



**Report
of
Sales Tax Study Committee
West Bengal**

सत्यमेव जयते

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INDEX OF REPORT

Chapter	Subject	Page
1	Introduction and methodology	1
2	Substantive law	7
3	Procedural law : Assessment ..	29
4	Procedural law : Appeals and Revisions ..	39
5	Procedural law : Simplification of practices and procedures.	53
6	Organisation	75
7	Tax leakage and evasion	101
8	Logistical and other supports	125
9	Maintenance of records and registers	135
10	Delegation of power and decentralisation of accounts ..	137
11	General grievance and staff welfare	139
12	Financial implications	143
13	Conclusion	145
B. Summary of recommendations		147
C. Tables		
1	Turnover-wise (State Acts) number of registered dealers as on 1-4-78.	169
2	Tax-yield-wise (State Acts) number of registered dealers as on 1-4-78.	170
3	Act-wise number of registered dealers	171
4	Number of pending assessment cases	172
5	Number of assessments made	173

	Subject	Page
6	Disposal of appeal, revision, review cases by Assistant Commissioners.	174
7	Disposal of applications for registration under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954.	175
8	Statement of outstanding dues	177
9	Utilisation of Charge Inspectors	179
10	Statement showing number of registered dealers, number of assessments made, collection and expenditures.	180
11	Act-wise break-up of collection figures	181
12	Number of inquiry cases regarding unregistered dealers	182
13	Staff strength—Central Office and Regional Offices ..	183
14	Particulars of refund cases under the B.F. (S.T.) Act, 1941.	187
15	Disposal of applications for sales tax clearance certificate.	189
16	Disposal of security refund cases by Assistant Commissioners.	190
17	Disposal of stay cases by Assistant Commissioners ..	191
18	Number of inspections made and tours undertaken by Assistant Commissioners.	192

D. Appendices

A.	List of persons/organisations/dealers from whom suggestion was received.	193
B.	List of persons, etc., interviewed.	201
C.	List of commodities proposed to be de-notified (illustrative).	204
D.	Commissioner's Memo. on simplified assessment procedure.	206
E.	Statement of information	213
F.	Pro-forma notes and orders for simple assessment ..	217

	Subject	Page
G.	Pro-forma deficiency letter	219
H.	Pro-forma simple assessment order	221
I.	Procedure for selection of random number and specimen random numbers	224
J.	Pro-forma security bond	229
K.	Pro-forma register of High Court and Supreme Court cases	232
L.	Pro-forma register of Tribunal cases handled in Law Section	234
M.	Pro-forma declaration by transport operators ..	236
N.	Pro-forma numerical register of dealers under the State/Central Act	237
O.	Pro-forma alphabetical register of dealers ..	238
P.	Pro-forma topographical register of dealers ..	239
Q.	Pro-forma control register	240
R.	Pro-forma register of assessment	242
S.	Pro-forma register of application for New Registration and Amendment/Cancellation of Registration Certificate	244
T.	Pro-forma publication register of New Registration, Amendment and Cancellation	245
U.	Pro-forma register of import of notified goods ..	246
V.	Pro forma register of refunds	247
W.	Pro-forma register of application for tax-clearance certificate	248
X.	Pro-forma register of consignments passing through a check-post	249
Y.	Statement of additional staff requirement ..	250



CHAPTER 1

INTRODUCTION AND METHODOLOGY

Introduction

1.01. The Committee was constituted by the Government of West Bengal in Finance Department Order Number 3138-F.T., dated 3rd July 1978. The composition of the Committee was—

- (i) Shri K. B. Ghosh, Additional Commissioner, Commercial Taxes, West Bengal, (since appointed as Member, West Bengal Commercial Taxes Tribunal), Chairman;
- (ii) Representative of Senior Commercial Tax Officers' Association, West Bengal, Member;
- (iii) Representative of West Bengal State Commercial Tax Service Association, Member;
- (iv) Representative of Commercial Taxes Inspectors' Association, Member;
- (v) Representative of West Bengal Directorate Employees' Association, Member;
- (vi) Representative of Association of Assistant Commissioners, Commercial Taxes, West Bengal, Member; and
- (vii) Shri Kumarmitra Dutta, Chartered Accountant, Member.

The Committee was authorised to elect its own Member-Secretary.

In accordance with the said Government Order, Shri S. K. Majumder, Commercial Tax Officer, representing Senior Commercial Tax Officers' Association, Shri N. Das Sarma, Commercial Tax Officer, representing West Bengal State Commercial Taxes Service Association, Shri Mihir Baran Chakraborty, Inspector, representing Commercial Taxes Inspectors' Association, Shri Anadi Charan Dutta, Head Assistant, Office of the Commissioner, Commercial Taxes, West Bengal, representing West Bengal Directorate Employees' Association and Shri A. S. Mukerjee, Assistant Commissioner, representing the Association of Assistant Commissioners, Commercial Taxes, West Bengal were nominated by the respective Service Associations to serve on the Committee.

The terms of reference of the Committee were laid down as under:

- (1) Measures needed to strengthen the organisational set-up in the Commercial Taxes Directorate in order to ensure quicker disposal of business, proper maintenance of records and information and checking evasion of tax;

- (2) Changes, if any, needed in Sales Tax and Purchase Tax Legislation and rules in order to ensure quicker disposal of business and better collection of tax;
- (3) Review and suggestions for change, if any, in procedure for assessments, appeals and revisions under the statutes;
- (4) Measures for strengthening the investigation and intelligence machinery under the Commercial Taxes Directorate;
- (5) Measures for simplification of practices and procedures wherever possible for better tax compliance by the dealer, as well as minimising hardship to the tax paying public;
- (6) Suggestions regarding strengthening the logistics in terms of office facilities for disposal of business in the Commercial Taxes Directorate; and
- (7) Measures as may, in the opinion of the Committee, be incidental to the terms of reference (1) to (6).

The Committee was initially required to submit its reports as soon as practicable but preferably within a period of 3 months.

1.02. The first meeting of the Committee was held on 18th July, 1978. Shri A. S. Mukerjea was elected Member-Secretary of the Committee and the rules of business for the Committee were formulated and adopted in the said meeting.

1.03. The Committee was of the view that since the ambit of the terms of reference of the Committee was very large, the Members representing various Service Associations serving on the Committee would be required to devote their full time to this end. Since the job would necessitate them to obtain various data from innumerable sources, sift and analyse those, hear various persons representing legal professions, general assesseees, Chambers of Commerce and all persons who were required to come in touch with the administration of Sales Tax, the job would need absolute attention of the Members representing various service associations serving the Committee. In the circumstances, it was decided that Government might issue suitable orders to the above effect. The Committee gratefully records that its Members representing various Service Associations were relieved of their routine official work and allowed to devote full time for the work on hand by the Government.

1.04. It would appear from the foregoing that both the constitution of the Committee as well as the terms of reference were somewhat unique in the annals of taxation study committees. Various State Governments from time to time constituted such study and enquiry committee. The personnel of such Committees were invariably senior administrators, eminent economists, members of trade and commerce and professional luminaries. The

composition of Loganathan Committee of Tamil Nadu, Lakdawalla Committee of Uttar Pradesh, Gulati Committee of Kerala, Yardi Committee of Maharashtra and Gangopadhyay Committee of Gujarat will bear out this point. Barring Shri Kumarmitra Dutta, a Chartered Accountant and an expert in manpower management, all other Members of the Committee are directly associated with administration of Sales Tax and most of them represent various Service Associations. This unconventional procedure in associating the employees in an Administration Study Committee is an expression of confidence by the Government in the Service Associations. The Committee noted that its very constitution generated tremendous enthusiasm among the public in general and the employees in particular. It was appreciated by most of the Members of the staff that the Committee was constituted from among themselves and would be able to recommend something concrete and beneficial to the employees as well as the State. Most of the memoranda received by the Committee welcomed the constitution of the Committee and expressed surprise that no Committee to study various aspects of Sales/Purchase Tax Laws and administration was at all formed for long 38 years of administration of Sales Tax in West Bengal.

1.05. The Constitution of the Committee and the terms of reference were given wide publicity in newspapers in the first week of August, 1978. The Committee invited suggestions/views on the terms of reference and received altogether 267 memoranda from various Chambers of Commerce, individuals, Service Associations, etc. In fact, some of the important memoranda were received long after the stipulated date. Some of the memoranda were received even after public hearing was closed and the last of these was received on 12th February, 1979.

1.06. As noted earlier, the Committee held its first meeting on 18th July, 1978. In other words, the Committee started functioning from that date. The terms of reference were so exhaustive that it was impossible for the Committee even to study all the memoranda received by it within the stipulated period. As such, the Committee sought for extension up to 28th February, 1979 and Government was pleased to accede to the request. Thus the Committee has taken seven months and a half to complete the work entrusted to it.

Methodology

1.07. The approach of the Committee to study various aspects of Sales Tax Administration has been, as far as may be, objective. Although six of the seven Members of the Committee have been working in the Department for pretty long periods and must have gained some 'inside' knowledge,

the Committee, nevertheless, proceeded only on the basis of concrete and objective facts and figures. The methodology may be summarised under the following broad categories:

- (a) Unit Offices (i.e., the Charge and Circle Offices), the specialised agencies as well as the Commissioner's Central Office were requested to furnish replies to questionnaire and also furnish statistical data in pro forma-statements for collation and analysis. With a view to ensure accuracy and objectivity in the replies and statements, Members of the Committee held group discussions with all employees in Unit Offices in Calcutta and selected employees in Mofussil.
- (b) Chambers of Commerce, Service Associations, Professional bodies, other interested organisations and quite a few well-informed individuals were requested to offer suggestions within the terms of reference of the Committee, besides there being a general invitation for suggestions to the public by insertion of advertisements in important newspapers. Organisations and individuals offering significant suggestions were invited for a personal discussion, leading to submission of supplementary suggestions by some of them.
- (c) Sales Tax Laws of a few States, viz., Maharashtra, Delhi, Tamil, Nadu and Kerala were studied to consider if there might be valuable innovations worth emulation therein.
- (d) Reports of Committees recently appointed by the Central and several State Governments to study various Sales Tax and other taxation laws and administrations were studied to consider if these might throw any light on the problem on hand.
- (e) A few Officers of different ranks, including the Commissioner, were individually met in exclusive interview in order to gain a direct grasp of the various problems from the point of view of the man on the spot.
- (f) The more important Checkposts were visited by some Members and personal discussions were held with the personnel manning them.
- (g) Working of the other Revenue Departments like Income Tax, Central Excise and Customs was studied by personal visit.

1.08. Besides, the Committee had proposed to send a couple of Members to two or three important States to briefly study the working of Sales Tax Administration and in particular the administration of Checkposts and data processing systems of those States. The proposal had to be abandoned owing to certain constraints imposed by the Government; consequently the scope and ambit of the report has to be suitably pruned.

1.09. So far as category (a) of the methodology is concerned, the Committee has been somewhat thwarted by incompleteness of the data furnished by Unit Offices, specialised agencies and Commissioner's Office. A fairly high percentage of information could not be obtained. This, however, is not a clear indication of the handicap because while some Charge Offices furnished most items of information in respect of at least a year or two, so that the Committee could make a projection and a fairly accurate estimate in respect of these charges, others could not furnish even a single item of information in respect of quite a few important areas of study and it had to infer the relevant data on the basis of other similar charges. Similarly, the questionnaire and attendant pro forma statistical information sought from the Commissioner's Office evoked only partial reply. The Committee is also constrained to observe that the degree of accuracy and objectivity expected from these sources has not been uniformly attained. Two qualifying notes must be added to this topic. First, the reason for such less than satisfactory response to the queries was very largely, though not entirely, due to the inadequacy of the system of record keeping, an aspect dealt with in Chapter 9 supra, so that it must be made clear that the Committee does not want to blame any one for this difficulty. Secondly, the Committee tried its best to arrive at sound inference of fact in spite of the paucity of reliable source data by means of projection and when it could not be done in any particular area the Committee reluctantly gave up the idea of dealing with that area except in general terms.

1.10. In category (b) also, the task was not made easier by a few important organisations representing either the trade or informed professional bodies when they submitted their respective memoranda after the second half of November, 1978 when personal discussions were completed on other memoranda submitted in time. It is regretted that the Committee could not have the benefit of direct discussion with these few late co-operators. Again,, some of the organisations promised to furnish supplementary notes explaining points emerging in course of personal discussion but failed to act accordingly. Parts of their representations thus remain less than well-founded. By and large, however, the Committee has been able to appreciate the points of view of all who came forward to assist the Committee by their painstaking memoranda.

1.11. In framing the recommendations and arranging the same in a systematic order, it was noted that all the terms of reference were not mutually exclusive but inter-linked. The Committee, therefore, divided the report in Chapters according to convenient broad subject or domains, instead of following the sequence of the terms of reference.

Acknowledgements

1.12. The Committee would like to express its deep appreciation of the help which all the Associations, Chambers, Organisations and individuals extended to it by furnishing memoranda and valuable information. But

for their unstinted help and co-operation, the task on hand would have been very difficult. Some of the organisations and individuals as aforesaid also responded to the invitation to meet the Committee to elucidate their viewpoints. The Committee takes this opportunity to express its sincere thanks to all those who furnished memoranda and attended in person. A list of persons/organisations who furnished memoranda appears at Appendix 1. A list of persons/organisations who appeared before the Committee is furnished at Appendix 2.

11.13. The Committee records its high appreciation of the unstinted and ungrudging assistance rendered to it by Sarbasree Anilesh Saha, Alok Basu, Abinash Ghosh, Subrata Sen Gupta, Nitai Chand Ghosh, Madhusudan Banerjee, Nikhilesh Chatterjee, Balaram Sarkar, Ganesh Chandra Adak and Monoranjan Das. The Committee conveys its sincere thanks to the Commissioner, Commercial Taxes, West Bengal and his office also, particularly Shri B. Sen Personal Assistant-I to the Commissioner, for providing with the necessary working facilities.



CHAPTER 2

SUBSTANTIVE LAW

2.01. "Changes in sales and purchase tax legislation" appear at item 2 of the terms of reference as a measure "to ensure quicker disposal of business and better collection of tax." It is the only item having specific reference to changes in Law but other items of the terms of reference also require, by implication at least, that the Committee should consider whether the existing laws require any change. Checking evasion of tax, one of the objectives included in item 1 of the terms of reference can hardly be achieved merely by strengthening the organisational set-up without appropriate legal powers. Again, item 3 (procedure for assessment, appeal and revision), item 4 (strengthening investigation and intelligence machinery) and item 5 (simplification of procedure for better tax compliance and minimising hardship), all call for a review of the present law and consideration if existing provisions thereof require changes. All the items are, therefore, interrelated. In this Chapter, the Committee proceeds to consider the substantive part of sales and purchase tax statutes mainly in the light of item 2 of the terms of reference and partly in terms of items 1, 3, 4 and 5 thereof. The adjective part of the statutes will be considered in the following Chapters.

2.02. At present there are five sales and purchase tax laws in West Bengal. These are detailed below together with the salient features of each:

Sl. No.	Name of the Act	Salient Features
(1)	The Bengal Finance (Sales Tax) Act, 1941.	Single-cum-multipoint Sales Tax. General sales tax at the last stage (except on exempted goods), multi-point sales tax (except on declared and so-called luxury goods) and single point purchase tax on certain inputs of finished products.
(2)	The West Bengal Sales Tax Act, 1954.	First point tax on sales of notified commodities.
(3)	The Bengal Raw Jute Taxation Act, 1941.	Purchase tax on purchase of raw jute by mills and exporters.
(4)	The West Bengal Motor Spirit Sales Tax Act, 1974.	First point tax on sales of motor spirit.
(5)	The West Bengal Paddy Purchase Tax Act, 1970.	Purchase tax on purchase of paddy by mills.

2.03. The Bengal Motor Spirit Sales Taxation Act, 1941 was repealed in 1974 but substantial residuary work is still being done by the Department.

2.04. The gross yield in the first two Acts in 1977-78 was Rs.120.4 crores while that under the other three Acts was a mere Rs.23.6 crores.

2.05. The very first shortcoming in the legislations that struck the Committee, as indeed it would strike even a casual observer, is the multiplicity of the tax laws. Assuming that it is necessary to retain all the salient features of taxation as discussed above, there is no reason why all these features cannot be encompassed in a single consolidated enactment. None interviewed by the Committee favoured the idea of retaining separate identity of these Acts. On the contrary, strong arguments were made by many to consolidate these Acts in a single statute. Although the tax on motor spirit is levied by a separate legislation in quite a few States, that is merely an accident of history. A specific tax was thought of on motor spirit before the idea of general sales tax began to dawn upon the provincial Governments in the late thirties. Taxation of the nature as in the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954 are prevalent in almost every State. Except in a few small eastern States, the Committee has not come across any instance of two different enactments dealing with these two types of tax. The study reveals that, with a few stray exceptions, every tax-payer under the Acts referred to at serial Nos. 2 to 5 is also a tax-payer or a potential tax-payer under the Bengal Finance (Sales Tax) Act, 1941. There were about 65,000 live registered dealers under the Bengal Finance (Sales Tax) Act, 1941 in West Bengal on 1st April, 1978 while the number of registered dealers' files under the other 4 Acts is a little above 8,000. Consolidation of all the files of a dealer into a single one will reduce the number of files and, therefore, the number of assessments required to be made in a year by about 11 per cent. This by itself will ensure quicker disposal of business by reducing avoidable work-load. The Committee, therefore, recommends that instead of the present five different laws, there will be a single composite sales and purchase tax law in West Bengal.

