. Representations received in this regard should be disposed in a structured manner within a given time-frame. The Committee would also like to caution that the Department of Revenue should ever remain alert and vigilant on the possibility of revenue leakages, evasion and collusion in the course of GST implementation. Greater awareness also needs to be created among the traders about the GST structure, the need for its implementation and the punitive action in case of non-compliance.

Reply of the Government

GST is a historic tax reform which has completely transformed the indirect tax administration landscape of India. Some initial teething troubles were faced especially with respect to compliance requirements for the trade and industry. However, the representations received from the trade and industry has been thoroughly examined and suggestions/issues emerging from the same are regularly put forward to the GST Council for consideration and further decision. The decisions taken by the GST Council are then promptly implemented via issuance of relevant notifications and Circulars by the Central and State Governments.

It is further stated that various decisions have been taken by the GST Council for improving the ease of doing business for small tax payers in its various meetings:

1. Increase in the aggregate annual turnover threshold for eligibility under the composition scheme from Rs. 75 lakh to Rs. one crore for 27 States (including Jammu & Kashmir and Uttarakhand).
2. Increase in the aggregate annual turnover threshold for eligibility under the Composition scheme from Rs. 50 lakh to Rs. 75 lakh for Special Category States (as specified in sub-clause (g) of clause (4) of article 279A of the Constitution) other than Jammu & Kashmir and Uttarakhand.
3. Taxpayers having annual turnover of up to Rs.1.5 crore in the previous year provided with an option to file quarterly Returns.

4. Registered persons making supply of goods to make payment of tax on issuance of invoice and not at the time when advances are received.
5. Suspension of the application of reverse charge mechanism under Section 9(4) of the CGST/SGST Acts, 2017 and Section 5(4) of the IGST Act, 2017 till 31 March, 2018 for all categories of registered persons
6. Uniform rate of tax @1% under Composition scheme for manufacturers and traders. The turnover of taxable goods to be considered for eligibility for the Composition scheme for traders.
7. Supply of exempted services by Composition taxpayer will be allowed and the same will not be taken into account while computing the aggregate turnover.
8. Amount of late fee payable for delayed filing of return in Form GSTR-3B by a taxpayer whose tax liability for the month was 'Nil' reduced to Rs.20/- per day (Rs.10/- per day each under CGST &SGST Acts) subject to maximum Rs.5000/- under each Act from October, 2017.
9. The amount of late fee payable for delayed filing of return in Form GSTR-3B by other taxpayers reduced to Rs. 50/- per day (Rs. 25/- per day each under CGST&SGST Acts) subject to maximum Rs.5000/- under each Act from October, 2017.
10. The filing of returns by the taxpayers has been simplified by continuing the GSTR-3B return up to June, 2018. The filing of FORM GSTR-2 and GSTR-3 has been kept in abeyance till further notice.

In view of the possibility of revenue leakages, evasion and collusion in the course of GST implementation, the provisions of e-way bill has been introduced for inter-state movement of goods from 1st of April, 2018, and in a phased manner for intra-state movement where the value of the consignment exceeds Rs. 50000. Other steps like verification of inputs tax credit availed under the prior laws which have been carried forward in the GST regime as per FORM GST TRAN-I is also being done to ascertain anomalies and prevent revenue leakages.

Further, in view of the massive change brought about at the systemic level in the wake of implementation of GST, a massive awareness campaign has been conducted to spread information and awareness about the various provisions of the law amongst all persons at the various selling points. The Government is regularly issuing advertisements in the Media (Print/Voice/Visual) to educate the taxpayers about GST laws and procedures. Further, CBEC has conducted various workshops and town hall meetings to educate the taxpayers in this regard. In addition to this, social media (Twitter) has also been extensively used for disseminating information regarding GST laws, rules and tax rates. F AQs on various topics have been issued and printed in all the major daily newspapers by the Government to spread awareness about the GST laws, procedures and tax rates.

**[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl.,
dated 09.07.2018]**

Recommendation (Sl. No. 11)

Cess / Surcharges

8. The Government has been scrupulously collecting cesses and surcharges from the tax payers in recent years. This has no doubt added to their increasing tax burden. The Committee would now expect these cesses and surcharges to be clearly demarcated and utilized fully and solely for the designated purposes, so that the intended visible outcomes can be seen in those specified developmental areas. The budget should appropriately incorporate a statement in this regard indicating the collection and utilization details of cess/ surcharge.