2.06. Before proceeding to recommend the basic features of the substantive part of the composite tax law which is envisaged, it is necessary to examine the soundness of the assumption that all extant forms of taxation should continue. Such an examination is particularly necessary because some strong pleas were put forward on behalf of trade and legal profession to do away with either this or that feature of the present taxation policy.

Purchase Tax

2.07. As a mode of commodity taxation, purchase tax is better than sales tax when the sellers are many and buyers are few in number. Purchase tax on raw jute and paddy under two separate laws fully satisfies these criteria. The recommended composite Act will contain substantive provisions similar to those in the two present Acts.

2.08. Provisions for levy of tax on specific purchases introduced since 10th October, 1977 also satisfy the same criteria, but in the opinion of the Committee certain alterations are necessary for quicker disposal of business and better tax-collections. These will be recommended presently.

2.09. Serious objections were raised on behalf of Chambers of Commerce and others against continuance of specific purchase tax. Some of the Chambers of Commerce strongly pleaded that the entire concept of tax on inputs, not only when such purchases are made from unregistered dealers but also on those purchases from registered dealers subject to tax under section 5(1)(bb) at the hands of the selling dealers, should be abolished. One of the Service Associations also opined against levy of tax on purchase from unregistered dealers on the ground of administrative difficulty. The trade in general also objected to the 2 per cent input tax where the finished product is disposed of otherwise than by sale in West Bengal.

2.10. The argument against tax on inputs as put forward by the Trade is that manufacturers in West Bengal find it difficult to compete with manufacturers elsewhere as a result of this impost. It was pointed out in the course of hearing that a levy similar to that under section 5(1)(bb) exists in almost all other States and that there was no material with statistical data before the Committee to show that industries in West Bengal had actually suffered on this count. Even then the concerned Chambers of Commerce did not come up with adequate data to show that tax burden on West Bengal industries were heavier than that on others and that home industries did in fact suffer. The Committee, therefore, is not convinced of the correctness of this plea without any supporting data.

2.11. The objection against the second type of purchase tax, namely, input tax where finished products are transferred to other States for sale there, was widespread. It was pleaded, again without any corroborating data, that it was causing loss of market for West Bengal products. On the basis of non-production of statistical data by the concerned Chambers, the Committee could perhaps reasonably infer that comparative statistics of gross sales, inter-State sales and stock transfers for similar periods before and after September 1977, when this purchase tax was introduced, would not support this stand. As a matter of fact, instead of drawing such an inference, the Committee obtained through a few Commercial Tax Officers the said statistics in respect of a few selected classes of goods and found that while in some, but not all, cases stock transfer of goods manufactured in West Bengal might have marginally declined to some extent after September 1977, inter-State sales of the same commodity from West Bengal had increased by at least an equal amount. The Committee, therefore, recommends continuance of this tax with the proviso however that if and when the Central Government implements the recommendation of the Jha Committee to impose Tax on stock transfers, the present levy may be given up.

2.12. The objection by a Service Association on administrative grounds against tax on inputs purchased from unregistered dealers appears to be well founded. There being no specific records maintained for the purpose, the precise yield under this provision could not be determined. But after enquiry from several important units, the Committee is inclined to agree with the subjective estimate made by them that the yield is negligible. The additional work-load on the Assessing Officers appears to be considerable for this negligible yield. There appears to be no conceivable means to verify in course of an assessment if a dealer has correctly and completely disclosed his purchases from unregistered dealers. In practice, the Assessing Officers have to accept the assessee's statements in this regard without any check and this type of inbuilt defect may be fatal to any taxation measure.

2.13. The problem can be solved by making sales covered by valid declarations in Form XXIVA exempt from tax and, in lieu of tax under section 5(1)(bb), imposing a purchase tax at the same rate on the entire purchases by a manufacturing dealer. This scheme will ensure that purchases from unregistered dealers for manufacture also bear tax. The marginal loss caused by giving up the tax differential of 1 per cent on account of purchase tax for purchases from unregistered dealers will be more than compensated by a reduction in risk of evasion by the selling registered dealers. The number of manufacturing registered dealers in West Bengal with turnover of Rs.1 lakh and above is about 8,000, while the number of registered dealers selling raw materials and components to them must be many times more. It is administratively easier and a sounder fiscal policy to collect tax from fewer assesseees. The Committee recommends substitution of tax under section 5(1)(bb) of the Bengal Finance (Sales Tax) Act, 1941 by purchase tax on all purchases (other than goods declared tax-free) by manufacturing dealers.

2.14. It may be argued that levy of tax at higher rate on manufacturing purchases from unregistered dealers acts as a disincentive against avoidance of registration and indeed there has been a marked increase in registration after September 1977. Although this element will have been lost in the scheme recommended above, the same effect can be achieved by stipulating in law that registered dealers shall issue declarations only to registered dealers. In that event, an unregistered dealer who supplies inputs to a manufacturing dealer would find it risky to avoid registration after he incurs liability to pay tax. After all, the problem of avoidance of registration is not limited to suppliers to manufacturers only and must be tackled by direct means, as recommended in the Chapter on tax leakage and evasion. (Para. 7.38 *et seq.*)

2.15. On the same principle which led the Committee to recommend continuance of purchase tax on Jute and Paddy and substitution of sales tax under section 5(1)(bb) by purchase tax on all purchases made by manufacturing dealers (this general input tax will be distinct from and in

addition to stock transfer-input tax in appropriate cases), the Committee recommends that purchase tax should be extended to all cases where purchase tax is easier to collect than sales tax, that is to say, where purchasers are more well-established and fewer in number than the sellers. Of the numerous suggestions received in this regard, two ideas appear to be worth accepting. These are taxes on purchase by a Contractor executing works contract and on purchases of materials necessary to build a house. These have been discussed in a section of this Chapter, and specific recommendations made (Paras. 2.58 and 2.59).

2.16. On the topic of purchase tax a few other ideas which attracted the notice of the Committee in course of studying tax laws of some other States deserve mention. These have been stated in para. 2.62.

Last Point Tax

2.17. This is West Bengal's original idea of sales taxation and has been adjudged to be the most scientific system by more than one expert body, Jha Committee being the latest. This will continue to be the most important ingredient in the State's composite system of sales tax.

2.18. From time to time demands are raised by comparatively less responsible sections of trade that last point tax be completely replaced by first point tax or even by additional excise duty in lieu of sales tax. It is unnecessary to repeat the arguments of a large number of expert bodies including the Jha Committee to conclude that this demand need not be taken seriously.

2.19. A professional body urged that single point sales tax, both at the last stage and the first stage, be replaced by multi-point sales tax at 3 per cent. In course of discussion with their representatives, the Committee was not convinced that this would be good either for the revenue or for the honest traders or for that matter, the consumers who ultimately bear the burden of sales tax. It is significant that the southern States, which started with levy of sales tax with multi-point system only, are now bringing more and more commodities under the single-cum-multi-point system.

2.20. The main grievance against the last point tax system is that small dealers have to face hardship in obtaining declaration forms and facing elaborate assessment proceedings. The grievance is partly genuine and the problems have been dealt with in the appropriate Chapters (Para. 3.06 *et seq* and Para. 5.47 *et seq*) where the Committee has made recommendations to mitigate such hardship of the tax paying public.

First Point Tax

2.21. In December, 1953 first point tax was envisaged on a single commodity (cigarette) almost in exasperation, as illegal rackets in declaration forms could not be counteracted. Initial success of this law, which was devised as an anti-evasion measure, was responsible for proliferation of items notified under this law. Its plus points are—

- (a) if import/manufacture points can be successfully checked, evasion is minimal,
- (b) substantial tax is realised from comparatively few dealers and at an earlier point of time, and
- (c) assessment procedure is comparatively easy.

Its minus points are that—

- (a) for the same tax-yield, rate of tax needs be higher, which means greater incentive to evasion,
- (b) If import/manufacture points cannot be successfully checked, scope of evasion is substantial as a particular lot of commodity would escape tax for ever if it is not checked at the entry or manufacture point, and
- (c) a commodity used as raw material or component in the manufacture of another cannot be taxed at the first point without causing double taxation.

2.22. It may be set out here that five criteria were enumerated after a careful consideration to justify a switch-over from last point to first point tax. These are:

- (1) If imported in West Bengal, there should be few importers and channels of import should be well established,
- (2) If manufactured in West Bengal, the manufacturers should be well-established and few in number,
- (3) The Commodity must not be a raw material or a component part of some other finished product, but it should be a finished product itself,
- (4) If the goods are exported out of West Bengal, the exporters should be either the manufacturers or the importers themselves, and
- (5) There is a substantial evasion of tax in the community.

A sixth criterion may be added, viz., that the commodity should be capable of precise and unambiguous definition.

2.23. In the opinion of the Committee, quite a number of commodities now taxed at first point do not satisfy one or more of the above criteria. In Appendix C, a list of notified commodities is annexed which should be brought back to the last point tax on this ground. This list is, however, illustrative, as there may be other notified commodities justifying similar "denotification".

2.24. Nevertheless, first point tax may continue to remain on the statute book to be sparingly used to cope with appropriate circumstances. Motor spirit, for example, is an ideal commodity for the first point tax, although it continued to be taxed at the last point for 20 years even after first point tax was introduced in West Bengal.

2.25. Opposition to first point sales tax is limited to a few specific items which are partly used as components of other goods. Storage battery is one such. Apart from its use as a component in motor vehicle, special type of such battery is a component of miners' cap lamp. It has been represented to the Committee that manufacturers of this type of battery in West Bengal are losing market to those in other States. An identical problem in respect of tyres and tubes was sought to be solved by prescribing concessional tax rate on tyres and tubes sold to manufacturers of motor vehicles. Concessional tax rate on bulk drugs when sold to manufacturers of proprietary medicine also underlines the same policy. But a proliferation of such differential rates of tax on more and more notified commodities, e.g., storage battery, dry cells, parts of electrical fans, motor vehicle parts and may be many more items is simply not possible within the present structure of the West Bengal Sales Tax Act, 1954 without either risking evasion of tax or providing for declaration forms obtainable from buying dealers. Prescription of such declaration forms however will do away with a major distinguishing feature of this Act.

2.26. The ideal solution of the problem would be to denotify all the items which have use as components in the manufacture of any other commodity, and the Committee has already laid stress on this point. But since components and finished products are but relative terms and since, like wheel within wheels, every finished product may become a component of another secondary finished product, it may not be possible under the present scheme to avoid altogether double taxation on first point taxable goods. The Committee has examined the Maharashtra idea of avoiding this type of double taxation by providing for a set-off of tax paid on the inputs but finds it too cumbrous. The same idea can be translated into law by the simpler device of deducting from the gross sales-prices the amount representing cost on inputs subject to first point taxation (provided it is proved to the satisfaction of the Commissioner that the inputs have in fact been used in the manufacture of goods sold during the year) to arrive at taxable turnover. The Committee recommends such a concession to guard against double taxation unless Government decides to denotify all the items on which double taxation is significantly present and bring them back to last point taxation.

Multi-point Tax

2.27. This feature was introduced in 1968 only in respect of goods taxable at ordinary rates under the Bengal Finance (Sales Tax) Act, 1941. The initial opposition to this levy has gradually died down with the exception of that from dealers in jute goods. These dealers are persisting in their somewhat vocal opposition against levy of multi-point tax so much so that a considerable number of memoranda received by the Committee contained the identical demand couched in identical language that hessian and gunny should be exempt from multi-point levy. Their main argument is that this levy is pushing out intermediaries from the trade and, as a result, jute goods industry is facing a crisis. The first argument cannot be peculiar to jute goods trade alone, unless intermediaries in this trade are without any social utility. The second point has not been convincingly made out with adequate facts and figures. The Committee, therefore, does not find much substance in it. It is true that, theoretically speaking, multi-point sales tax is inimical to intermediaries as it leads to cascading effect on the price for the consumer, who may, therefore, have a tendency to avoid intermediaries. Nevertheless intermediaries exist because they play a socially useful role in distributive trade. There is no evidence that such socially useful intermediaries have abated to any appreciable extent owing exclusively to the operation of multi-point sales tax. Taking a total view of the prevailing reality, the Committee is of the opinion that multi-point tax at a low rate has come to stay as an integral part of the State's composite tax policy. It is too late in the day to decry multi-point tax from a purist point of view.

Problems of Consolidation

2.28. It is now evident that, in the opinion of the Committee, each of the aforesaid four extant classes of tax has a distinct role to play in the composite tax policy of the State. The basic feature of the consolidated tax law envisaged by the Committee should be simplicity and uniformity. It is, therefore, necessary that except for the stage of taxation, all other features of last point and first point taxation should be uniform. Under the present law, the following special features of the last point taxation are not present in the first point taxation:

- (a) liability to pay tax only after sales exceed taxable quantum;
- (b) multi-point tax at a low rate on some but not all goods, subject to last point tax; and
- (c) declaration forms of various sorts.

On the other hand, movement restriction of commodities through permits and check-posts was a unique feature of first point taxation until recently when this feature was extended to a few specific commodities taxable at the last point by a notification under section 4A of the Bengal Finance

(Sales Tax) Act, 1941. It is recommended that all these features should be made common to all commodities, no matter whether they are taxable at the first stage or the last stage of sales, or even at the stage of purchase.

2.29. Multi-point taxation cannot, however, be extended to declared goods owing to constitutional restriction. But there is a strong case for imposition of multi-point tax on the so-called luxury goods included in Schedule II of the Bengal Finance (Sales Tax) Act, 1941 for the sake of uniformity. Such lack of uniformity is partly responsible for making an assessment full of too many computations and is, therefore, an impediment to quicker disposal of business. The Committee was told that most of the goods included in Schedule II had to pass through one intermediary before going to the consumers, while some such goods, e.g., cameras, clocks, etc., may occasionally pass through two intermediaries. There are also goods included in this schedule, e.g., most varieties of air conditioners, which pass directly from the manufacturer/importer to the consumer without any intermediate sale. On an average, therefore, imposition of multi-point tax on Schedule II goods may increase the consumer price by 1 per cent and if Government does not want to make this addition, the basic rate at the last stage may be reduced by the same amount. While this will ensure uniformity, there is no reason to conclude that the trade pattern, firmly established as it is, will undergo any appreciable change as a result of this imposition.

2.30. Again, for the sake of uniformity it is recommended that multi-point tax be imposed on the commodities subject to first point levy. The scheme envisaged in this regard as elaborated in the following paragraphs would also minimise the scope of evasion and result in better collection of tax on first point sale.

2.31. Under the present scheme of the West Bengal Sales Tax Act, 1954, the first seller is responsible for payment of tax. Check-posts and permits are, therefore, essential in the present scheme, because the onus to prove that a sale is in fact the first point sale is on the Revenue. If a consignment of notified commodity is somehow surreptitiously imported in West Bengal, it will remain out of the net of taxation for ever.

2.32. Check-posts and permits are the mechanism to ensure that there cannot be any surreptitious import of notified commodities in West Bengal. However, after inspecting all the major border check-posts and discussing the methods of working there with the personnel of the check-posts and also after making enquiries with a number of assessing Officers and Assistant Commissioners, the Committee is convinced that the existing machinery has proved unequal to the job. While this is in a sense a problem of organisation and logistics the Committee is of the opinion that the statutory aspect also needs a revamping. Under the present law, a dealer making sale of notified commodity is only to claim that the notified commodity in question was procured by him by local purchase and unless

the Department can prove to the contrary with reference to any permit obtained by him, his sales cannot be taxed. Under the recommended scheme, the onus of proving that sale of a notified commodity is not the first such sale will be on the dealer. He will discharge this onus by producing a statutory declaration in a form to be obtained by him from the seller at the time of purchase of the notified goods. Instead of check-posts (which will continue to play a modified and perhaps more important role as recommended elsewhere) and permits (which will be abolished except under section 4B), the kingpin under the recommended scheme will be the declaration forms issued by the selling dealers. As already stated, commodities should be selected for first point taxation with due circumspection after being satisfied about the six criteria stated before. First point tax should be an exception rather than the rule. A minimum taxable quantum will be fixed for making a dealer liable to pay tax on sales of notified commodities. After small dealers are thus automatically excluded from the net of taxation, the recommended scheme will be that all sales of a registered dealer will be taxable at the ordinary rate unless, in the case of last point taxable goods, it is covered by a declaration obtained from the buying dealer or, in the case of first point taxable goods a declaration obtained from the selling dealer is produced. Multi-point tax at a low rate will be imposed on sales covered by declarations of either nature.

Salient Features of the Recommended Composite Law

2.33. The recommended composite law will accordingly contain features of first, last and multi-point sales tax as well as purchase tax. It will be a simple law with uniformity in every respect other than the stage of taxation, and a rational rate structure. The basic features will be:

- (a) There will be a minimum taxable quantum which must be exceeded by a dealer so as to become liable to pay tax;
- (b) All sales, except that of exempted goods, will bear tax at the ordinary rate (which will be the same for goods taxable both at the first and the last points but may be different in the case of declared goods and so-called luxury goods) except when the sale falls under (c) and (d) below;
- (c) Sales to a registered dealer of a commodity taxable at the last point against declaration in the prescribed form for resale in West Bengal will bear multi-point tax at concessional rate in lieu of tax at ordinary rate as at (b) above;
- (d) Sales of a commodity taxable at the first point which was earlier purchased in West Bengal from another registered dealer and is covered by declaration in the prescribed form issued by that selling registered dealers will bear multi-point tax at concessional rate, which will be the same as at (c) above, in lieu of the ordinary rate of tax as at (b) above;

- (e) Permits will be discontinued except in respect of a commodity subject to rampant evasion and notified as such under a provision analogous to section 4A of the present Bengal Finance (Sales Tax) Act, 1941;
- (f) Check-posts will, however, continue for making general checking on all incoming and outgoing consignments;
- (g) There will be a separate chapter on purchase tax, on the lines detailed in Paras 2.07 *et seq* and 2.58 *et seq*.

Rationalisation of Rates of Tax

2.34. The rationale of simplicity and uniformity demands that the rate structure of taxation which is showing signs of excessive proliferation should be streamlined. At the moment, there are as many as 16 rates under all the Sales/Purchases Tax Acts administered by the Department. Except for unique commodities like wines and spirits on which tax may assume even confiscatory proportions, there should not be more than 5 or 6 rates of tax, taking the composite State Sales Tax Law and the Central Sales Tax Act together. The Committee does not suggest any specific rate or rates, but would state by way of illustration the following categories for variable rates of tax:

- (1) A low rate of multi-point tax;
- (2) Rate of purchase tax on inputs where finished products are sold in West Bengal as well as a second purchase tax on inputs where the finished product is stock-transferred;
- (3) Rate of declared goods which may be the same as Central Sales Tax on sales to registered dealers and Government;
- (4) Ordinary rate of first point and last point sales tax;
- (5) Higher rate on so-called luxury goods (there should be only one rate).

The reduced rate under section 8(5) of the Central Sales Tax Act, 1956 for sales to Educational Institutions will be at par with one of the above rates [either rate (3) or rate (4)]. A sixth rate of tax under the Central Sales Tax Act, 1956 for inter-State sales to unregistered parties cannot, however, be done away with. Rate of purchase tax for Raw Jute and Paddy will be at par with one of the above rates [rate (3)], and that for Motor Spirit at the first point of sales may continue at a slightly reduced rate than the present one but subsequent sellers of the commodity will pay multi-point tax at the same rate as for other commodities.

2.35. The Committee deliberately refrains from making any specific recommendation regarding rates of tax on different commodities as that falls within the eminent domain of State fiscal policy. It, however, suggests

that in deciding the rates on specific goods, the prevalent rates in the neighbouring States may be taken due care of, with a view to counteracting any possible trade diversion.

Surcharge

2.36. There appears to be little justification to continue the 2 per cent surcharge introduced under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954 with effect from 1-2-72 as it was ostensibly levied "to raise additional resources for meeting the expenses of the refugees from Bangladesh." It was declared to be a temporary measure and if Government found it necessary to permanently enhance the rate of tax, it could have done so by merging surcharge in the basic rate of tax. At present this 2 per cent surcharge appears to be a misnomer and entails some avoidable extra calculation, consequential complication and time. Its repeal is recommended.

2.37. Additional surcharge at variable rates depending on turnover slab was introduced under the said two Acts with effect from 20th April, 1974. The underlying idea of rational discrimination is commendable. But in actual working the idea of rational discrimination has been defeated because consumers are being charged at the maximum rate of additional surcharge whether or not the dealer concerned is liable to pay additional surcharge at the maximum rate or at all. It has become a source of extra profit to some dealers. Its repeal is also recommended.

2.38. Abolition of surcharge of both types would cause a loss of about Rs.3 crores a year. The Committee has made an alternative suggestion to make good this loss in Para 2.54 *et seq.*

Rebate

2.39. Section 5(2)(b) of the Bengal Finance (Sales Tax) Act, 1941 and similar provisions in other tax laws are intended to prevent levy of tax on the tax element included in sale price. The present percentage formula is cumbrous and more often than not a source of marginal profit/loss to the dealers. The same purpose has been better served in the Central Sales Tax Act by Section 8A(1)(a). The Committee recommends adoption of identical provision in the State Law.

Exemption

2.40. Policy on exemption needs a thorough review. Two types of exemption are contemplated in the Bengal Finance (Sales Tax) Act, 1941—one under section 6 read with Schedule I and the other under section 5(2)(a) (vi) read with rule 3. Perhaps the legislative idea was that conditional exemption and exemptions granted on experimental basis or as temporary measures would be included in rule 3, all general exemptions granted on a more or less permanent basis being included in Schedule I. But in practice there is no clear line of demarcation at present. Of late, rule 3 is showing

signs of uncontrolled expansion. While there were only 34 items in rule 3 in the first 22 years of Sales Tax in West Bengal, as many as 20 more were added in less than 4 years from 1974 to 1977. At present there are 64 items of exemption in rule 3, while only 35 items appear in Schedule I of which only 8 were added during the last 20 years. It may be noted that the Yardi Committee recommended that exemption list under Sales Tax Laws should be very much restricted and should contain only the bare necessities of life, that is to say, commodities that enter the cost of living of the poorest sections.

However, the Gulati Committee (Kerala) recommended that Government may add to these items some others on administrative or policy considerations, for example, perishable goods like fish, egg, etc., on which it may be difficult to realise tax. In granting conditional exemption, the Committee feels that care should be taken to ensure that scrutiny of the condition is not administratively difficult. Price-linked exemptions, as in item 7 of Schedule I, are difficult to enforce and should be replaced by a more rational entry, for example, "Cooked Food (other than cakes, pastries and biscuits) when sold by a dealer whose turnover has not exceeded Rs. during the previous year." There are some items included in Schedule I which do not apparently merit exemption. For example, under item 49 pretty costly under-garments including imported ones and even synthetic knitwear shirts are now exempt from tax. This item may be restricted to cotton genji only.

2.41. Of the 64 items appearing in rule 3 very many items including items 39, 41 (except chanachur and dalmut), 43, 50, 56, 57, 59, 60, 80 and 81 do not prima facie merit exemption from tax.

2.42. Exemption under rule 3(66) deserves some special consideration. Under this rule introduced from April 1975 small-scale industries were given relief from taxation for a period of 3 years. Concession appears to be substantial although the extent of actual relief could not be determined as more than 50 per cent of Unit Office pleaded their inability even to estimate the same for want of any records maintained for the purpose. The principle behind this concession must be encouragement to small entrepreneurs to set-up new industries in West Bengal. The Committee was told that quite a few old established industries have been establishing new satellite units for reaping the benefit of this concession, keeping their old units in a moribund condition. There is thus no net addition to production in the small-scale sector as a result of this well-intended tax concession. There are also good grounds to suspect that after three years of tax holiday the satellite units close down and another set of so-called new industries are set up in their place. The Committee was also told that some of the newly set-up concerns are in fact abusing this concession by making clandestine sale of raw materials purchased at concessional rate of tax against Form XXIVA and showing on paper bogus manufacture and sale of finished products which are in any case tax free. Such clandestine

sales set off a chain reaction of evasion. After giving very anxious consideration to the problem, the Committee recommends that rule 3(66) be omitted. The scheme of interest-free loan to reimburse the tax paid by new industrial units should be enough incentive for new enterprises and if necessary the scheme may be further liberalised. Government may also consider a scheme of dispersal by providing an exemption from tax for a limited period of new industries established away from the urban conglomeration and industrially developed areas. It would be difficult for established industries to switch over their production capacity to such remote areas and only genuine new entrepreneurs, it is believed, will be able to avail of the opportunity. So far as the question of clandestine sale of raw materials is concerned, an industrial unit situated at an out of the way place will have less scope to indulge in such malpractice and if it does so, that will have to be tackled as one of the various facets of evasion on the lines recommended in Para 7.38 *et seq* dealing with tax leakage.

Liability to Pay Tax

2.43. Under the present scheme a dealer is liable to registration and payment of tax in the following circumstances:

- (1) Under the Bengal Finance (Sales Tax) Act, 1941:
 - (a) Manufacturer with annual sales exceeding Rs.25,000,
 - (b) Importer with annual sales exceeding Rs.10,000,
 - (c) Others with annual sales exceeding Rs.50,000, and
 - (d) Volunteers with annual sales exceeding Rs.10,000;
- (2) Under the West Bengal Sales Tax Act, 1954—importers and manufacturers irrespective of turnover;
- (3) Under the West Bengal Motor Spirit Sales Tax Act, 1974—wholesalers of Motor Spirit irrespective of turnover;
- (4) Under the Bengal Raw Jute Taxation Act, 1941—Mills and Shippers irrespective of turnover;
- (5) Under the West Bengal Paddy Purchase Tax Act, 1970—Mills irrespective of turnover.

2.44. The Committee has received representations for modifying these limits. Some of the representations suggest an upward revision while some other suggest a downward revision. Since under the scheme envisaged by the Committee there will be a single statute for all kinds of tax, the

Committee recommends that under the recommended composite law a dealer will be liable to registration and payment of tax when his turnover of sales/purchases exceeds any of the following limits:

- (a) For a manufacturer, sales turnover of Rs.25,000 for all goods whether manufactured by him or not, provided sales of goods manufactured by him exceed Rs.5,000;
- (b) For an importer, sales turnover of Rs.10,000 in respect of all goods whether imported by him or not, provided sales/purchases of goods imported by him exceed Rs.5,000;
- (c) For others, sales turnover of Rs.50,000 for all goods, provided sales/purchases of taxable goods exceed Rs.5,000;
- (d) For volunteers, sales turnover of Rs.10,000 provided sales of taxable goods exceed Rs.5,000;
- (e) For dealers (mills/exporters) making purchase of goods liable to purchase tax only (i.e. raw jute and paddy), liability for registration and tax payment will occur on purchase turnover in respect of such goods exceeding Rs.10,000 or on the dealer being liable to pay sales tax on any of the aforesaid circumstances, whichever occurs earlier.

2.45. The argument that taxable quantum having been fixed at Rs. 50,000 in 1941 should now be revised to a much higher amount in consideration of manifold increase in prices does not convince the Committee, because the State is entitled to cast its net of taxation wider and wider as economic activities of the community increase with consequential increase in commodity prices.

Provisional Certificate

2.46. Exemption under rule 3(4) deserves some special mention. A person intending to set up a manufacturing unit which will eventually be eligible for registration is allowed under this rule the concession of tax-free purchase of plant, machinery, raw materials, etc., on condition that he would apply for registration as soon as his sales exceed Rs.10,000. Since a registered manufacturing dealer has to pay tax (at a concessional rate) on identical purchases, there is no ground why a provisional certificate-holder would not pay tax at the same rate. Similarly, there is little ground why these persons should not pay tax on all their sales of manufactured goods when concession was available on all inputs. The Committee recommends that rule 3(4) be omitted and a substantive provision for grant of Provisional Registration Certificate be incorporated in the Act. Under this provision a provisionally registered dealer will be treated at par with a registered manufacturing dealer in all matters except that while a manufacturing dealer becomes eligible for normal registration on exceeding

turnover limit of Rs.25,000 a person will be eligible for provisional registration if he intends to establish a manufacturing unit likely to have annual turnover of Rs.25,000. Such a provisionally registered dealer will pay tax on his purchases and sales at the same rate as a normal registered manufacturing dealer.

2.47. Incidentally, while drafting the law on creation of liability the difficulties caused by some recent High Court judgments may be borne in mind and Commissioner's power to make a finding of fact on this question to the best of his judgment may be made clear. Liability to pay tax will occur as soon as the dealers' turnover exceeds taxable quantum without there being any grace period. Since the Committee has recommended elsewhere (Para. 5.46) that registration will be effective from the date of liability or application, no hardship will be caused by this.

2.48. A dealer registered under the Central Sales Tax Act, 1956 will be liable to pay tax on all sales of goods purchased on the strength of form "C" whether or not he is otherwise liable to pay tax under the State Act.

2.49. In making some recommendations in this Section the Committee has borrowed ideas from the Sales Tax Laws of Delhi and Maharashtra which the Government may look into before drafting the appropriate law.

Cessation of Liability

2.50. The existing provision should be supplemented by a few additional provisions to guard against leakage of tax. This will be discussed in the appropriate Chapter on tax leakage and evasion (Para. 7.25).

Realisation

2.51. The proposed law will be a code in itself without reference to the P.D.R. Act. Detailed recommendation of the Committee in this regard has been made in a separate Chapter. (Para. 7.08 *et seq.*)

Other Adjective Laws

2.52. Other adjective laws namely procedure for assessment, appeal, revision, etc., have been considered in the several following Chapters.

Counterveiling Taxation Measures

2.53. Since the Committee has recommended certain measures which will result in decrease in tax yield, it is necessary to recommend counter-veiling taxation measures. These are set out as under:

(i) High Turnover Tax

2.54. Sales tax is in essence an indirect tax and its burden falls on the consumer. Under the Constitution the State Governments have little scope to impose any direct tax. The Scheme suggested below will, however, have some element of direct taxation, particularly if the related statute prohibits dealers from realising this tax from the consumers.

2.55. The recommended composite sales/purchase tax law will provide by a separate section that every dealer having a gross turnover of Rs.1 crore or more during a year shall pay from first day of the following year a tax at the rate of $\frac{1}{2}$ per cent on all sales except those of declared goods subject to tax in the State, sales in the course of inter-State trade, import and export. Since both the surcharges under the present law would be abolished, a large majority of dealers who will not fall under the net of high turnover tax will be benefited and even dealers having turnover of Rs.1 crore or more will pay less than what they now pay as surcharge on their sales to unregistered parties. In respect of the latter dealers' sales to registered dealers, the present rate of 1 per cent plus 0.1 per cent will be slightly increased. But their sales of tax-free goods will now bear a marginal tax of $\frac{1}{2}$ per cent. The consumers will have the option of making his purchases from a dealer having a turnover of less than Rs.1 crore and thus if there be any attempt by big dealers to pass on the burden to the consumers, such attempt may be resisted. It may be argued that this tax may be avoided by splitting up big business into small ones; but the Committee is of the view that such avoidance will only be marginal owing to inbuilt compulsions of trade. Newspaper and electrical energy will, however, be exempt from this levy.

2.56. There are about 700 registered dealers having turnover of Rs.1 crore or above. In the Committee's estimate, the yield from these small number of dealers would be around Rs.30 crores, which will more than compensate the loss on abolition of surcharge.

(ii) Multi-point Tax on all Commodities

2.57. Enlargement of the net of multi-point tax to all commodities (except declared goods) including notified commodities and motor spirit is likely to yield about Rs.10 crores without any substantial addition to workload as the dealers liable to pay such tax, including Petrol Pumps making retail sales of Motor Spirit, are already registered dealers subject to regular assessments.

(iii) Purchase Tax on Contractors

2.58. Contractors executing works-contracts do not come under the purview of the sales tax law. The Committee understands that many of such contractors make substantial purchase of materials required for the execution of the contract under the so-called "number two" transactions

which are kept out of account of the selling dealers. This is particularly true in respect of building materials like bricks, sand, stone chips, etc., where the sellers are difficult to tackle. Perhaps bricks were notified under the West Bengal Sales Tax Act, 1954 mainly in consideration of this fact, but it was reported by many assessing officers that tax on bricks even as a notified commodity is more evaded than realised. These goods, therefore, appear to be fit for levy of purchase tax in lieu of sales tax. The Committee recommends that all contractors having purchase turnover of Rs.10,000 or more a year should be liable to obtain registration and pay tax on all purchases at a rate—

- (a) equivalent to ordinary rate of sales tax on the commodity unless the purchase falls under category (b), or
- (b) equivalent to the rate of multi-point tax, if the goods are purchased from a registered dealer in West Bengal and a declaration issued by the selling dealer admitting his liability to pay tax on the sales is produced. The annual tax yield on this count is likely to be around Rs.4 crores.

(iv) **Purchase Tax on House Buildings**

2.59. On the same consideration as above and as a complementary measure, the Committee recommends that any person constructing any building or other masonry structure involving purchase of materials exceeding Rs.50,000 for the entire work or Rs.10,000 a year should be liable to obtain license and pay tax on the same line as above. Further, in this case tax on purchases from registered dealers covered by declarations may be reduced to nil and the scheme may not be applicable to construction outside an urban conglomeration or Municipality. The yield in a year is likely to be around Rs.1 crore.

Provisional Certificate-holders

2.60. It has already been recommended that a Provisional Certificate-holder should be at par in the matter of payment of taxes with other registered manufacturing dealers.

Manufacturers' General and Special Purchase Tax

2.61. The Committee has already recommended that sales tax under section 5(1)(bb) and purchase tax under section 4(6) of the Bengal Finance (Sales Tax) Act, 1941 on purchase from unregistered dealers would be replaced by general purchase tax on purchase of inputs by manufacturing dealers. Provisional Certificate-holders will also be liable for the same general purchase tax. The suggested change will not affect tax yield either way but will ensure administrative convenience and quicker disposal of business. Special purchase tax on manufacturers' purchase of inputs where

the end product is not sold in West Bengal will be levied in addition to general purchase tax and will be extended also to provisional certificate-holders.

Purchase Tax on Other Items

2.62. At various other places of this report, the Committee has, while considering measures necessary for better tax-compliance by dealers, recommended imposition of purchase tax on certain transactions. These are either in lieu of, or in addition to, existing provisions of penalty or fresh imposition devised as anti-evasion measure. Detailed recommendations will be found in the appropriate Chapters but these are briefly referred to below :

- (1) Purchase tax for unauthorised use of goods/declaration forms in lieu of penalty under sections 5A and 5B of the Bengal Finance (Sales Tax) Act, 1941 (vide Para. 5.12).
- (2) Purchase tax on provisionally registered dealer for misuse of the terms of provisional registration and/or failure to obtain a regular registration certificate within 2 years (vide Para. 7.25).
- (3) Purchase tax on stock remaining unsold on the date of cancellation of registration (vide Para. 7.25).
- (4) Purchase tax where imposition of sales tax is made difficult for any reasons (e.g. hoteliers' "sales") (vide Para. 7.25).