Reply of the Government

Levy and collection

Certain levies are collected as part of Central taxes in the form of cess to finance the dedicated expenditure of the Government. These levies in the form of 'cess' or 'surcharge' are levied through Finance Bills, with due authorisation from Parliament. For example, 'Primary Education Cess' was levied and collected as part of Major taxes such as 'Union Excise Duties', 'Customs', 'Income Tax', 'Corporation Tax' and 'Service Tax'. This collection is utilized towards implementation of 'Sarva Shiksha Abhiyan' and 'Mid-Day Meal' Scheme of the Union Government. Similarly, in the case of 'diesel cess' (commonly known as road cess) is collected as Additional Central Excise Duty on High Speed Diesel and Motor Spirit (Petrol). The collection so made is utilised for development of roads, national highways, rural roads and safety related expenditure of Railways.

Budgetary process

All such levies are credited into Consolidated Fund of India under Article 266(1) of the Constitution of India. Distribution and utilisation of these proceeds are made through budget of the Union Government. These are provided in different demands for grants of Ministries/Departments, responsible for implementing the scheme. Thus, withdrawal from Consolidated Fund of India for specified purposes financed by the cess collection is approved through Appropriation Act by Parliament, in terms of Article 114(3) of the Constitution of India.

Reserve/Corpus Funds

Certain reserve/corpus funds are constituted and operated in the Public Account of India to regulate the inflows/outflows of such cess collection, if the order of cess collection is large. For example, 'Prarambhiik Shiksha Kosh' is constituted and operated in the Public Account to regulate the receipts and expenditure out of 'Primary Education Cess'. Similarly, 'Central Road Fund' is maintained and operated in the Public Account to regulate the receipts and expenditure to finance the schemes identified in the Central Road Fund Act, 2000. National Clean Energy Fund, National Disaster Respond Fund, Rashtriya Swachhata Kosh are other major funds, constituted and operated in the Public Account of India for regulating the receipts and expenditure from the receipts collected in the form of cess.

Cabinet had approved on 16.8.2017 constitution of a dedicated reserve fund in Public Account for financing the higher education from the Higher & Secondary Cess.

Budgetary mechanism

The 'transfers to the Fund' and 'withdrawals (utilisation) from the Fund' kept in the Public Account on specified purposes are approved by Parliament through Demands for Grants of Ministries/Departments concerned. The budget provision for operation of 'Prarambhik Shiksha Kosh' for the purpose of implementation of 'Sarva Shiksha Kosh' and 'Mid-Day Meal' scheme are made in the Demands for Grants of Department of School Education and Literacy under the Ministry of Human Resource Development.

Cases where reserve/corpus funds are not created

Cesses, for which dedicated reserve/corpus funds are not created in the Public Account, are credited to Consolidated Fund of India and funds of those are utilized, after due authorisation by Parliament through Budget/Demands for Grants, on development of dedicated sector or implementation of schemes. For example, cess on tea, cess on rubber are utilized towards development of Tea Board and Rubber Board through normal budgetary mechanism.

Gap in utilisation

There used to be short transfer to the reserve/corpus funds kept in the Public Account. Generally, transfers to the reserve/corpus funds are based on the absorptive capacity of the Ministry/Department to spend, trend of expenditure and trend of implementation of the scheme. Since the balances available in the Fund are non-lapsable at the close of the financial year, it has been the endeavour of Government to ensure that moneys are not lying unutilised in the Public Account. It may not be out of place that the Standing Committee on Finance had, in its second report on the Demands for Grants of Ministry of Finance for the year 2014-15, recommended that the unutilized funds/funds kept idle for more than two years may be transferred back to Consolidated Fund of India so that such funds could be utilized for other prioritized schemes. (Paragraph 8 of the Report *ibid*).

Statement on utilisation of cess proceeds

A statement showing list of cesses collected and utilisation of such proceeds for the period commencing from 2012-13 to 2016-17 (Actuals) and 2017-18 (RE) is attached as **Annexure-I**.

Budget document (Expenditure Profile) already has a separate statement showing the flow of funds through major reserve/corpus funds operated in Public Account of India. The Receipt Budget also shows the estimated/action collection of various cesses in budget (Revised/Budget Estimates for the current year, Budget Estimates for the ensuing year and actuals for the previous year).

[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl.,
dated 09.07.2018]

Recommendation (Sl. No. 12)

Tax Relief under Salaries head

9. The Committee note that hardly any tax relief has been provided to the salaried tax payers in this Budget, in spite of their steady and significant contribution to the exchequer by way of 100% TDS on their income earned as salary. The exemption limit and the tax slabs have been left unchanged for past few years, liberalization of which the honest tax payers had been long expecting from the Government. The relief sought to be provided as standard deduction of 40,000 from annual income turns out to be an eyewash, as reimbursement of medical expenses/allowances and exemption under transport allowance are required to be deducted from the standard deduction. The Committee believe that honest and diligent tax payers should be duly rewarded and accordingly provided some concrete and real tax relief in the Budget. The Committee would therefore recommend that the standard deduction proposed in the Budget should be given absolutely without any deductions and preconditions. The consequential deficit/ gaps in estimated tax collections, which would be small, can very well be bridged/ adjusted by greater efforts by the income tax department to collect more revenue by way of 'presumptive tax' or income tax from buoyant categories, paying tax under the head 'income from business and profession', as tax collection under the head 'salary', by its very nature tends to be inelastic, offering little scope for departmental interventions.