2.63. The Committee may in passing refer to doubts expressed by some organisations and individuals if both sales tax and purchase tax can be levied on the same commodity. Their argument is that the word "or" appearing in the expression "tax on sales or purchases of goods" appearing in item 54 of State list of the Seventh Schedule of the Constitution is disjunctive. The Committee does not agree with this interpretation but nevertheless would suggest that Government may consider the desirability of obtaining competent legal advice in this regard. Incidentally, the Bombay Sales Tax Act does impose purchase tax and sales tax on the same commodity much more extensively.

2.64. Extra-territorial impact of Central Sales Tax Act—The Committee has not considered the administration of the Central Sales Tax Act, 1956, except in terms of work-load. In examining the purchase tax policy, however, it becomes necessary to examine the policy of inter-State purchase tax.

The irrationality of the extra-territorial impact of the present Central Sales Tax Act, 1956, has been recognised by the Jha Committee which concluded that the inter-State sales tax rate be reduced to original 1 per cent, the rate prevailing when inter-State sales tax was introduced in 1957. This Committee has given some thought on the issue. While the Committee

agrees that the Central Sales Tax Act, 1956 has an extra-territorial jurisdiction, it is unable to agree with the conclusion of the Jha Committee that the problem would be mitigated by merely reducing the rate of inter-State sales tax to 1 per cent. The imposition of tax on sales is basically within the eminent domain of the taxing State. By virtue of the Central Sales Tax Act, however, State "X" is invested with the power of imposition of a levy on consumers situated in another State "Y". In the opinion of the Committee, this is illogical. The right of imposition of Sales Tax, as the Committee evaluates the intention of the Constitution, should remain limited to the population and consumers in the State and it would not go beyond the frontiers of the State. In the considered opinion of the Committee, the solution of the malady lies in withdrawing the present Central Sales Tax Act, 1956 and replacing it by a Central Sales and Purchase Tax Act. Under this scheme, inter-State purchase of goods by consumers in a particular State can be subjected to a purchase tax under the proposed Central Law. This purchase tax can be levied on the consumers in the State by the State purchasing the goods. The proposed law will retain some aspects of the present Central Sales Tax Law. Under the proposed law, inter-State sales between registered dealers under the Act will remain exempt on furnishing statutory declaration, while inter-State sales to an unregistered dealer/consumer will be subject to tax at a very high rate, say 20 per cent. Inter-State purchase will, however, be subject to a rate of tax to be levied by the Government of the purchasing State. This rate of tax on purchase may vary between 1 per cent and 20 per cent to be decided by the Government of the purchasing State. In the opinion of the Committee, this will mitigate the problem of extra-territorial jurisdiction of the Central Sales Tax Act to a very large extent. The Committee recommends that the State Government will examine this idea and take up the matter at such forum as it deems fit.

2.65. One more reason why the Committee has examined this issue is that West Bengal today is more an importing State than an exporting one. The net import for consumption within the State far exceeds the export made by it. It is worth mentioning here that out of about Rs.600 crores realised as tax under the Central Sales Tax Act, 1956, during 1977-78, share of West Bengal was only about 12 per cent.

2.66. It was pointed out to the Committee by reasonably responsible quarters of Chambers of Commerce that because of difference in Sales Tax rates purchases by Government Departments, both Central and State, situated within the State of West Bengal were often made from places outside West Bengal. It was explained that since Government invariably purchased by inviting tenders beforehand, manufacturers situated outside the State got some advantage as their rate of Sales Tax was 4 per cent against certificate in form "D" issued by the purchasing Government Department. A number of specific cases were cited where the goods were actually purchased by Railways/Defence Department establishments.

situated in West Bengal from outside the State owing exclusively to Sales Tax rate differential. It was urged that with a view to saving the home industries from this disadvantage, the State Government might reduce the rates of tax on sales to Government Department situated within the State to 4 per cent. It was also stated that some of the States like Bihar, etc., have such a scheme.

2.67. After consideration of the problem posed the Committee recommends that rate of Sales Tax on sales to Government Departments, both Central and State, will be reduced to 4 per cent on production of a certificate in a form similar to "D" form prescribed under the Central Sales Tax Act, 1956, duly signed by the prescribed authority. The Committee further finds that a similar recommendation was made by the Yardi Committee of Maharashtra to prevent the Central Government Departments and establishments located in that State from going to other States for making their purchases.





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CHAPTER 3

PROCEDURAL LAW : ASSESSMENT

3.01. Item 3 of the terms of reference of the Committee is "review and suggestions for change, if any, in procedures for assessments, appeals and revisions under the statutes." This and the following Chapters contain the Committee's views on this subject.

3.02. In the Bengal Finance (Sales Tax) Act, 1941, which is the most important Act now administered by the Commercial Taxes Department, sub-sections (1) and (2) of section 11 contain the law relating to assessment for registered and unregistered dealers respectively. Unlike in the Indian Income Tax Act and Sales Tax Acts of most other States, and indeed even in the West Bengal Sales Tax Act, 1954, there is no provision in the Bengal Finance (Sales Tax) Act, 1941, for assessment other than best judgment assessment. Accordingly, even in a case where there is prima facie no ground to disbelieve returns submitted by an assessee, elaborate procedure inherent in a best judgment assessment has to be taken recourse to. Although the West Bengal Sales Tax Act, 1954, contains a provision for assessment on the basis of returns without invoking the procedure for best judgment assessment, practically every assessment under this Act also is made on best judgment basis. As a result, there is a tendency among many assessing officers to treat every assessment on an equal footing and, in the process, smaller assesseees are put to avoidable harassment, while bigger assesseees are given less than adequate attention. There must be very many exceptions to this general tendency, but nevertheless this is the overall and dominating tendency.

3.03. It will appear from Table 1 (Turnoverwise break-up of registered dealers) that 52.6% of dealers have a turnover below Rs. 1 lakh, while dealers having turnover of Rs. 50 lakhs to Rs. 1 crore and those having turnover over Rs. 1 crore constitute less than 1.5% and 1.2% respectively. Again, Table 2 (Tax yieldwise break-up of registered dealers) would show that 49.2% of dealers pay tax below Rs. 2,000 a year, while those paying between Rs. 50,000 and Rs. 1 lakh and those paying over Rs. 1 lakh a year constitute only 2.3% and 1.8% respectively. The Committee is, therefore, convinced that there should be a rational discrimination in the degree of scrutiny for making assessment of dealers.

3.04. In the Income Tax Department, a scheme of summary assessment was introduced in 1964, under which assesseees declaring income up to a certain level are assessed without requiring their presence or production of books of accounts before the Income Tax Officer. Certain fundamental differences between Income Tax and Sales Tax Laws, however, make it difficult to adopt the Income Tax scheme for assessment under the Sales Tax Law. It is also significant that only the cases of Income Tax (as distinct from Corporation Tax), bulk of which is attributable to States, were brought under this scheme

and company cases yielding Corporation Tax which is fully retained by the Union Government, are not assessed under it, irrespective of the income slab. Nevertheless, many State Governments are known to have introduced a sort of simple assessment for smaller assesseees and attempt was also made in this State to introduce one such Scheme in terms of memo. No. 14838-C.T., dated 7th October 1974 (Appendix D). The Committee understands that not a single assessment was made on the lines of the said instructions apparently because the approach was so cautious and full of so many safeguards that the assessing officers might have found the ordinary assessment procedure to which they were habituated, less burdensome. While there must be some inbuilt safeguard against widespread abuse of the concession, the Committee has come to the firm conclusion that in prescribing a simple assessment procedure, the Government must take some amount of calculated risk. Without this, a simple assessment cannot be really simple.

3.05. The Committee has come to the same conclusion that introduction of a really simple assessment procedure is essential in consideration of items 2 and 5 of the terms of reference also. Item 2 is concerned with "Quicker disposal of business and better collection of tax". The Committee's study reveals that there were on 1st April 1978 around 65,000 and 41,000 live registered dealers under the Bengal Finance (Sales Tax) Act, 1941, and the Central Sales Tax Act, 1956, respectively (Table 3). Even ignoring the annual growth rate of over 6 per cent, this means that so many assessment cases are added every year to the backlog of pending assessment cases, which were around 1,37,000 and 82,000 under the two Acts respectively, as on 1st April 1978 (Table 4). At the present rate of annual disposal [66,000 under all the State Acts of which 61,000 are under the Bengal Finance (Sales Tax) Act, 1941, and 33,000 under the Central Act (Table 5)], simple arithmetic indicates that the backlog would not diminish unless the strength of assessing officers be increased several times. Simple arithmetic, however, cannot be applied to the problem because the bar of limitation compels every single assessment to be somehow completed within 4 years. Naturally, the overall result is that more and more assessments are being kept pending until on the verge of limitation, and the quality of such assessment cannot be up to the mark. The Committee has elsewhere considered the manpower requirement and made recommendations for augmenting the strength of assessing officers (Chapter 12) as well as improvement in logistics to cope with the problem of accumulating work (Chapter 8). With the same end in view, and in the background of the analyses made hereinbefore, the Committee recommends that introduction of a simple assessment procedure is also essential for quicker disposal of business. The extra time released as a result of about 50 per cent assessments being made under such simple assessment procedure can be better utilised in making assessment of bigger dealers ensuring better collection of tax. The relevance of item 5 of the terms of reference, viz., "Simplification of ... procedures ... for minimising hardship to the tax paying public" is obvious and needs no discussion.

3.06. With the aforesaid considerations, the Committee recommends that a simple assessment procedure be introduced on the following lines:

Simple Assessment

3.07. **Law**—The proposed composite law may contain a provision for assessment on the basis of return in the following lines, viz., “If the Commissioner is satisfied that the return furnished by a registered dealer in respect of any period is correct and complete, he shall, subject to the provisions of sub-sections () and (), assess the amount of tax due from the dealer on the basis of such return”.

3.08. There will be other provisions to make it abundantly clear that an assessment on the basis of returns under the above provision shall be without prejudice to the Commissioner's right to call for books of accounts and other evidence within a specified period from the date of assessment for the purpose of scrutiny and confirmation if the relevant return was in fact correct and complete. There will also be another provision that if, upon scrutiny of the books of accounts and other evidence, or otherwise, the Commissioner is of the opinion that the return was not correct and complete, he may, within a specified period, cancel the assessment made on the basis of returns and proceed to assess to the best of his judgment.

3.09. There will also be another provision by way of abundant caution that if a dealer, on being asked to produce books of accounts and other evidence for the purpose of scrutiny as aforesaid, fails to comply without reasonable cause, then the Commissioner shall cancel the assessment and proceed to make a fresh assessment to the best of his judgment.

3.10. **Eligibility**—Although under the aforesaid law any assessment could be made on the basis of returns, departmental instructions will lay down the criteria for selecting dealers for simple assessment under the aforesaid provision. To start with, the following dealers will come under this scheme:

(1) All registered dealers declaring Gross Turnover up to Rs. 1 lakh except—

- (a) all newly registered dealers in their first two years of assessment;
- (b) a dealer detected to have fraudulently suppressed tax or wilfully misreported or concealed matters in respect of any of the preceding two years' assessment (the mere fact that additional demand was raised in one of the preceding two years' assessment will not be considered a disability, unless such assessment of additional tax indicates detection of fraudulent suppression of a degree to attract the provision of the present section 20A and/or a prosecution);
- (c) a dealer whose books of accounts have been seized in relation to the particular year in question or any of the immediately preceding or succeeding two years and where seized books of accounts prima facie indicate suppression of tax;

(d) a dealer against whom an enquiry is known to be pending in any investigation agency of the Department;

(e) a dealer whose bona fides are otherwise suspected.

(2) A dealer who could have been eligible for simple assessment but for any of the disabilities mentioned above, would again become eligible for simple assessment as soon as the disability is removed and if two consecutive years of assessment thereafter by ordinary assessment procedure do not disclose any fraudulent suppression of tax.

3.11. After a few years' experiment, if the scheme appears to be successful, the scope of eligibility may be extended to—

(a) dealers belonging to slightly higher slab of turnover; and

(b) a dealer irrespective of turnover if his entire sales are admittedly taxable at the full rate and his purchases are capable of verification from independent sources (e.g., dealers in country spirit, co-operative society dealing in only a few classes of goods, Government Departments, etc.)

3.12. **Procedure**—Rules will provide that every dealer shall enclose with his return (or the last periodic return of his accounting year) a "statement of information" (Appendix E), copies of Manufacturing, Trading and Profit and Loss Accounts and Balance Sheet, as well as a list in duplicate of his sales covered by declarations. The dealer will also be required to furnish names of all commodities, sales whereof he has declared to be taxable at different rates. Immediately after a return showing less than Rs. 1 lakh Gross Turnover for the year is received in Office, the dealing assistant concerned will scrutinise and ascertain if the dealer is eligible for simple assessment and if so, will submit one copy of the list of declaration forms to the attached Inspector for his visit of the dealer's place and prima facie verification of the declarations with the list and defacement of the declaration forms by cutting off the corners. The Inspector will record the fact of verification on the list and return it to the office. The extent of Inspector's verification will be not more than tallying the serial number of the declaration, name and Registration Certificate number of the purchasing dealers, sales voucher numbers and amount. The process of verification will be completed within a period of six months from submission of return. The dealing assistant will put up the file before the Commercial Tax Officer with a note [for which a printed proforma (Appendix F) will be introduced] indicating inter alia if all necessary enclosures have been furnished with the returns. If any necessary enclosure be wanting, a simple letter [a printed proforma (Appendix G) will be introduced for this purpose also] asking the dealer to furnish the wanting document within a specified date will be sent. The Commercial Tax Officer will verify the calculation in the return and the enclosures and make assessment accordingly, by filling up and signing a proforma order (Appendix H). Proformas suggested in this paragraph as per Appendices F, G and H will fully explain the procedure.

3.13. Scrutiny—A separate register will be maintained for recording particulars of simple assessments made. At the end of every year, every assessing officer will forward the register to the administrative Assistant Commissioner, who will select at random 10 per cent of the cases of simple assessment for scrutiny under the law and forward a list of such cases selected at random to the Commercial Tax Officer who will proceed to make scrutiny of these cases and, in appropriate case, to make fresh assessment in accordance with law. The result of scrutiny will be intimated to the Assistant Commissioner within one year. Random selection as recommended here may be made either in terms of serial number of entry in the Simple Assessment Register or in terms of Registration Certificate number. In either case, the actual selection may be by a system of random number as explained in Appendix I, so that every case of simple assessment has even chance of being subjected to scrutiny.

3.14. Safeguard and Penalties—Where scrutiny of a simple assessment case reveals no discrepancy or discrepancy of a nature not suggesting any fraudulent suppression by the dealer, the case will be closed by demanding and realising appropriate tax, if any. If, however, any serious discrepancy indicating mala fide on the part of the assessee is detected, steps will be taken to impose exemplary penalty under a provision of law [similar to section 20A of the present Bengal Finance (Sales Tax) Act, 1941] and also to prosecute him in appropriate cases for which law will provide a minimum period of rigorous imprisonment, as has been recommended in a separate chapter (Para 7.45). Such a dealer will also be ineligible for simple assessment for two years as already recommended [Para 3.10(b)] and any simple assessment case, if already made in respect of the same dealer, will be re-opened for scrutiny. If such a dealer is known to belong to a chain of dealers, the cases of other dealers in the chain will also be reported for scrutiny.

3.15. Extension of the Scheme to Assessments under the Central Sales Tax Act 1956—It is necessary, in passing, to mention that when a dealer assessed under this scheme is also registered under the Central Sales Tax Act, assessment under the latter Act should also be made under a similar procedure, for which the proformas suggested in Appendices F, G and H may be used *mutatis mutandis*. The fact that a dealer might have been registered under the Central Act only during the relevant year will not be a disability provided he was registered under the State Act more than two years ago and is otherwise eligible for simple assessment under the State Act.

Ordinary Assessment

3.16. The cases which do not qualify for simple assessment as discussed in the preceding section and also do not justify special assessment discussed in the next section will be dealt with by ordinary assessment procedure. Such assessment will be made more or less on the lines of existing procedure of assessment with the following modifications.

3.17. A statement of information (vide Appendix E), which will be filed by all dealers with the return, must be insisted upon. If the same was not filed with the return, a proforma will be sent to the dealer with the initiation notice with instruction to submit the same at the time of hearing. The statement will form the core area of examination of books of account. The Commercial Tax Officer will indicate on the statement the degree of scrutiny he has made in respect of all different items in the statement. For example, he may write "fully checked" or "test checked" against any particular item. Besides, he will examine if the register XXIII and register 2 (and such other register of declaration forms as may be prescribed) contain entries for all declaration forms obtained by the dealer during the material period (which will extend to some time after close of the year under assessment) and make a test check of at least 10 per cent entries in each of these registers with the purchase vouchers and books of account. The fact of such test check will be recorded. If not more than 50 declarations of various sorts are produced in support of claim for exemption and concessional rate of tax, then these will be fully checked with reference to sales vouchers and books of accounts. If declarations are too many, he may make a test check of not less than 5 per cent declarations selected at random subject to a minimum of 50 forms. A distinctive tick will be put against every entry in the statement of declarations where the declaration has been test checked and the total number of declarations actually checked will be recorded. In any doubtful case (e.g., where a declaration arouses any suspicion by its appearance or where the assessee has shown comparatively heavy sales to a registered dealer with which he had little transaction in the past or where sales involving large amounts are claimed to be paid for in cash), evidence of delivery will be demanded and cross verification with the buyer's and seller's books of accounts made through the attached Inspector. For this purpose, the Committee has elsewhere recommended (Para. 5.46) that Inspectors will have authority to verify a transaction claimed by a dealer within his jurisdiction with any other dealer, whether or not the latter is within his territorial jurisdiction. All totals cast by the dealer in the statement and in suspicious cases also in the books of accounts, will be checked by the Commercial Tax Officer, for which purpose, the Committee has recommended the supply of adding machine or pocket calculator to every Assessing Officer (Para. 8.22).