Reply of the Government

Finance Act, 2018 has amended section 16 of the Act to provide that a taxpayer having income chargeable under the head "Salaries" shall be allowed a deduction of Rs.40,000/- or the amount of salary, whichever is less, for computing his taxable income. In this context, it may be noted that large number of allowances which, are granted to an employee to meet expenses wholly, necessarily and exclusively incurred in the performance of duties of an office or employment of profit, are exempt. Further, since a large number of perquisites are either fully exempt or taxed at concessional rate, the effective tax burden on the salaried class is also substantially reduced.

Further, while computing the income under any other head of income (profits and gains of business or profession, house property, capital gains or income from other sources) only such expenses are allowed which have been incurred for the purposes of earning income under that particular head. 'Salary' is the only head of income where allowances granted to meet expenses incidental to employment are already exempt. Now that notional expenditure in the nature of standard deduction has been allowed, two individual itemised deductions have been withdrawn. This shall make the law simple and reduce paperwork & compliance cost both at the level of employee and the employer.

Moreover, in previous years, the Government has already increased the exemption threshold for tax from Rs. 2 lakh to Rs.2.5 lakh, reduced the tax rate in the first slab of income (up to Rs.5 lakh) from 10% to 5% and increased the deductions on

account of savings from Rs.1 lakh to Rs.1.5 lakh. These measures have resulted in substantial tax benefits to all taxpayers, including the salaried taxpayers.

Therefore, it is submitted that there are no grounds at this stage to review to existing position in respect of standard deduction in the Act.

[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl.,
dated 09.07.2018]

Recommendation (Sl. No. 13)

National Academy of Direct Taxes (NADT)

10. During their recent study visit to National Academy of Direct Taxes (NADT) in Nagpur on 15th January, 2018, the Committee observed that NADT has the potential to be developed as an apex training cum research institution of financial matters including economic crimes and digital forensics. Keeping in view the ever-increasing need to pre-empt financial and cyber frauds and the focus of the government on capacity building for tackling cyber-crime besides training in methods, techniques and strategies of fiscal policy and financial scrutiny vested in prevalent socio-political context of the country and international environment, the Committee would recommend that for broad-based training, research and analysis in financial / economic and forensic areas, NADT may be considered appropriately as an apex training institute, so that their expertise can be further developed and channelized. The Committee feel that such investment by the government by the Government would yield a very high return in terms of higher resource mobilization and collection of taxes.

Reply of the Government

The recommendation of the Committee has been noted. NADT is already the apex training institute for direct tax administration in the country and has also been organizing several training/capacity building courses for other Group 'A' services and for revenue officers of other countries. Measures to further expand the scope of training programmes and improve the standards of infrastructure and pedagogy shall be taken by the Government in due course.

[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl.,
dated 09.07.2018]

Recommendation (Sl. No. 14)

Rationalization of Levies in Telecom Sector

11. Upon taking cognizance of the current plight of our telecom sector, the Committee recommend that taxation issues relating to the debt- ridden telecom sector (which is relatively in nascent stage), with a cumulative levy imposed in the range of 25 -29% of revenue, required to be pragmatically addressed, so that telecom/ digital

network can expand fast, while ensuring service quality to the public. The USFO Fund should be deployed and utilized for strengthening the network/ service of telecom PSUs.

Reply of the Government

It is stated that there is no separate levy of income-tax on the telecom sector. Under the Income-Tax Act, 1961, all companies are required to pay income-tax and the rate of tax is based on the turnover of the company. For FY 2018-19, the rates of income-tax on domestic companies have been specified in the First Schedule of Finance Act, 2018 and are as follows:

- i. for domestic companies with turnover of up to Rs. 250 crore in FY 2016-17, the rate of income-tax is 25% of the total income (plus applicable surcharge);
- ii. for all other domestic companies, the rate of income-tax is 30% of the total income (plus applicable surcharge).

Loss-making companies (including those in the telecom sector) are not required to pay income-tax. Further, profit-making telecom sector companies are required to pay income-tax only after adjusting any brought forward losses. Moreover, telecom sector companies also qualify for benefits under section 35ABA and 35ABB of the Income-Tax Act, 1961, wherein they are allowed deduction of appropriate fraction of expenditure incurred to obtain spectrum to operate telecom services and the right to use such spectrum.