3.18. Two days before an assessment is fixed for hearing, the dealing assistant will requisition the file from the record room and keep the case records ready after ensuring that returns and challans are in the file. The case record will thereafter be kept in the Commercial Tax Officer's almirah, so that he can readily get the file on the date of hearing.

3.19. The Commercial Tax Officer will fix for hearing only as many cases a day as he can actually take up. Ordinarily, not more than two dealers' cases should be fixed on a day. The hour should not be mechanically fixed at 11 O'clock, but preferably staggered. If any unforeseen circumstances compel

the Commercial Tax Officer to adjourn any assessment *suo motu*, such adjournment will be intimated at the earliest opportunity and, if possible, in advance.

3.20. Prayer for adjournment will be discouraged. Adequate publicity will be given by the Public Relations Officer that prayers for adjournment may not be entertained except on very strong ground. If a case has to be adjourned, the next date will be fixed immediately and the dealer, or his authorised agent, intimated personally. A postal intimation of an adjournment granted on prayer would be sent only in exceptional circumstance.

3.21. Ordinarily, examination of books of accounts should be completed in one sitting. If a case has to be adjourned after part hearing, the date for next hearing will be fixed immediately. Such adjourned date should be a proximate one.

3.22. Ordinarily, an assessment order will be passed on the same date when the books/evidence are examined or on the following date at the latest. If final order be delayed for more than a day, a speaking order will be recorded in the presence of the dealer to the effect that order is kept reserved till a specified date. The demand notice accompanied with the copy of assessment order will be sent out within three days from the date of order. If the demand notice be delayed beyond three days, reason for such delay will be recorded by the dealing assistant concerned and Commercial Tax Officer's approval obtained.

Special Assessment

3.23. Ordinary and special assessments will be made under the same provision of law and there will be no difference in the two types of assessments in the eye of law. There will, however, be much more extensive checking in the case of a special assessment.

3.24. To start with, the following classes of assessees may be subject to special assessment procedure :

- (a) Dealers having Gross Turnover exceeding Rs. 1 crore ;
- (b) Dealers whose books of accounts for the year under assessment (or a recent previous/subsequent year) have been seized ;
- (c) Assessment made by any special unit, eg., Investigation Wing ;
- (d) Any other cases selected by the administrative Assistant Commisisioner for adequate reasons, by a confidential order.

3.25. Procedure for Special Assessment may not be uniform for all types of special assessees. The common procedure for all classes will be the following, in addition to or in modification of, ordinary assessment procedure :—

- (1) Degree of check of the core area of accounts on the basis of the statement of information will be more elaborate,

- (2) Checking of declarations will, depending on the criterion of selecting the case for special assessment, be from 10 per cent (subject to a minimum of 100 declaration) to 100 per cent;
- (3) Cross verification of an adequate number of transaction, both purchase and sales, will be made through the attached Inspector;
- (4) Scrutiny of Income Tax assessment order, if a copy is produced by the assessee, or enquiry with the Income Tax Officer, will be made to ascertain if there is any rejection of books of accounts or detection of significant fact by him;
- (5) If the assessee be a manufacturer of excisable goods, enquiry will be made with the Central Excise Department on the same lines as stated in Sub-para.(4).

Rectification of Mistake

3.26. Section 154 of the Income Tax Act provides that an assessee may apply to the assessing officer for rectification of any mistake apparent in the order of assessment. Sales Tax Laws of a few States also contain similar provision. Strong representations were made before the Committee by many for incorporating such a provision in the sales tax law of this State. Although there is a provision for review of an order upon application or suo motu, the Committee recommends that specific provision for rectification of mistake be incorporated in the law. Apart from minimising the hardship of the tax paying public, such a provision is likely to reduce the necessity of filing appeals in some marginal cases and will thus be instrumental in reducing the work-load of appellate authority.

3.27. Under the recommended provision, an assessing authority may, either on his own motion or upon application, rectify any mistake made in the assessment order passed by himself or his predecessor provided :

- (a) the mistake is patent on the record, being of clerical nature, including any mistake in computation and any omission to give credit of tax, interest or penalty paid by the assessee before original assessment order was passed;
- (b) no appeal has been filed against the assessment and the time for filing appeal has expired;
- (c) in the case of suo motu rectification having any adverse effect on the assessee, an opportunity of being heard has been given and the assessment was not made before a certain specified period of time;
- (d) in case of rectification upon application, the assessee has applied within a specified period of time.

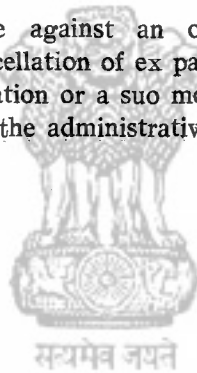
3.28. Wrong application of tax rate may be rectified by the same person making the original assessment but not by his successor-in-office.

Cancellation of *ex parte* Assessment

3.29. A sizable part of appeals arises out of *ex parte* assessments and majority of such appeals result in a remand of the assessment. This adds to avoidable work-load. The Committee recommends that a dealer suffering an *ex parte* assessment will have a legal right to apply, within a specific period, before the assessing authority for cancellation of the *ex parte* assessment and for a fresh assessment upon hearing the assessee, on any of the following grounds :

- (a) that the assessee was not given an opportunity of being heard ;
- (b) that he was prevented from availing of the opportunity of being heard by circumstances beyond his control ;
- (c) that his application for extension of the opportunity of being heard, by way of an adjournment, was not considered at all by the assessing authority.

3.30. An appeal will lie against an order rejecting application for rectification of mistake or cancellation of *ex parte* assessment. Copies of order allowing either class of application or a suo motu rectification in favour of the assessee will be forwarded to the administrative Assistant Commissioner,





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CHAPTER 4

PROCEDURAL LAW : APPEALS AND REVISIONS

4.01. Under the present scheme of the Bengal Finance (Sales Tax) Act, 1941, an appeal can be preferred only against an order of assessment. Any other order including an appellate order may be challenged by an application for revision. The procedure in appeal and revision and the ambit of power of the appellate/revisional authority being practically the same, the Committee finds little justification in retaining this dual nomenclature, particularly when appeals can be preferred against all orders under the West Bengal Sales Tax Act, 1954. It is recommended that barring very few classes of orders, e.g., an initiation order proposing an assessment or imposition of penalty or any other similar notice in the nature of show cause which should be declared non-appealable, all other orders under the law will be appealable. An appeal against an appellate order may be called a second appeal. The scope of revision will be limited to *suo motu* cases. A large number of suggestions were made before the Committee for reform of law and procedure relating to appeal and revision. The more important ones are considered below.

Curtailing Appellate Power of Remand

4.02. It was pointed out that the Choksi Committee on Direct Tax Laws made such a recommendation. While the Committee is in sympathy with the spirit behind the suggestion, it is unable to agree to the same because in the Committee's opinion such a course will create more difficulties than it will solve. The largest number of remand cases arise out of *ex parte* assessment. One of the Committee's recommendation in the previous chapter for cancellation of *ex parte* assessments (para. 3.29) should ensure that unsustainable *ex parte* assessments would not go before the appellate authorities. The other cases of remand mostly arise out of the fact that appellate authorities do not find it convenient to enter into detailed examination of the accounts which ought to have been made by the authority below. This is a problem of organisation and logistics, and the Committee has recommended elsewhere (para. 6.21) that an unattached Inspector (i.e. one not specifically attached to any Commercial Tax Officer) will be available for making enquiry on questions of fact and examination of books of accounts under instruction from the appellate Assistant Commissioner given under provisions similar to rule 80A of the Bengal Sales Tax Rules, 1941. It is recommended that by Departmental instructions, appellate authorities will be discouraged to remand cases of the nature considered here and encouraged instead to decide them on merit with the assistance of unattached Inspector. The Committee believes that when these two recommendations are acted upon there will remain little necessity for remand of an assessment. If any area justifying remand has remained uncovered by the two aforesaid recommendations, the Committee does not consider it fit to take away the power of remand from the appellate/revisional authority in such an area.

Provision for Time Bar in Disposing Appeal

4.03. All who suggested that there should be a time bar of, say, one year within which an appeal must be disposed of, admitted during discussion with the Committee that the effect of such a provision is difficult to foresee. Most of them revised their suggestion by saying that the proposed time bar should not be a rigid one but should read something like this: "an appeal should be disposed of within a year from the date of filing except when the appellate authority, for reasons to be recorded in writing, considers it necessary to dispose of the same beyond the said period". The Committee is not in favour of such a provision.

4.04. The effect of time bar in assessment (or *suo motu* revision) is that the assessment (or revision) cannot be made after the stipulated time limit and, in such an eventuality, the assessee cannot be made liable for any tax or penalty beyond what has been admitted and paid. An appeal being a "call to higher tribunal for deliverance from decision of lower" stands on a different footing. To provide for a time bar in disposal of appeal, must necessarily mean or imply that an appeal will be deemed to have been allowed in full unless it is otherwise disposed of before it is time-barred. Apart from the fact that allowing an appeal by means of a deeming provision is beset with operational difficulties, there are many appeals in which the prayer is not specific but general (e.g., "assessment be modified in accordance with law") and, in such cases, the effect of time bar in disposal cannot be precisely determined by a deeming provision.

4.05. This difficulty was appreciated and admitted by all who made the instant suggestion. Their modified suggestion to introduce in the law nothing but a verbose platitude would help no one. And what will happen if an appellate authority fails to dispose of an appeal within a year and also fails to record in writing any reason for the delay is a question that remains at large.

4.06. The spirit behind the suggestion is to ensure disposal of appeals within a reasonable time. The Committee is in sympathy with the spirit and would consider it in the next following section.

Delay in Disposal of Appeals

4.07. Table 6 shows the progress of appeal, revision and review cases before the Assistant Commissioners. It would appear therefrom that disposal falls short of filing of fresh appeals every year, the extent of short fall varying between 150 in 1975-76 and 4,600 in 1976-77. As a result, backlog of pending appeals is increasing from year to year and was about 16,000 cases on 1-4-78. The position is more or less similar in respect of revision cases, about 1,500 cases remaining pending on 1-4-78. The Committee estimates that the total number of pending appeals and revision would be about 20,000 on 1-4-79.

4.08. The effect of increasing backlog is manifest in delayed disposal of appeals. Among the appeals disposed of in 1977-78, about half was filed more than 6 months before, and about a quarter was more than two years old. The Committee feels that appeals should be disposed of within 6 months.

4.09. A simple calculation would show that when the number of pending cases on the initial date of consideration = p_0 , that at the end of n -th year = p_n , the number of fresh cases added per year = a , and the number of cases disposed of per year = d , then

$$p_n = p_0 - n(d - a).$$

Again, if the average time taken to dispose of a case at the end of n -th year from the initial moment of consideration = t_n ,

$$\text{then } t_n = \frac{p_n}{d} = \frac{p_0 - n(d - a)}{d}$$

Evidently when $d < a$, backlog will perpetually increase and t_n will continually increase with n . It is only when $d > a$ that t_n will decrease.

4.10. The above general formulae may be applied to the instant problem. Here, p_0 (on 1-4-79) = 20,000, $a = 10,000$, and d can be taken [at the rate of 65 cases per Assistant Commissioner per month for 22 Appellate Assistant Commissioners as suggested elsewhere (para. 6.09)] at 17,160 or say 17,000. On this basis, time to dispose of an appeal at the end of 2 years from 1st April, 1979 (t_2) would be a little over 4 months. The desired level of disposal in 6 months would have been attained shortly after $1\frac{1}{2}$ years ($t_{1.5} = 6.5$ months).

4.11. A question naturally arises if, after a lapse of further time, pending cases (p_n) will not eventually be reduced to zero and the appellate Assistant Commissioners would not thereafter have less than adequate work. As a matter of fact, if the variables a and d are taken at the static value of 10,000 and 17,000 respectively, p_n (and therefore t_n) will be reduced to zero after less than 3 years ($p_{2.86} = 0$), but these variables are not static over a period of time. Since appellate Assistant Commissioners will be discouraged from sending back assessments on remand and encouraged instead, in appropriate cases, to take recourse to provisions similar to rule 80A of the Bengal Sales Tax Rules, 1941 (with the assistance of unattached Inspector, as recommended in para. 4.02), d may assume a slightly lower value. Again, the value of a will increase considerably as a result of

increased rate of disposal of assessments with the increase in the number of assessing officers, as recommended by the Committee in Chapter 12. Since as many as 2.5 lakh assessment cases (2½ years workload of assessing officers at the current rate of disposal) were pending on 1st April, 1978, one could expect that in 2 years' time *a* might assume a value as high as 20,000 or more. But the Committee estimates that owing to the introduction of simple assessment scheme and provision for rectification of mistakes and cancellation of *ex parte* assessment, filing of fresh appeals (*a*) would, in about 1½ years of the operation of the recommended scheme in toto, be more or less equal to the number of disposal of appeals (*d*) both being around 16,000 a year so that p_n will be freezed at about 8,000 and t_n will remain more or less static at 6 months.

4.12. Recommendations made hereinafter (para. 4.29 *et seq.*) to introduce dismissal of appeals for default (with proviso for restoration) will also ensure quicker disposal of appeal.

Rationalisation of Fees for Appeal/Revision

4.13. Under the existing law, a fee at 5 per cent of the amount in dispute, subject to minimum of Rs. 5 and maximum of Rs. 100, is required to be paid on every memorandum of appeal. Application for revision of non-assessment order requires a fee of Rs. 25. Revision against an appellate order (and an order revising an assessment is to be preferred before the Tribunal and the prescribed fee is 10 per cent of the amount of tax in dispute subject to minimum of Rs. 25 and maximum of Rs. 100.

4.14. The Committee received quite a few representations that requirement of fees for the first appeal should be dispensed with or at least reduced to a token amount. The position in this regard as prevailing in the Income Tax Act and Sales Tax Acts of several other States has been looked into. It appears that in many such laws the requirement of fee in preferring first appeal is either nil or token.

4.15. Unlike the Civil Procedure Code, the Sales Tax Law has no provision for refund of the fees under any circumstances. Thus, even if the assessment is patently wrong, the assessee is required to pay substantial fee on appeal and amount once paid cannot be refunded, even if he succeeds in appeal. The Committee examined if refund of fee paid on a successful appeal can be provided for in appropriate cases, but found that it was difficult to provide for the same. All fees under the Sales Tax Laws, including the Central Sales Tax Act, are paid in court-fee stamp and the gross collection on this account (estimated to be around Rs. 15 lakh) is credited to a head of account administered by the Judicial Department and is not reflected in the performance of the Commercial Taxes Department. Any provision for refund of fee by the order of the appellate authority under the Sales Tax Law would involve some cumbrous accounting procedure.

After considering all these factors, the Committee recommends that fee for preferring the first appeal against any order, including assessment order, be fixed at Rs. 5, which is the cost of sending two notices by registered post. There is no representation for reduction of fee for revision to be preferred before the Tribunal and the present scale of fee may be kept undisturbed at 10 per cent of the disputed tax and penalty. But the Committee recommends that the maximum limit of the fee be raised to Rs.500, from the present maximum of Rs. 100. This will discourage filing of frivolous second appeals before the Tribunal and since there is provision for award of cost by the Tribunal even against the Department, the marginal increase in the maximum limit of the fee will not deter filing of bonafide second appeals before the Tribunal.

Realisation of Assessed Tax Pending Disposal of Appeal

4.16. A few Chambers of Commerce and professional bodies represented that realisation of disputed tax should be automatically stayed pending disposal of appeal. During discussions with the Committee, they, however, admitted that such a provision was very likely to be abused by dealers intending to frustrate the realisation of legitimate dues. Their modified stand was that if any application for stay was filed, the assessing authority should at least wait till disposal of such stay petition before taking recourse to coercive measures for realisation of disputed tax. This is a very reasonable stand. Enquiry reveals that an assessing officer generally awaits the decision on stay petition by the appellate authority before embarking upon any coercive measure. The difficulty arises when stay petition is not disposed of within a reasonable time or when the dealer, after being unsuccessful before the appellate authority, prefers revision against the order rejecting the stay petition or allowing the same on condition. This problem is in essence one of delay in disposal. It is believed that the Committee's recommendations taking as a whole would minimise delay in disposal of such matters.

4.17. The Committee has come across instances where dealers preferred frivolous appeals disputing the entire assessed tax for the sole purpose of delaying realisation. There are even instances where the assessed tax is an amount initially admitted by the assessee before the assessing officer but subsequently disputed in appeal on some frivolous pretext. Obviously, to guard against this type of malpractice, Sales Tax Laws in very many States including Delhi, Maharashtra, Karnataka, Nagaland, etc. provide that an appeal shall not be entertained unless the entire amount of assessed tax is paid, with the safeguard that the appellate authority may, for reasons to be recorded in writing, condone this condition in part or in full. The existing law of West Bengal provides that no appeal shall be entertained unless the admitted tax is paid by the appellant. What is exactly meant by the phrase "admitted tax", has been the subject matter of a catena of High Court and Supreme Court cases. But the legal position is not perhaps finally settled. Viewing the problem as a whole, the Committee recommends that

to fulfil the dual purpose of counteracting mala fide delay in payment of tax and obviating any possible hardship to bona fide assessee, law will provide something like the following:

“Appeal, including second appeal, shall be summarily rejected unless the assessed tax is paid in full before the appeal is preferred, provided that the appellate authority, including the second appellate authority, may, upon application and for reasons to be recorded in writing, entertain the appeal and decide the same on merit without payment of assessed tax either in full or in such part as he may deem fit and proper, if he is satisfied that there is a strong *prima facie* ground for staying realisation of the assessed tax in full or in part”.

The above is not meant to be the exact text of the proposed legal provision but merely intended to convey the Committee's thinking on a suggested solution of the problem.

4.18. The Committee is aware that applications for condonation of payment of assessed tax would be filed under the recommended law along with most of the memoranda of appeal. This will not, however, add to the workload, because applications of this kind will be in lieu of stay petition, or if both stay and condonation petitions are filed, both would be disposed of in course of a single hearing.

Filing of Certified Copy of Impugned Order

4.19. The Committee has already recommended that copy of assessment order will accompany final notice of assessment (para 3.22). Appellant may file copy of this along with memorandum of appeal. The requirement of filing certified copy of the impugned order serves little purpose and is instrumental in substantial delay in getting assessment or other orders rectified in appeal. The requirement will be dispensed with.

4.20. There will, however, remain some other classes of orders against which the dealer may prefer appeal. The Committee has not recommended automatic furnishing of copies of such orders, e.g., fixation of liability to pay tax, rejection of application for registration or for amendment of registration certificate, rejection of application for declaration forms, etc., even if such an order adversely affects the dealer. The Committee recommends that an order of this nature will be passed, as far as possible, in the presence of the dealer or his authorised representative, so that the dealer may immediately prefer appeal against such order, if he so desires. In such cases, furnishing of certified copies with the memorandum of appeal will not be obligatory. The appellant would have option to apply for certified copy of the order and examine the same before deciding whether he would prefer appeal or not. And in such cases, time for obtaining certified copy will not count towards limitation. In other words, filing

of certified copy of an order, the full text of which was not furnished by the Department to the dealer, will be optional and where the option is exercised, the time taken for obtaining the copy will be excluded in computing limitation. If the dealer chooses to prefer an appeal without obtaining certified copy, appeal will be deemed to be in order, provided the dealer furnishes a gist of the impugned order and verifies that to the best of his knowledge, the gist furnished by him substantially conveys the purport of the order. Without such a provision, it may not be possible for a dealer to get speedy justice against a high-handed order of rejection of application for declaration forms and the like.

Filing of Original Demand Notice

4.21. The exact purpose for which the original demand notice is required to be submitted along with a memorandum of appeal, is not clear to the Committee. After all, a demand notice becomes the dealer's property after it is served on him. This requirement will also be dispensed with or it will be provided that the original demand notice shall be returned to the appellant along with the final order of appeal.

Delay in Tribunal

4.22. The section next following (Para. 4.33 *et seq.*) will deal with questions relating to the West Bengal Commercial Taxes Tribunal.

Settlement of Dispute by Commissioner

4.23. Several professional bodies and a few individuals urged that power of the Commissioner to determine disputes as was provided for in section 18 of the Bengal Finance (Sales Tax) Act, 1941 until 1950, should be re-introduced. The Committee's attention was drawn to the recommendation contained in the interim report of the Choksi Committee on Direct Tax Laws suggesting that such a provision be introduced in the Income Tax Act. The Committee also finds that in Sales Tax Laws of a few important States including Maharashtra and Delhi, similar provision does exist.

4.24. According to the Choksi Committee, if such a power is given to the Central Board of Direct Tax, there is a strong possibility of reduction in the number of appeals, second appeals and references.

4.25. Assistant Commissioner and Additional Commissioner of Commercial Taxes, and for that matter even the Tribunal, are not Courts of Record and, therefore, the decision of one appellate authority in one case is not, strictly speaking, binding on others and even on himself in another case. Perhaps for this reason, there are conflicting decisions on the same question of law, sometimes in respect of the same dealer, from different appellate/revisional authorities. Again, if the dealer succeeds in one appeal or revision on a particular question, there is no guarantee that subsequent decision on the same question in respect of the following year would automatically follow the said decision. That there is no *res judicata*

in taxation cases has perhaps been stretched a bit too far. If the law provides for the final settlement of disputed questions by the Commissioner and if the determination so made is made binding on a subordinate tax authority, much hardship would be obviated and number of appeals somewhat reduced.

4.26. Again, occasions do arise when the dealer may, before entering into a transaction, want to have an authoritative decision on whether the same would be subject to tax and if so, at what rate. At present the Public Relations Officer receives hundreds of enquiries of this nature. If and when a reply is sent by the Public Relations Officer to such an enquiry, the same is fettered by so many qualifying 'ifs' and 'buts' that it serves little purpose. Some of these enquiries could perhaps form subject matters for determination of disputed question by the Commissioner. Unlike an informal reply of the Public Relations Officer, statutory determination by the Commissioner, being binding on the subordinate authorities would be of great help to the tax paying public.

4.27. In consideration of the foregoing, the Committee recommends that a specific provision be introduced in the Sales Tax Law authorising the Commissioner to determine, upon application accompanied by requisite fee, a disputed question of any of the following nature:—

- (a) If a person or a concern is a dealer;
- (b) If any particular thing is processed or manufactured;
- (c) If any transaction is a sale and, if so, the sale price thereof;
- (d) If any dealer is required to be registered; and
- (e) If any tax is payable on any particular sale, and if tax is payable, the rate thereof.

4.28. There will also be provision that if any question of law arises out of the order of the Commissioner under the aforesaid provision, the applicant may apply to the Commissioner to refer such question of law to the High Court and that subject to any such reference before the High Court, decision of the Commissioner in such proceeding would be binding on all subordinate authorities.

Dismissal of Appeal for Default

4.29. Regulation 12(iv) of the Commercial Taxes Tribunal Regulations, 1974 provides that "where on the day fixed for hearing or any other day to which the hearing may be adjourned, the petitioner does not appear on the petition being called for hearing, the Tribunal may, in its discretion, either dismiss the petition for default or may hear it *ex parte*". In the absence of such a provision in the Act and the Rules in respect of appeals/ revisions before the Assistant Commissioner, an Assistant Commissioner has to consider all the grounds stated in the Memorandum of Appeal and

to give his decision on each ground on merits, even when the appellant does not appear. This involves some avoidable delay. Unlike an assessment, an appeal proceeding is initiated at the instance of the dealer, and if he does not feel interested to prosecute it, there is no reason why the appellate authority would be obliged, as a matter of course, to devote time and energy on it. The Committee recommends that the law will contain a provision in respect of appeal similar to the aforesaid regulation.

Restoration

4.30. As a corollary to the above recommendation, the Committee further recommends that the law will also contain a provision, similar to that in the proviso to regulation 12 of the Commercial Taxes Tribunal Regulations, 1974, under which an appeal dismissed for default may be restored for hearing afresh if the appellant satisfies the appellate authority that there was sufficient cause, beyond his control, for his non-appearance.

4.31. When a dismissed appeal is restored by the Assistant Commissioner, a copy of the restoration order will be forwarded to the next higher authority.

4.32. There will be a specified time limit, within which a dealer will apply for restoration. The same limit may also be introduced in the proviso to regulation 12 of the West Bengal Commercial Taxes Tribunal Regulations, 1974.

Tribunal

4.33. The West Bengal Commercial Tax Tribunal was set up in June, 1974 as the final revising authority in respect of assessments under the Bengal Finance (Sales Tax) Act, 1941 and the Central Sales Tax Act, 1956. The present strength is 5 Members, of whom two are from the Higher Judicial Service, one from the Indian Audit and Accounts Service and two from the Commercial Taxes Department who hold substantive posts of Additional Commissioner.

4.34. The major public grievances in respect of the Tribunal are about (i) its rather limited jurisdiction and (ii) the delay in disposal of revision. The two grievances are in a sense mutually at cross purpose, because any extension of its jurisdiction would tend to aggravate delay in disposal by adding to its work load. By a recent amendment (when this Committee has been in seisin of the question), the jurisdiction of the Tribunal has been extended to assessment under the West Bengal Sales Tax Act, 1954. This by itself would add to the Tribunal's work. Any further enlargement of its area of operation to non-assessment orders, which are of comparatively minor importance, would unnecessarily delay disposal of revision of assessment.

4.35. The grievance about delay is genuine, as would be evident from the table below :

TABLE

Disposal of revision and reference cases by Tribunal

Year	Opening Balance		Cases filed		Cases disposed of		Cases pending	
	Rev.	Ref.	Rev.	Ref.	Rev.	Ref.	Rev.	Ref.
1975-76	7294	26	1002	85	773	28	7523	83
1976-77	7523	83	904	116	992	36	7435	163
1977-78	7435	163	749	147	1509	2	6675	308

It appears that the backlog is practically the same throughout all the years (around 7,000 cases). The time lag at present between filing of an application of revision and its disposal by Tribunal is over 4 years, which is too long. In the considered opinion of the Committee, it should be reduced to 1 year. In other words the value of t should be 1 in the

equation $t_n = \frac{p_0 - n(d-a)}{d}$, as framed in Para. 4.09. The difficulty however

is that the values of d and a are widely fluctuating, and so it would be wrong to take the mean value of these quantities for computation, vide table below :

Year	1975-76	1976-77	1977-78	Mean
d	773	992	1509	1091
a	1002	904	749	885
$d-a$	-229	88	760	206

Instead of taking the mean, it is better to take the latest available values of d and a , particularly as the number of Members in different years was not same. Taking $d=1,500$, $a=750$ and $p=6,675$ (as on 1-4-78), n is 6.9 years for $t=1$. That is to say, it will take about 7 years at the present rates of disposal and filing of revisions for the Tribunal to attain the desired norm of disposal within a year. Since a cannot be reduced (there is on the contrary a distinct possibility of its assuming a higher value), the only way to reduce n is by increasing d , the number of disposal per year.

4.36. It was suggested before the Committee that a quota of disposal should be fixed for the Tribunal Members on the analogy that every Bench of the Income Tax Appellate Tribunal was required to dispose of at least 200 cases a month and that there were instances of a Bench disposing of even over 400 cases a month. Whatever be the position in Income Tax

Tribunal, the Committee does not consider it proper to fix a quota of disposal for the Commercial Tax Tribunal, which is the highest Departmental Forum for adjudication of tax disputes and which is manned, among others, by persons having served as District and Sessions Judge for more than 3 years. The Committee is in general agreement with the President of the Tribunal who was consulted that disposal of 200 revision cases a month by a Bench may not be possible without sacrificing the quality of judgments or at least compromising the motto that justice must not only be done but it must also appear to be done. In reply to a specific query, the President opined that, after considering the fact that some adjournments would always have to be allowed on prayer, every Member may dispose of at least 2 revision cases (besides one or two stay applications) every working day. At this rate the disposal of the Tribunal of 5 Members in a year of 250 working days should be at least $5 \times 2 \times 250 = 2,500$ revision cases. The present rate of disposal is, however, much less. The reasons appear to be the following:—

- (a) There was some delay in filling up vacancies caused by retirement of Members;
- (b) On many occasions, some Benches did not have adequate work before it, because all or most cases fixed on a day had to be adjourned on prayer by the assessee;
- (c) A Bench is sometimes constituted by two or more Members.

4.37. The Committee would be making a general recommendation in the matter of prompt filling up of vacancies in all cadres (Para 12.05) and so the problem of vacancies occurring in the Tribunal needs no separate discussion. The problem of adjournment cannot be solved by any statutory measure, as every application for adjournment has to be considered on merit. The problem may, however, be obviated by fixing larger number of cases for hearing on a day in anticipation of prayer for adjournment of some. Instances will definitely occur when none of the dealers may apply for adjournment and the Bench may have to adjourn some cases *suo motu*. The Committee believes that the dealers and their authorised representatives would not mind this marginal inconvenience, if there is adequate publicity in advance that this measure is being adopted in the interest of the dealers in general for ensuring quicker disposal of cases by the Tribunal, particularly if a *suo motu* adjourned case is fixed on the top of the list on a date convenient to the petitioner. In most cases before the Tribunal, production of voluminous records is not necessary and the large majority of authorised representatives are advocates or practitioners practising exclusively in the Commercial Taxes Department; they would not, therefore, grudge *suo motu* adjournment of a case once or twice, if it is explained to them that this would be to their advantage in the long run.

4.38. Under the rules, all reference applications and such revision cases and stay applications as involve Rs.1 lakh or more tax in dispute have to be heard by a Bench consisting of more than one Member. Other cases which can be heard and disposed of by a single Member are sometimes

referred to a larger Bench, if they involve any intricate question of law. In a reference application, the only point for decision by the Tribunal is whether any question of law arises out of an order passed by it and if so, what the questions of law are. Since the Tribunal has only to frame the question and not to answer it, the Committee does not find any strong ground to have such cases heard by a Bench of two or more Members. It is reported that there has not been a single instance where there was any difference of opinion between two Members hearing a reference application. Again, a case involving disputed tax of more than 1 lakh may not *ipso facto* be a complicated one; most *ex parte* assessments involve substantial amount of disputed tax resulting from disallowance of all claims. But the point for decision by the Tribunal in these cases is whether *ex parte* assessment was justified. The Committee does not find very strong ground for keeping such cases reserved for a Division Bench. On the other hand, a case involving much less disputed tax may require decision on intricate and highly debatable points of law. It would be better if such cases are decided by a Division Bench. In consideration of the above facts and with a view to ensuring quicker disposal of business, the Committee recommends that ordinarily all cases before the Tribunal will be disposed of by a single member with the proviso that either party may apply for referring the case to a larger Bench on the ground that intricate questions of law are involved.

4.39. If the above recommendations are acted upon, it may perhaps be possible for the Tribunal to dispose of much more than 2,500 revision cases a year, on the basis of 2 cases per Member per working day. But even at the rate of disposal of 2,500 cases a year, the backlog would be reduced to 2,500 cases (that is, one year's work-load) in about 2.6 years, assuming that the rate of fresh filing remains the same (750 per year). This assumption may not be a sound one as there is a distinct possibility of substantial increase in the rate of filing of revisions (second appeals) before the Tribunal after the recommended scheme is implemented, owing to

- (a) increase in assessments which may result in increased filing of (first) appeals, a fraction of which is likely to be challenged before the Tribunal;
- (b) increase in disposal of appeals as a result of enlarging the cadre of appellate Assistant Commissioners; and
- (c) enlargement of the Tribunal's jurisdiction over the West Bengal Sales Tax Act, 1954.

If that be so and if the rate of disposal by the Tribunal does not increase well over 2,500 cases a year, as the Committee hopes it will, Government may have to increase the number of Members of the Tribunal. It is premature to consider such future eventuality at this stage. The position may be reviewed after 4 or 5 years, in such a manner as to ensure that the excess of disposal over fresh filing ($d - a$) has a positive value commensurate with the number of pending cases.

4.40. Among the other suggestions received by the Committee is one that the Tribunal should be transferred to the administrative control of Judicial Department from that of the Finance Department "to inculcate more confidence in the public". In course of discussion, however, all who made this suggestion unequivocally admitted that there had never been even a semblance of interference in the working of the Tribunal by the Finance Department. The President of the Tribunal, to whom also the Committee broached the issue, not only emphatically denied any semblance of interference from any quarter but also opined that if such an interference were suspected by anyone, the remedy would lie not in transferring the Tribunal to the control of Judicial Department which was also a Department of the Government like the Finance Department but in transferring it to the control of the High Court. The Committee agrees with the President that there is absolutely no case for disturbing the present arrangement in this regard.

4.41. The Committee is also not in agreement with another suggestion that practising lawyers should be appointed Members of the Tribunal. This suggestion was made on the analogy of Income Tax Appellate Tribunal. But the analogy is not an apt one. The Income Tax Appellate Tribunal does not have any serving District Judge as its member and so recruitment of a Law Member in the said Tribunal is made from practising lawyers. The Commercial Taxes Tribunal will not be strengthened if the Judicial Member is replaced by a lawyer member.

4.42. However, the Committee is in agreement with another suggestion that Departmental Members of Tribunal should not revert to their original post of Additional Commissioner. Such a recommendation has also been made by the Yardi Committee appointed by the Maharashtra Government.

4.43. It appears that the Tribunal does not furnish the Government with any statistical information on its activity and progress. It should be possible for the Registrar of the Tribunal to prepare a brief annual administration report of the Tribunal containing all relevant statistical data for submission to the Government. Besides, a monthly progress report containing figures of cases filed before the Tribunal and cases disposed of by it may also be made available to the Government.

4.44. The sum up, the Committee's recommendations are—

- (1) With a view to ensuring that revisions (or second appeal, in the recommended nomenclature) are disposed of within a year of filing, the Tribunal may be requested to ensure that each member disposes of at least 2 revisions/references per working day (besides appropriate number of stay applications) or 200 revisions/references a year;

- (2) Number of cases fixed on any date before a Bench should be slightly more than what may be heard and disposed of in a day, so that a Bench has adequate work, even if a few cases have to be adjourned;
- (3) All cases should ordinarily be heard by a single Bench, transfer to Division Bench being allowed upon application only when intricate question of law are involved.
- (4) Additional Commissioners appointed as Members of Tribunal should not revert to their original posts.
- (5) Annual administration report and monthly progress reports should be prepared and sent to the Government.

4.45. Incidentally, the Committee learns that the Tribunal is even now a temporary Department. There is absolutely no reason why the Tribunal should not be made a permanent Department.