Information received from Ministry of Telecommunication

The issue of levies on telecom sector has been taken care of in the proposed draft of new National Digital Telecom Policy 2018. The relevant clauses from the Draft policy are as below:

- 1.1 e) Improve international connectivity and reduce the cost of international bandwidth by facilitating setting up of International Cable Landing Stations by rationalising access charges and removing regulatory hurdles
- 1.2 d iv) Rationalizing annual royalty charges for microwave links for backhaul connectivity
- 1.3 b iii) Rationalizing satellite transponder, spectrum charges and charges payable to WPC
- 1.5c iii) Rationalizing of taxes and levies on the manufacture, production and import of such equipment for digital communication technologies
- 2.1 b i) Rationalizing Spectrum Usage Charges (SUCs) to reflect the costs of regulation and administration of spectrum
- 2.5 a i) Rationalizing taxes, levies and differential duties to incentivize local manufacturing of equipment, networks and devices to the extent of domestic value addition.

The Universal Service Support Policy for provision of telecom facilities in rural and remote areas of the country came into effect from 01.04.2002. Subsequently, the Indian Telegraph Act, 1885 was amended vide the Indian Telegraph (Amendment) Act, 2003 thereby creating Universal Service Obligation Fund (USOF). The USO Fund was established with *the fundamental objective of providing access to telecom services to people in the rural and remote areas at affordable and reasonable prices*. Subsequently, the scope was widened to provide subsidy support for enabling access to all types of telecom services including mobile services, broadband connectivity and creation of infrastructure like OFC backhaul network in rural and remote areas.

Further, as per Section 526 of the Indian Telegraph (Amendment) Rules, 2004 inter alia stated that “*Criteria for selection of Universal Service Provider. – The selection of the Universal Service Provider shall be made by a bidding process from amongst the eligible operators*”

The mandate of USOF as stated above does not pertain to strengthening of network of telecom PSUs but mainly deals with extension of telecom services in rural & remote areas. However, some of the USOF projects are being implemented through PSUs viz., BSNL, BBNL, TCIL on nomination basis. The projects are given to telecom PSUs on nomination basis by amendment of ITR Act. Few schemes that invariably focus on telecom network of PSUs are BharatNet, Provision of Mobile Services in Left Wing Extremism Areas (Phase-I), Provision of Mobile Services in Arunachal Pradesh & 2 District of Assam, OFC Augmentation under Transmission Media Plan, Setting up of Wi-Fi Hotspots and some schemes under Comprehensive Telecom Development Plan for Islands.

[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl., dated 09.07.2018]

Recommendation (Sl. No. 15)

12. The Committee note that the proposal to tax long term capital gains exceeding Rs.1 lakh at the rate of 10% without allowing the benefit of any indexation may not serve the interests of small investors, who are now venturing into the stock market for long-term investment. Therefore, it is necessary that a clear distinction be made between the investments of a small/ retail investor and the bigger entities like institutions and corporates. Therefore, keeping this equity rationale in mind, the Committee would recommend that the exemption limit for capital gains may be enhanced to Rs. 2 lakh which would reasonably protect the small investors.

Reply of the Government

Tax on long-term capital gains exceeding Rs 1 lakh at the rate of 10% without indexation is over and above the basic exemption limit of Rs. 2.5 lakhs. Thus, a person having income of Rs 3.5 lakhs from long-term capital gains shall not be required to pay any tax on that amount. In view of this, the levy of capital gain tax shall not impact small tax payers.

[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl., dated 09.07.2018]

(Recommendation Sl. No. 16)

Members Salary and Allowances

13. The Committee are of the view that the Salaries and Allowances of Members of Parliament should not be made part of the Finance Bill, as the Constitution clearly stipulates that they should be considered as a separate Bill or an amendment Bill. The Committee desire that while dealing with this issue, the propriety of bringing this in the Finance Bill vis-à-vis the Salary allowances and Pension of Members of Parliament Act, 1954 should be considered in accordance with the provision of the Constitution.

Reply of the Government

Matter relating to Salaries and Allowances of Members of Parliament vis-à-vis the Members Salary and Allowances (MSA) Act is a financial matter and insertion of relevant provisions in Finance Bill, 2018 has the concurrence of the Speaker of Lok Sabha. In this context, as per Article 110(3), the decision of Speaker is final.