CHAPTER 5

PROCEDURAL LAW: SIMPLIFICATION OF PRACTICES AND PROCEDURES

5.01. Item 5 of the terms of reference of the Committee requires it to recommend "measures for simplification of practices and procedures for better tax compliance by the dealers, as well as minimising the hardship of the tax-paying public". Some areas of law and procedure that require simplification for both these purposes, namely, better tax compliance and minimising hardship, have already been considered and appropriate recommendations made in the foregoing Chapters. Other measures that require similar simplification are considered in this Chapter. Some of these will require changes only in practices and procedures, while some others will also require changes in law, both legislative and delegated.

Better Tax Compliance

5.02. **Penalty**—Imposition of penalty of various classes is an important tool to ensure better tax compliance. The existing Bengal Finance (Sales Tax) Act, 1941 contains the following provisions of penalty:—

- (a) For non-submission (including delayed submission) of returns by registered dealers [Sec. 11(1)],
- (b) For non-payment of assessed dues on or before the stipulated date [Sec. 11(4B)],
- (c) For suppression of sales (Sec. 20A),
- (d) For unauthorised use of goods and of declaration forms (Secs. 5A and 5B).

The provision for imposition of penalty for failure to get registered after being liable to pay tax was repealed in 1962. The Committee recommends revival of this legal power.

5.03. Law and procedure for imposition of the above penalties have scope for simplification. The most serious objection against the present law and procedure aired before the Committee is the wide discretion given to the Commercial Tax Officers.

5.04. Penalty for non-submission or delayed submission of returns is not sufficiently deterrent. It also allows excessive discretion to the Commercial Tax Officers and does not take into account the extent of delay. In the case of dealers having little or no tax liability, penalty under section 11(1) is practically inoperative. In the Income Tax Act, discretion of the Income Tax Officer in the matter of imposition of penalty is very much curtailed. In the Delhi Sales Tax Act, penalty up to Rs.2,000 can be imposed for non-furnishing of returns, even where no tax is payable.

5.05. The Committee recommends that apart from penalty, there will be a provision for payment of interest, if tax is not paid and/or return is not furnished in time, at 1 per cent per month for the first month, 2 per cent per month for delay beyond 1 month and up to 3 months and 3 per cent per month for delay beyond 3 months, on the amount of tax withheld. In computing the period of delay, fraction of a month will be treated as a full month. There will be a minimum interest of Rs.10 per month of delay, irrespective of amount of tax involved. A Commercial Tax Officer will have no discretion to waive interest but in exceptional cases, the administrative Assistant Commissioner may, for reasons to be recorded in writing, waive the same. Interest will be charged even if time for payment of tax and/or furnishing return is extended upon application.

5.06. Charging of mandatory interest is evidently preferable to imposition of discretionary penalty. Besides, according to certain judgments of the Supreme Court, imposition of penalty being quasi-criminal in nature, an element of *mens rea* is a pre-requisite. Charging of interest is not fraught with this difficulty.

5.07. The Committee also recommends that if return is submitted late but within a stipulated period, say 6 months from the due date, after paying admitted tax in full plus the amount of interest calculated under the law for the period of delay in making payment of tax and/or furnishing return, then such a return will be deemed to be a proper return in the eye of law. In other words, a defaulting dealer will be allowed to "buy time" on payment of interest and thus get immunity from penalty for default, as per modalities discussed below (Para. 5.09).

5.08. However, the provision for imposition of penalty will remain over and above that for charging of interest as a further deterrent to be used in respect of hard-boiled defaulters. There will be a provision for a penalty of Rs.200 or twice the amount of tax, whichever is higher.

5.09. The Delhi Act provides that penalty for non-submission of returns may be imposed even before initiation of the assessment proceedings. The Committee recommends an identical provision with the stipulation that penalty will not be actually imposed until after the specified period, within which the dealer may "buy time" on payment of interest, is over. The Committee makes it clear that in ordinary cases of delay in submission of returns, charging of interest would suffice. There will be no scope for the Department to impose penalty in most cases of delay where the dealer makes payment of tax and/or submits return somewhat late but makes good the delay by voluntary payment of interest. It is only when tax is not paid and return is not furnished at all, that imposition of penalty will be made. In such cases, prescription of minimum penalty, as recommended in para. 5.08, should be a deterrent as well as an insurance against wrong exercise of discretion in favour of a defaulter.

5.10. A similar provision for charging interest will also be there in respect of default in payment of assessed dues within 30 days from the service of demand notice. Rates of interest will be the same as recommended in para. 5.05 above. In this case also, interest will not be waived even if extension of time or stay of realisation is allowed. (Incidentally, in some States including Gujarat, penalty for default in paying assessed dues can be imposed even when demand is under stay). As recommended in respect of non-payment of tax/non-submission of return, in the case of default in making payment of assessed tax also there will be a provision for imposition of penalty over and above that for charging of interest but such imposition will not be made if interest is paid voluntarily within the stipulated period of "buying time" (Para. 5.07). The operative provision for charging of interest and imposition of penalty will be identical for both types of default, namely, non-submission of returns and non-payment of assessed dues.

5.11. Penalty under section 20A of the Bengal Finance (Sales Tax) Act, 1941 for submission of false returns and/or suppression of sales will continue and may contain a provision making it obligatory for the assessing officer to impose penalty in these cases in the composite law also. There will be a minimum penalty equal to the amount of tax suppressed, the maximum being $2\frac{1}{2}$ times of the tax suppressed. This provision is essential if simple assessment scheme recommended by the Committee is to be effectively implemented.

5.12. **Penalty for Misuse of Declaration Forms**—Supreme Court having held that imposition of penalty is a quasi-criminal proceeding, penalty cannot perhaps be legally imposed for bona fide failure to comply with the terms of declaration given by a dealer while purchasing goods at a concessional rate of tax. The Committee recommends that in all such cases, the dealer failing to make use of the goods purchased against declaration in the prescribed form in accordance with the terms of declaration made by him will be liable to pay tax on the turnover of purchases made against such declaration. Where *mens rea* is detected or strongly suspected, the delinquent dealer may be prosecuted. In lieu of prosecution, there may be imposition of penalty in these cases, as recommended in the following paragraph (Para. 5.13). The Committee recommends that provisions for imposition of penalty under section 5A and 5B of the Bengal Finance (Sales Tax) Act, 1941 be repealed and replaced by imposition of purchase tax in all cases of unauthorised use of goods or improper use of declaration forms, whether bona fide or mala fide, and also by a provision for prosecution or imposition of penalty in lieu of prosecution in mala fide cases, in addition to levy of purchase tax.

5.13. **Penalty in lieu of Prosecution**—Under the Central Sales Tax Act, 1966, penalty may be imposed in lieu of prosecution in respect of any offence under the Act. Similar provision is there in the Delhi Sales Tax Act also. The Committee recommends that the composite Sales Tax law of this State

will also contain such a general provision for imposition of penalty in lieu of prosecution for any offence under the Act. The minimum and maximum penalty leviable under this provision will respectively be Rs.200 and double the amount of wrongful gain derived from the impugned offence.

5.14. Specification of Date of Payment in Demand Notice—Under the existing law, a date not earlier than 30 days from the date of service of the notice is to be specified in the notice of demand by which the dealer is required to pay the sum demanded. Many instances came to the notice of the Committee, where owing to delay in sending notices, the time allowed for making payment fell short of the statutory 30 days limit. Apart from the hardship caused to dealers, this is fraught with the risk of the demand becoming unrealisable under the law. Under the Income Tax Act and Sales Tax Laws of many States, no date is specified in the demand notices, but the assessee is required to pay the dues within 30 days from the date of service. Under such a scheme, there can be no discrimination between different assessees. It also eliminates the risk of a notice of demand being invalid or infructuous owing to delayed service.

5.15. The Committee recommends that the law [Sec. 11(3) of the Bengal Finance (Sales Tax) Act, 1941] and form of demand notice (form VII and VIIB) be modified to provide that the demand is to be paid within 30 days from the date of service of demand notice. Such a provision will require that the service return is put up before the assessing authority in due time, say, within 6 weeks from the date of issue of demand notice. If the postal acknowledgement is not received within 42 days from the date of despatch of demand notice, an enquiry will be made with the Postal Authorities as to the actual date of service. Under the present procedure, non-availability of many postal acknowledgements is detected too late to enable the Department to make any effective enquiry with the postal Authorities. The recommended course of action will thus simplify the procedure and eliminate several elements of risk.

5.16. Instalment—It is necessary, for better tax compliance, to provide in the rules that where demands are allowed to be paid in instalments, default in making payment of a single instalment will render the dealer defaulter in respect of the entire unpaid dues. Interest (Para. 5.10 read with Para. 5.05) will be payable even where instalments have been granted.

5.17. Accounting Year—It has been represented before the Committee that multiplicity of accounting years makes administration of tax laws complicated. It was urged that dealers should be required to follow a uniform accounting year, say the financial year. A dealer begins his accounting year on a date which is suitable to him. He may be guided by local custom, business association or any other convenience. The Committee finds little ground to ignore the dealers' right of choice of his own accounting year. Under the Income Tax Act, uniformity is attained in the matter of tax procedure generally and limitation of assessment particularly

by providing for an "assessment year" defined as "the financial year next following the accounting year". The advantage of such a provision is obvious. There are, however, a few disadvantages as well. Since all assessments under the Income Tax Act are barred by limitation after the 31st March, there is a scramble for completing such cases in the Income Tax Department during the months of January, February and March resulting in other important work in the Department being somewhat ignored during these months. After careful consideration, the Committee recommends that an assessment will be barred by limitation after the 30th June of the relevant year if the accounting year of the dealer ends on any day between the 1st January and the 30th June and after the 31st December of the relevant year if the accounting year of the dealer ends on any day between the 1st July and the 31st December. This will be a compromise between the present Bengal Finance (Sales Tax) Act, 1941 under which the dates of limitation are spread over throughout the year and Income Tax Law under which all cases have a single date of limitation.

5.18. Transfer of Proceedings—Under the present statute, any appeal filed and pending before one particular Assistant Commissioner can be transferred by the Commissioner to another Assistant Commissioner, even if the latter does not exercise territorial jurisdiction over the dealer. Since the number of pending appeals filed before different Assistant Commissioners may widely fluctuate from time to time, this provision helps equitable distribution of work-load of different Assistant Commissioners. The Committee recommends this provision to continue. On the same analogy, the Committee recommends that there will be a provision for transfer of assessment or any other proceeding pending before one Commercial Tax Officer to another, even if the latter does not have any territorial jurisdiction over the concerned dealer. Such a provision will make organisational set-up flexible to some extent.

5.19. Both in Delhi and Bombay Sales Tax Acts there is a provision on the above line. Incidentally, both these laws also provide that if a dealer wishes to challenge the territorial jurisdiction of any Sales Tax Authority from whom he has received any notice, such a challenge is to be made before the Commissioner within a prescribed time from the date of receipt of the initial notice proposing assessment or any other action and that Commissioner's decision on such a dispute is final. The Committee recommends the adoption of an identical provision.

5.20. Manner of Account Keeping—Books of accounts and other records of sales, purchases, stocks and manufacture of goods are the most vital evidence for the purpose of determining correct tax liability of a dealer. Under the West Bengal Laws, however, a dealer is not obliged to maintain books of accounts and records in any particular manner. Theoretically, it is not unlawful for a dealer to plead that he did not maintain any account whatsoever. Section 13 of the Bengal Finance (Sales Tax) Act, 1941, under which an Assistant Commissioner can direct any dealer to maintain

account in a specific manner, is seldom used. The Sales Tax Laws of many States including Maharashtra and Delhi contain better provisions in this regard. Under the Delhi Act, the Commissioner may either direct a particular dealer to maintain specified account or may, by notification in the official gazette, direct any class of registered dealers generally to keep such accounts including records of purchases and sales as may be specified in the notification, subject to such conditions and restrictions as may be prescribed. The Committee recommends the adoption of such a provision in the West Bengal Law. Again, under the West Bengal Laws, issue of cash memo. or bill by registered dealers is not mandatory. Under both Bombay and Delhi Acts, dealers are required to issue cash memo. or bill showing the name, address and such other particulars as may be prescribed of the purchasing dealers in respect of (a) sales to registered dealers, (b) inter-State sales and (c) other sales exceeding Rs.3 (Bombay)/Rs.10 (Delhi) and to preserve copy of such cash memo. or bill for a prescribed number of years or till final decision on all pending proceedings, whichever is later. There is, however, also a provision for exempting any class of goods or any class of dealers from the rigours of this provision. The Committee recommends adoption of a similar provision for better tax compliance by West Bengal dealers.

5.21. Inspection Book—It frequently happens that an Inspecting Officer fails to meet any responsible representative of the dealer at the time of inspection. Books of accounts are also often not available for inspection. In such cases, disputes occur as to whether the inspecting officer did, in fact, make inspection at the relevant hour and if so, what transpired during such inspection. It is recommended that every registered dealer will be required under the law to keep at his declared place or places of business an Inspection Book in the prescribed proforma. Every inspecting officer will record date and hour of inspection in this book. Brief particulars of the results of inspection will also be recorded therein. If any verbal direction is given during inspection for production of any books of accounts or records at the Inspecting Officer's office, such direction will also be recorded in the Inspection Book. This book will be produced before the assessing authority at the time of assessment. Prosecution or imposition of penalty in lieu of prosecution will be provided for in the law for non-maintenance of Inspection Book or its alteration/mutilation.

5.22. Service of Notice—There is no provision in the West Bengal laws about the manner of service of notice in the case of partitioned Hindu family, dissolved firm or association and closed or discontinued business of a firm or a company. In Delhi Act, it is provided that notices may be served on the last known manager before partition of the HUF (or on all adult members), an erstwhile partner/member in the case of dissolved firm or association, and in the case of discontinued business, on any erstwhile partner or member or the principal officer. The Committee recommends adoption of similar provisions in the composite law.

5.23. Authorised Representative—Under the West Bengal laws, Commerce Graduates are entitled to practise before any Tax Authority but a Cost Accountant is not. A grievance was made before the Committee by a professional body in this regard. The relevant provisions of law under the Income Tax Act and the Sales Tax Laws of many State including Delhi and Maharashtra appear to be worth emulating. After considering the provisions of the aforesaid laws, the Committee recommends that—

- (a) Apart from a regular employee or an Advocate or a member of either the Institute of Chartered Accountants of India or the Institute of Cost and Works Accountants of India, a dealer may be represented before any Sales Tax Authority by a Sales Tax Practitioner “who possesses the prescribed qualification and is entered in the list which the Commissioner shall maintain in that behalf and who is not disqualified”;
- (b) Any person passing a recognised law or accountancy examination (e.g., LL.B., Chartered Accountancy, Cost Accountancy, B.Com., etc.) shall be entitled to be enlisted by the Commissioner as a Sale Tax Practitioner;
- (c) The Commissioner may, by an order in writing and for reasons to be recorded, disqualify any person for such period as stated in the order from attending before any Sales Tax Authority, if—
 - (i) in the case of an Advocate, a member of the Institute of Chartered Accountants of India or the Institute of Cost and Works Accountants of India, he is found guilty of misconduct in connection with any proceeding under this Act by an authority empowered to take disciplinary action against the members of the profession to which he belongs, or
 - (ii) in the case of any other Sales Tax Practitioner, he is found guilty of such misconduct by the Commissioner.

5.24. The Committee believes that the recommended steps will tend to improve the quality of representation before Sales Tax Authorities and empower the Commissioner to exercise some control on Sales Tax Practitioners.

5.25. Rounding of Taxable Turnover, Tax and Interest—With a view to simplifying the calculation of taxable turnover, tax and interest, the Committee recommends that taxable turnover will be rounded to the nearest multiple of Rs.10 and tax and interest will be rounded to the nearest rupee. Penalty imposed, if any, will also be in integral rupees.

5.26. The Committee has made some other recommendations for simplification of practices and procedures for better tax compliance in another chapter dealing with tax-leakage and evasion (Chapter 7).

Minimising Hardship to the Tax-paying Public

5.27. The recommendations made by the Committee for change in the organisation (Para. 6.09) and simplification of assessment procedures (Chapter 3) would result in mitigating hardship of the tax-paying public to a considerable extent. Nevertheless, there remain to be considered some other areas of hardship as represented by certain Chambers and representatives of the trade. These are considered below:

5.28. **Non-availability of Forms of Return and Challan**—It has been represented that return and challan forms are not available in adequate number from the unit offices. That the grievance has some substance is apparent from the fact that vendors are found to be selling return and challan forms in and around Sales Tax Building. In reply to the query of the Committee, all unit offices stated that sufficient forms were never made available to them by the Central Office. The Central Office also admits this. The general problem of paucity of stationery has been discussed in another chapter relating to logistics (Para. 8.12 *et seq*) but a specific recommendation in regard to the supply of return and challan forms to the dealers would be appropriate at this stage.

5.29. Since the Committee has recommended the filing of annual return for all dealers (Para. 5.30) and the number of dealers is known, it is simple arithmetic to calculate how many forms of return and challan would be required in a year and to make advance planning accordingly. But it is in fact not merely a problem of simple arithmetic. Since the vendors operating around the Sales Tax Office have vested interest in selling these forms, the Committee is not sure if artificial scarcity will not be created even if sufficient number of forms are made available for free distribution. A few cases of attempted pilferage of these forms were detected in the recent past. Taking into consideration all these factors, the Committee recommends that return and challan forms be sold through vendors at a nominal price. The price may be fixed at cost or even slightly below cost and the vendors may be allowed to have adequate commission, say at 30 per cent.