**[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl.,
dated 09.07.2018]**

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

(Recommendation Sl. No. 3)

Non -Tax Revenue

The Committee have taken note of the general trend in non-tax revenue which has shown a declining trend over the years. Non- Tax revenue in 2017-18 (BE) was rs. 2,88,757 crore, whereas the RE was pegged down to Rs. 2,35,974 crore which has been now revised in BE for 2018-19 as Rs.2,45,089 crore. The actuals for the year 2016-17 has been stated as Rs.2,72,831 crore. No actuals has been provided for the year 2017-18. The committee would, therefore, suggest that the Department should look into the reasons behind such reduction in collection of non-tax revenue and take necessary measures for enhanced revenue mobilization including additional avenues thereof. The Government should think of alternate options, such as utilization of surplus land for commercial exploitation instead of just depending on disinvestment of PSUs alone, which is akin to selling the family silver.

Reply of the Government

The observation of the Committee is noted for future reference. The suggestion of the Committee to utilize surplus land for commercial exploitation has been sent to the concerned Ministry i.e. Ministry of Housing & Urban Affairs for further necessary action.

**[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl.,
dated 09.07.2018]**

Comments of the Committee

(Please see Para No. 10 of Chapter I)

(Recommendation Sl. No. 5)

Refunds

The Committee are alarmed to observe that in direct tax, more than Rs. 1.26 lakhcore has been paid as refunds upto January, 2018 (for FY 2017-18) with interest outgo of Rs. 10,312 crore (in FY 2016-17), which has substantially increased from Rs. 6889 crore in FY 2015-16. This raises an apprehension that the assesseees may be constrained to pay excess advance tax to fulfill revenue targets of the Department. Such over-estimation naturally results in excess refund of taxes. Also, there is an

apprehension that this practice of excess refunds may encourage connivance between tax officials and assesseees to the detriment of the Department. The provisional figures of refund in indirect taxes is also alarmingly pegged at Rs. 47,218 crore. Therefore, the Committee desire that the Department must look into the reasons behind excess refunds and accordingly take corrective measures.

Reply of the Government

Direct Tax

Processing, determination, issuance and encashment of Income-tax refunds is an ongoing and computer driven process, largely operated by the Centralized Processing Centres at Bangalore and Ghaziabad. It does not involve any direct interface with the tax payer. Connivance between tax officials and assesseees is, therefore, reduced to a minimum. With the aim of widening the tax base, various measures have been taken by the Department which have resulted in sustained increase in the number of ITRs filed in the last four financial years as follows:-

FY	Total ITRs Filed (including revised)	Number of Refunds Generated	Total Amount of Refund paid (in ₹ Crore)	Percentage of refunds to number of returns
2014-15	4,24,80,486	135,78,605	1,12,198	31.96
2015-16	4,75,26,241	210,22,122	1,22,266	44.23
2016-17	5,49,37,217	175,66,508	1,19,293	31.97
2017-18	6,84,93,894	195,16,877	1,26,731	28.49

The above table shows that there has been an increase both in the total number of ITRs filed and the quantum of refunds issued. However, in percentage terms the amount of refunds issued vis a vis the number of returns filed has decreased both in FYs 2016-17 and 2017-18, allaying apprehensions that revenue targets are fulfilled by compelling taxpayers to pay more advance tax. Moreover, only a small part of the total refund is on account of excess Advance Tax paid while the bulk of the refunds arise due to excess TDS and orders of Courts/Tribunal. However, the Government is taking various measures to expedite timely issuance of refund so that the burden of interest is minimized.

Indirect Tax

As per Pr CCA, CBEC revenue reports, the provisional figure of total indirect tax refund, duty drawback and GST refund (including ITC & IGST refund to exporters) in FY 2017-18 is Rs.70,732 Crore which is -1.4% less than the actual refunds in FY 2016-17 of Rs.71,702 Crore. The refunds are issued by the CBIC, DoR under legal provisions / rules and after proper verification of refunds (s) claimed / filed by assesseees/ exporters.

[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl.,
dated 09.07.2018]

Comments of the Committee

(Please see Para No. 15 of Chapter I)

Recommendation (Sl. No. 7)

Pendency of Appeal Cases

The Committee are also extremely concerned about the latest figures of pending appeals, wherein in respect of direct taxes nearly 4.8 lakh appeals are pending at different fora with corresponding tax effect (excluding ITAT) of approx. Rs. 8 lakh crore. As far as indirect taxes are concerned, more than Rs. 1.93 lakh crore is locked in appeals at various fora. Cumulatively thus, more than Rs. 10 lakh crore is locked in appeals at various fora (no tax effect locked up in appeal is maintained by ITAT Registry). Further, a big chunk of appeals are also pending at the level of Tribunal, High Courts and Supreme Court. The Committee are surprised that large number of appeals are still going to the High Courts in spite of the Tribunals being in place, which were created in the first place only to relieve the courts of their burden as also to fast track the process. This purpose does not seem to have been served. The functioning of these Tribunals should therefore be reviewed.

Further, considering that most of the departmental appeals get quashed, the Committee would like to recommend for review and bring out a pragmatic National Litigation Policy to reduce unnecessary litigation from Government side and for reducing the pendency at various fora.

Reply of the Government

Direct Tax

V. The Hon'ble Committee has observed that in 4.8 lakhs of appeals pending before all fora, tax effect around 8 lakh crores (excluding ITAT) of direct taxes is locked in appeals. In this regard, it is submitted that total tax effect of 8.72 lakh crore (excluding ITAT) is locked in 4,60,220 appeals. The details are as under: -

Appellate Authority	No. of appeals pending during 2017-18	Tax effect involved (in crores)
CIT(A)	3,21,843	6,37,897
ITAT	92,766	Data not maintained by ITAT registry
HC	39,028	2,23,404
SC	6583	10,923
Total	4,60,220	8,72,213

Note:

- The figures for pendency of appeals and tax effect locked is as per data provided by R&S Wing for HC and SC for the quarter ending Dec, 2017. However, the figures for CsIT(A) are as per ITBA data as on 31.03.2018

- *The figures of pendency for ITAT are based upon the flash figures of ITAT Registry, Mumbai for FY 2017-18 as on 31.03.2018.*

From the above, it is noticed that more than 50 % of the total tax effect locked in appeals pertains to the appeals pending before CsIT(A). Taking cognizance of the high tax effect locked in appeals before the CsIT(A), the CBDT had issued directions to the CsIT(A) in F.Y 2016-17 for the disposal of appeals having tax effect of more than Rs.100 crore. This has resulted in disputed demand of Rs.1.92 lakh crore being unlocked in 362 appeals. In FY 2017-18 also, the CsIT(A) have been directed to dispose of all appeals involving tax effect of above 50 crore pending on 31.03.2017. Till 31.03.2018, 10846 such appeals have already been disposed of unlocking tax effect of Rs. 3.61 lakh crore.

VI. The Committee has further observed that big chunk of appeals is pending with ITAT, High Courts (HC) & Supreme Court (SC) and large numbers of appeals are still going to the HC.

The details of pendency of appeals before all forums during the FY 2017-18 are as under: -

Appellate Authority	No. of appeals pending	% of appeals pending against the total pendency
CIT (A)	3,21,843	70%
ITAT	92,766	20.1%
HC	39,028	8.4%
SC	6583	1.43%
Total	4,60,220	100 %

- *The figures for pendency of appeals is as per data provided by R&S Wing for HC and SC for the quarter ending Dec, 2017. However, the figures for CsIT(A) are as per ITBA data as on 31.03.2018*
- *The figures of pendency for ITAT are based upon the flash figures of ITAT Registry, Mumbai for FY 2017-18 as on 31.03.2018.*

From the above it is seen that, out of total pendency of 4,60,220 appeals in F.Y. 2017-18; 1,38,377 appeals are pending with ITAT, HC & SC which is around 30% of the total pendency of appeals before all fora and out of them only 39,028 appeals i.e. 8.48% are pending before the HC. Balance 3,31,843 appeals are pending with CIT(A).

In view of the fact that the pendency of appeals before CIT(A) was much more as compared to the other fora, the Department has focussed on reducing the pendency before CsIT(A). Accordingly, the target for disposal of appeals by CsIT(A) was increased in the Central Action Plan for FY 2017-18. Due to increased target for disposal of appeals before CsIT(A), the disposal of appeals as a percentage of appeals instituted has gone up considerably for FY 2017-18. The data for the same is as per the following chart:

Financial Year	Appeals instituted	Appeals disposed	% of Disposal to Institution
2014-15*	97,866	73,736	75%
2015-16*	1,20,265	94,093	78%
2016-17*	1,48,454	1,17,945	79%
2017-18 (As per ITBA)	1,17,150	1,23,480	105%

*Source: R&S Wing

VII. Sub-section (3) of section 255 of the Act has been amended vide Finance Act, 2016, so as to provide that a bench constituted of a single member of ITAT may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifty lakh rupees.

Since the administrative control of ITAT is not in the purview of this Department, a separate O.M. is being issued to MOLJ to take appropriate action on the aforesaid observations of the Hon'ble Committee.

VIII. The following steps taken to reduce unnecessary litigation from Government side and for reducing the pendency at various fora may be mentioned:

Legislative steps:

- (a) Vide Finance Act, 2016, in line with the decision of the Government to minimise litigation, sub-sections (2A) and (3A) of section 253 of the Act were omitted to do away with the filing of appeal by the AO against the order of the DRP. Consequent amendments have been made in sub-section (3A) and (4) of the said provision.
- (b) The safe harbour rules, i.e., the circumstances in which the income-tax authorities shall accept the transfer price declared by the assessee, for International Transactions and Specified Domestic Transactions were liberalised.
- (c) The transfer pricing regime has been modified to bring it in line with international best practices. The "range concept" and use of "multiple year data" has been allowed. This would lead to certainty and reduction of disputes in the area of transfer pricing.
- (d) Sub-section (3) of section 255 of the Act has been amended vide Finance Act, 2016, so as to provide that a bench constituted of a single member of ITAT may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifty lakh rupees.
- (e) In order to reduce the huge backlog of cases and to enable the Government to realise its dues expeditiously, 'the Direct Tax Dispute Resolution Scheme, 2016' was introduced in relation to tax arrears in respect of which appeals pending before the Commissioner of Income-tax (Appeals) or the Commissioner of

Wealth-tax (Appeals) as on 29th February, 2016 and in respect of any tax determined in consequence of or is validated by an amendment made with retrospective effect in the Act or Wealth-tax Act, as the case may be, for a period prior to the date of enactment of such amendment and a dispute in respect of which was pending as on said date. The Direct Tax Dispute Resolution Scheme was operative till 31.01.2017. The scheme provided certain benefits subject to fulfilment of specific conditions. Under this scheme, 8653 orders have been passed resulting in tax collection to the tune of Rs.631 crore.

Other steps:

- (a) The Department has initiated several measures for reducing litigation with the Tax-payer. One of such measures is the creation of a platform in the form of Central Technical Committee (CTC) to formulate Departmental view on contentious issues. The CTC examines contentious issues and suggests for issue of circulars or amendments in the Act. From August 2012 to December 2017, 30 circulars clarifying the Departmental view on contentious issues have been issued by the CBDT on the basis of inputs provided by the CTC. Further, up to December 2017, 27 references have been submitted to the TPL Division of CBDT, suggesting amendments. Further, the Department is taking steps to identify issues, which have been accepted by the Department and also to give wide publicity of these issues so that the officers of Department, as well as the Tax-payers, will be aware, which will reduce the litigation.
- (b) Standard procedure for applying provisions u/s 14A and 68 of the Income Tax Act which were generating substantial litigation have been issued. The standard procedure for recording satisfaction u/s 147 has also been issued. It is expected that these will go a long way in minimizing litigation.
- (c) Two broad categories of appeals pending before CIT (A) are those having tax effect locked in appeals below and above Rs.10 lakh. 66% of the appeals in numbers where tax effect is below Rs. 10 lakh account for only 1.6% of tax effect, whereas 34% of the high demand appeals involving tax effect of more than 10 lakh account for 98.4% of the total tax effect locked in all appeals before CIT (A). Taking cognizance of the high tax effect locked in such appeals, the Board had issued directions in F.Y 2016-17 for disposal of appeals having tax effect of more than Rs.100 crore. This resulted in disputed demands of Rs.1.92 lakh crore being unlocked in 362 appeals. This Financial Year also the CIT(A) have been directed to dispose of all appeals involving tax effect of above 50 cr. which are pending on 31.03.2017. Till 31.01.2018, 669 such appeals have already been disposed of unlocking tax effect of Rs. 2.14 lakh crore.
- (d) In order to increase disposal by CIT(A) the target for disposal has been increased.
- (e) The monetary limits for filing appeals before ITAT, HC & SC have been enhanced with retrospective effect with the directions to withdraw appeals covered by the new monetary limits.

- (f) Extensive workshops are held by the Directorate of Income Tax (Legal & Research) at various field stations and Training Institutes to sensitize/train officers about improving quality of litigation.
- (g) Field formations have been directed to move applications for early hearings, in consultation with the Counsel, in cases which are pending before various appellate forums. Instructions have been issued that Departmental Representatives before ITAT should desist from taking adjournments, particularly in the cases where demand has been stayed. It has also been directed that proper representation must be ensured before ITAT.
- (h) Department has introduced a new functionality of CsIT(A) on the Income Tax Business Application platform for e-filing of the appeals before CsIT (A). The same ensures transparency and ease of doing business. About 85% of the 1.42 lakh appeals filed in FY 2016-17 were e-filed on ITBA. Filing of appeals and their disposal of the same is recorded on ITBA. ITBA has enabled generation of MIS for effective monitoring of appeals.
- (i) The Central Board of Direct Taxes has taken up an initiative to create an electronic database containing all appeals and decisions of the ITATs, High Courts and the Supreme Court of India, in Direct Tax matters. This project is titled as "National Judicial Reference System"(NJRS) and is a repository of appeals and judgments. It will help in identifying issues, that have already attained finality avoiding litigation on settled issues, bunching of similar cases, prioritization of important cases, capacity building and in tax policy analysis.
- (j) The Central Board of Direct Taxes has entered into several Advance Pricing Agreements (APAs) to avoid disputes relating to transfer pricing and international taxation. A total number of 189 APAs have been signed by CBDT till December, 2017 which includes 173 Unilateral APAs and 16 Bilateral APAs.
- (k) Disputes relating to transfer pricing and international taxation are also resolved through the mechanism of Mutually Agreed Procedure (MAP).

Indirect Tax

All appeals against the orders passed by Commissioners of Customs, Central Excise and Service tax lie before a Tribunal, viz. the Customs, Excise and Service Tax Appellate Tribunal (CESTAT). The filing of Appeals lies before the Supreme Court against the orders of CESTAT on matters relating, amongst other things, to the determination of any question having a relation to the rate of duty of Customs / Central Excise or Service Tax or to the value of goods / services for purposes of assessment. Against an order of CESTAT, on a question not relating to duty or to classification of goods, an appeal lies to the High Court. Further, an appeal lies to the Supreme Court against any judgment of the High Court.

To reduce litigation, monetary limits have been fixed below which departmental appeals cannot be filed before CESTAT, High Court and Supreme Court. It has also been decided to withdraw departmental Appeals pending in High Court / CESTAT, where the Supreme Court has already decided on an identical matter.

**[Ref. Ministry of Finance (Department of Revenue), O.M. No. H-11015/4/2018-Parl.,
dated 09.07.2018]**

Comments of the Committee

(Please see Para No. 19 of Chapter I)

CHAPTER- V

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

NIL

New Delhi;
06 August 2018
15 Shravana, 1940 (Saka)

DR. M. VEERAPPA MOILY
Chairperson
Standing Committee on Finance

Minutes of the Twenty First sitting of the Standing Committee on Finance
The Committee sat on Monday, the 6 August, 2018 from 1500 hrs to 1600 hrs,
Committee Room No. 3, Parliament House Annexe, Extn Block A 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 Chandrakant Khaire
9. Shri Bhartruhari Mahtab
10. Shri Rayapati Sambasiva Rao
11. Prof. Saugata Roy
12. Shri Rajiv Pratap Rudy
13. Shri Gopal Shetty
14. Dr. Kirit Somaiya
15. Shri Dinesh Trivedi
16. Shri Shivkumar Udasi

RAJYA SABHA

17. Shri Anil Desai
18. Shri Mahesh Poddar
19. Dr. Mahendra Prasad
20. Dr. Manmohan Singh

SECRETARIAT

- | | | |
|---------------------------------|---|---------------------|
| 1. Shri R.C. Tiwari | - | Joint Secretary |
| 2. Shri Rajesh Ranjan Kumar | - | Director |
| 3. Shri Ramkumar Suryanarayanan | - | Additional Director |
| 4. Shri Kulmohan Singh Arora | - | Deputy Secretary |

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee, thereafter, the Committee took up the following draft reports for consideration and adoption:

- (i) Draft Report on "The Chit Funds (Amendment) Bill, 2018"
- (ii) Draft Report on Action Taken by the Government on the Recommendations contained in the 57th Report on Demands For Grants (2018-19) of the Ministry of Finance (Departments of Economics Affairs, Expenditure, Financial Services and Investment and Public Asset Management.
- (iii) Draft Report on Action Taken by the Government on the Recommendations contained in the 58th Report on Demands For Grants (2018-19) of the Ministry of Finance (Department of Revenue).
- (iv) Draft Report on Action Taken by the Government on the Recommendations contained in the 59th Report on Demands For Grants (2018-19) of the Ministry of Corporate Affairs.
- (v) Draft Report on Action Taken by the Government on the Recommendations contained in the 60th Report on Demands For Grants (2018-19) of the Ministry of Planning.
- (vi) Draft Report on Action Taken by the Government on the Recommendations contained in the 61st Report on Demands For Grants (2018-19) of the Ministry of Statistics and Programme Implementation.

After some deliberations the Committee adopted the above draft Reports with some minor modifications as suggested by Members. The Committee authorised the Chairperson to finalise the Reports in the light of the modifications suggested and present the same to Parliament.

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 FIFTY EIGHTH REPORT OF THE STANDING COMMITTEE ON FINANCE (SIXTEENTH LOK SABHA) ON DEMANDS FOR GRANTS (2018-19) OF THE MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

		Total	% of total
(i)	Total number of Recommendations	16	
(ii)	Recommendations/Observations which have been accepted by the Government (vide Recommendation at Sl. Nos. 1,2,4,6,8,9,10,11,12,13,14,15&16)	13	81.25%
(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. 3,5&7)	03	18.75%
(v)	Recommendations/Observations in respect of which final reply of the Government are still awaited	Nil	0.00%