5.30. **Filing of Returns**—Instead of the present provision of filing monthly, quarterly and annual returns which entail avoidable multiplication of work and wastage of valuable paper without any corresponding gain, the Committee recommends that all dealers will be required to furnish annual returns. Payment of tax, however, will be required to be made periodically. The Committee recommends the following periodicity:

- (a) For dealers having admitted tax liability of not more than Rs.2,000 in the previous year—annual payment;
- (b) For dealers having admitted tax liability of more than Rs.2,000 but less than Rs.10,000 in the previous year—quarterly payment;

- (c) For dealers having annual tax liability of more than Rs.10,000 in the previous year—monthly payment;
- (d) For newly registered dealers (during the first year)—quarterly payment;
- (e) The Assessing Officer will have the power of directing a dealer, for reasons to be recorded in writing, to pay tax more frequently than what he would be required under the ordinary rules.

5.31. In making this recommendation, the Committee noted (vide Table No. 2) that more than 49 per cent of the dealers have annual tax liability of Rs. 2,000 and less under the State Sales/Purchase Tax Laws, nearly 34 per cent of the dealers have annual tax liability between Rs. 2,000 and Rs. 10,000 and a little over 17 per cent of the dealers have annual tax liability of over Rs. 10,000. Dealers having annual tax liability of Rs. 2,000 and less account for a total annual yield of about Rs. 2 crores. Thus, payments by these dealers, if made once a year, is unlikely to create ways and means problem for the State exchequer. This will, however, reduce hardship connected with making monthly or quarterly payments of these dealers. Most of the dealers having annual tax liability of between Rs. 2,000 and Rs. 10,000 are now making quarterly payments, though some of them are making monthly payments as well. This group pay around Rs. 10 crores in a whole year, and since no major change in regard to their mode of payment is recommended, this will also not create any ways and means problem for the State exchequer.

5.32. It will appear from the aforesaid that nearly 83 per cent of dealers account for about Rs. 12 crores of tax. The balance of a little over 17 per cent of the dealers account for about Rs. 132 crores. In other words, about 83 per cent of dealers account for only 8.3 per cent of payment while 17 per cent account for about 91.7 per cent of the payment. This 17 per cent will now make payments monthly. Many of them are now making quarterly and even annual payment. Hence the recommended measures will improve the ways and means situation of the State exchequer to a substantial extent. Since periodicity of tax payment and submission of return under the Central Sales Tax Act, 1956, will be on similar lines, these analyses apply to the total tax-yield of the State.

5.33. A brief memorandum of tax calculation will accompany challans showing gross turnover and taxable turnover subject to different rates. This memo. of calculation may form part of the challan. In the annual returns, the dealer will reconcile the figures contained in the periodical memos. of calculation with figures for the whole year declared in the annual return.

5.34. The main return which every dealer will furnish, will be a brief one. There will be annexures for various detailed calculations, namely, calculation of purchase tax, commoditywise break-up, statement of information, etc. These will be filed annually by those dealers to whom these may be relevant.

5.35. The Committee also recommends that the appropriate Commercial Tax Officer may, upon application, exempt a dealer from furnishing any particular annexure or annexures, if he is satisfied that its furnishing will cause serious hardship.

5.36. **Payment of Tax**—Under the present system, a dealer in Calcutta is required to make all payments above Rs. 500 to the Reserve Bank of India. Payments up to Rs. 500 by Calcutta dealers and all payments by mofussil dealers are made to the selected branches of the State Bank of India performing Treasury function. It has been represented to the Committee that the present system puts the dealers to various hardships. Apart from the dealers' hardship, the Department also finds the present system less than satisfactory inasmuch as the treasury challans are either not received regularly in the unit offices or, if received, not regularly posted in the collection register. This again causes further hardship to the dealers, as assessments are sometimes delayed for want of treasury copies of challans and refund applications are more often than not held up for months and even years for the same reason. Substantial element of risk is also involved in the present system. Although under the Departmental instruction, an assessment is required to be made only after verification of treasury copies of challans, in practice assessments are often made without making such verification. As very many cases are assessed when they are on the verge of limitation, the assessing officers are left with little option if treasury copies of challans are not traceable in file and/or the relevant entry is not found in the collection register. Sometimes, assessments are made in such circumstances without giving credit of the amount paid under the impugned challans, thus raising an additional demand in respect of amount already paid.

5.37. The Committee has studied the scheme of payment of direct taxes through Public Sector Banks which was introduced in the Income Tax Department from 1st April, 1977. It appears to the Committee that a similar scheme with some minor modifications and improvements would very well suit the purpose of the Commercial Taxes Department.

5.38. Under the Income Tax Scheme, 3 Public Sector Banks (P.S.B.) namely, the Punjab National Bank, the United Bank of India and the United Commercial Bank have been nominated by the Reserve Bank of India, with concurrence of the Central Government, to accept payment of direct taxes in Calcutta. In 14 other centres of West Bengal, each having head-quarter of an Income Tax Officer, the United Bank of India and the United Commercial Bank have been so nominated. The Reserve Bank of India in Calcutta and the State Bank of India in Calcutta and all mofussil centres also have the authority to accept payment. The assessee has the option to present his challans with payment in cash or by cheque or draft to any of the nominated banks. Challans are impressed with receipt stamp and are given running serial number for all the challans presented on that day. Separate teller's registers for each type of direct taxes are used to facilitate independent balancing at the end of the day. The scroll in triplicate in the

prescribed form is prepared separately for each major head of account. The scroll is totalled after close of business every day and running serial number covering the entire financial year is given on each scroll. In the first hour of the next day, the receiving branch of each bank forwards 3 copies of the scroll, one without accompanying challans and the other two with one set each of the remaining two parts of the challans, to the designated main branch of the bank (one part of the challan is returned to the assessee with due receipt). Total amount shown in the scroll is transferred to the designated main branch by transfer. On receiving 3 copies of the scroll, the designated main branch (known as the "link branch") consolidates the scrolls received from the branches including the one of the link branch itself. Two copies of the consolidated scroll together with the challans are forwarded by the link branch to the Reserve Bank (in Calcutta) or the main State Bank conducting the treasury business (in mofussil) together with a forwarding letter in the prescribed form and a cheque or draft for the total amount as indicated in the scroll. The Reserve Bank or the main branch of the State Bank (known as the local branch) scrutinises the scroll with the challans and impresses each of the two parts of all challans with the rubber stamp impression "Credited to the Government Account". One set of the scroll with the second part of the challans is sent to the Zonal Account Office of the Income Tax Department and the second set of scroll with parts of challans marked original is forwarded to the Income Tax Officer nominated by the Commissioner of Income Tax. In Calcutta, the nominated Income Tax Officer belongs to Central Unit known as the Central Treasury Unit, which distributes challans among several intermediary units known as the District Collection Units, which again distribute the same to the individual Income Tax Officers.

5.39. The Committee recommends that a similar scheme be introduced in the Commercial Taxes Department with the following modifications.

5.40. In Calcutta, the scroll may be collected by a Central Unit (to be set up in the Central Office of the Department) from the Reserve Bank of India and by a simple computer programme, each day's collection may be sorted out Commercial Tax Officerwise. The Committee recommends that registration certificate number under the new law will have numerals and/or alphabets indicating circle, charge and the 'group' (territory under one Commercial Tax Officer) to which the dealer belongs, so that groupwise sorting of the scroll will present no problem. Scrolls received from the Reserve Bank of India will be maintained in the Central Unit in monthwise bound volumes for future reference and the groupwise sorted-out scrolls will be maintained by the respective Commercial Tax Officer in monthly bound volumes to serve the purpose of collection registers.

5.41. A computer punch card has 80 digital spaces, i.e., fields, and, therefore, two payments can be accommodated horizontally on a single card (8 fields would be required for noting Registration Certificate Number including the code for circle, charge and group, 7 for the period of payment,

14 for noting the name of the dealer, 9 for the amount of payment and the remaining 2 fields to indicate whether it is a payment before or after the assessment).

5.42. **Registration**—Registration is a major area where hardship is allegedly experienced by dealers. Under the present procedure, consideration of applications for registration involves production of books of account and other evidence before the Commercial Tax Officer for his examination, preceded by inspection at the place(s) of business by the Charge Inspector and, in Calcutta, also by the Inspector of the Central Section. The Committee finds that average time taken in disposing of an application for registration is around two months. Instances of delay beyond two months account for 32 per cent (i.e., about one-third) of the cases (Table 7). The general complaint of the trade is directed against (1) inspection by the Inspector, (2) duplication of inspection by two Inspectors, and (3) delay in getting registration even after satisfactory inspection.

5.43. Although the Committee has found that inspection at the place of business is a major source of delay and consequential hardship to the dealers, it is nevertheless unable to recommend that spot inspection be dispensed with. In the 1950's and 1960's, bogus registrations obtained with fraudulent motive caused a havoc to revenue. Dispensing with spot inspection is, therefore, fraught with grave risk. The second inspection by Central Section, however, hardly serves any additional purpose, as there is no ground to presume that the quality of inspection by Central Section is intrinsically superior to that by the Charge. The Committee's specific enquiry with the Central Section for the number of instance where they either recommended rejection of application, or detected suppression of back liability, drew a blank.

5.44. The only practical justification of inspection by Central Section is cross-verification of purchase/sale transactions of the dealers with dealers in other Charges. The Committee is not convinced that such cross-verification as a routine measure, as practised at present, is essential particularly for Calcutta Charges, when it is not considered necessary for dealers in mofussil charges including 24-Parganas Charge which includes a part of greater Calcutta. Moreover, under the present procedure, the Central Section Inspector is at liberty to select any two items of purchase and any two items of sale in his discretion for cross-verification. This is not at all satisfactory.

5.45. Under the existing law, delay in getting registration irrevocably prejudices the interest of the applicant-dealer, because he suffers double jeopardy in paying taxes both on his purchases and sales during the period he has incurred liability to pay tax but has not yet been registered. In a few cases of this nature, the High Court has even quashed the assessments made in respect of pre-registration liability of tax.

5.46. Considering the problem in its entirety, the Committee recommends the following changes in law and procedure:

- (1) The dealer will be liable to pay tax and eligible for registration with effect from the date when his sales exceed the taxable quantum recommended in paragraph 2.43. In other words, the grace period of two months will be dispensed with.
- (2) It will be obligatory for a dealer to apply for registration within 14 days of his sale exceeding the taxable quantum. Failure to apply in time will make the dealer liable to penalty and/or prosecution and he will be deprived of the privileges of retrospective registration recommended below.
- (3) A dealer applying in time will be registered, if he is eventually found eligible for registration, with effect from the date of incurring liability. A dealer who applies for registration after the statutory period of 14 days but before any proceeding is initiated by the Department to determine if he has been avoiding registration will be registered, if his application is eventually found to be in order, with effect from the date of application. The dealer who applies for registration after being held by the Department to be liable to pay tax or after a proceeding to determine the question of liability is initiated, will be registered, if found eligible, with effect from the date of order.
- (4) Spot inspection at the dealers' places will be made jointly by the Commercial Tax Officer and the attached Inspector. The Commercial Tax Officer will select during such inspection such transactions of purchase and/or sale as he may think worthy of cross-verification, and the group Inspector will verify these transactions.
- (5) Law relating to jurisdiction will provide that for the purpose of verifying a transaction that a dealer is alleged to have entered into with another dealer, an inspecting officer having jurisdiction over the former will also have authority to inspect books of accounts and records of the latter, even if the said latter dealer be outside his territorial jurisdiction.
- (6) Application for registration will be liable to rejection on any of the following grounds:
 - (a) When the applicant is found ineligible for registration under the law;
 - (b) When the application is not correctly filled in;
 - (c) When the declared place of business is found closed during a reasonable hour (for this purpose the weekly holiday, half-holiday and hours of business will be disclosed in the application for registration) without any reasonable cause;

- (d) When the notice cannot be served upon the applicant by ordinary method;
- (e) When the applicant fails without reasonable cause to produce books of accounts before the inspecting authority during spot inspection or before the registering authority upon notice;
- (f) When any material entry in the applicant's books of accounts is found to be false;
- (g) When the applicant fails to pay security demanded as a condition precedent to registration (vide Paragraph 5.58);
- (h) On any other reasonable and sufficient ground, to be recorded in writing and intimated to the applicant.

The applicant will be at liberty to apply afresh after his application is rejected on any of the aforesaid grounds. But, in that case, the effective date of registration will be decided according to the date of submission of the fresh application.

5.47. Declaration Forms—Issue of declaration forms is an area in which a registered dealer often feels aggrieved. Since the Committee has recommended multi-point tax in respect of goods taxable at the first point of sale, issue of declaration forms will increase manifolds. Simplification and rationalisation of practices and procedures relating to issue of declaration forms with a view to minimising hardship to dealers is, therefore, an urgent necessity.

5.48. Under the law, issue of declaration forms can be withheld on the ground of default in submitting returns and payment of security. The provisions are quite fair and should continue. The rule also provides that a Commercial Tax Officer may issue declaration forms to defaulting dealers "if in the opinion of the Commercial Tax Officer it is desirable in the interest of the collection of Sales Tax revenue to grant time to the applicant to pay up arrear of tax, surcharge and additional surcharge in one lump or in instalments". The Committee learnt that this discretionary authority of the Commercial Tax Officer was seldom used. Instead of approaching the Commercial Tax Officer, the dealers are generally known to have approached the Commissioner for this purpose. As specific question in this regard framed by the Committee could not be answered by the Commissioner, evidently because systematic data was not maintained, the Committee could not find out the extent of the Commissioner's intervention in this area. In the Committee's opinion, when discretionary power is given to a subordinate authority, the higher authority will not normally intervene into the subordinate's area of discretion. The defaulting dealers may apply to the Commercial Tax Officer for exercise of jurisdiction under the proviso comparable to rule 27AA(2)(c) of the Bengal Sales Tax Rules, 1941 and if he is aggrieved by the Commercial Tax Officer's order, he may prefer appeal to the Assistant Commissioner and, if necessary, second appeal to the Additional Commissioner. The Committee has already recommended

measures for simplifying appeal of this nature; so there need not be any necessity of the Commissioner's intervention in this matter. The Committee recommends that the Commissioner will decline to entertain any application for his administrative intervention.

5.49. Sometimes declarations are withheld on the ground of default in payment of assessed dues. This is not supported by law. The Committee recommends that the scope of Rule 27AA(2)(c) be enlarged in the recommended statute to provide that declaration will not be issued to a dealer who has arrears of tax exceeding Rs. 1,000, if such arrear is not under stay or order of instalment. This restriction will also be subject to relaxation as in the case of defaulters in the matter of submitting returns.

5.50. Since the Committee has recommended annual returns but monthly/quarterly/annual payments, the instant rule will provide that declaration will be withheld to a dealer who has defaulted to make the stipulated periodical payment of taxes.

5.51. Allegation of harassment in the matter of issue of declaration forms is voiced not by the defaulting dealers whose cases fall within the mischief of law, but the majority of complying dealers in whose cases declarations are not actually withheld but who nevertheless face considerable hardship in getting adequate number of declaration forms.

5.52. The Committee looked into the records of Declaration Forms Section and tried to form an idea by random check as to the frequency of issue of declaration forms to a dealer. It appears that the very large majority of dealers had to obtain declaration forms not more than 4 times a year. Instances of a dealer obtaining declaration forms once a year are also many. Nevertheless, sporadic instances came to the Committee's notice where a dealer had to approach the Commercial Tax Officer for declaration forms twice or thrice in a single month. These sporadic instances have earned bad name for the Department. It was represented before the Committee that the dealers in general have a grievance that in obtaining declaration forms, they are put to harassment on various pretexts.

5.53. After studying the problem in depth, the Committee is of the opinion that although the grievance voiced by the trading community is slightly exaggerated, it is not altogether baseless. The difficulty in recommending any remedial measure lies in the fact that these declaration forms have been misused by a handful of racketeers for about two decades, causing enormous loss of revenue to the Government. Accordingly, the Department cannot do away with adequate circumspection. But circumspection in the matter of declaration forms has often been taken too far, where the persons concerned have developed a habit of suspecting any and every dealer's bona fides. In this case, what is practised in the Department in the name of caution is interpreted by the trade as harassment. The Committee cannot also rule out the possibility of there being

instances of undue hardship caused in the garb of circumspection. With a view to ensuring that there is no avoidable hardship to the bona fide dealer in this regard and that at the same time racket in declaration forms does not recur, the Committee makes the following recommendations:

1. Departmental instructions will be issued directing that except in cases of doubtful bona fides (where prior approval will be obtained from the administrative Assistant Commissioner) and all dealers who have been registered during the preceding 2 years, the Commercial Tax Officer will issue adequate number of declaration forms estimated to be sufficient to cover purchases for 3 months. It will be the duty of the Commercial Tax Officer to ensure that dealers in general whose bona fides are not suspect, do not have to apply for declaration forms more than 4 times a year, except in extraordinary circumstances to be recorded in writing. A newly registered dealer might have to remain under surveillance for some period, depending upon circumstances, when he may have to apply for declaration forms more often.
2. Applications for declaration forms will be disposed of by a speaking order on the very date they are submitted.
3. In the changed organisational set-up recommended by the Committee (Chapter 6 and Chapter 8) instances of untraceable files and returns and challans should cease to exist. If the application for declaration forms cannot be disposed of on any such ground on the date of receipt, the matter will be reported on the very date to the administrative Assistant Commissioner and his order obtained.
4. If the Commercial Tax Officer desires to make any enquiry before disposing of the application for declaration forms, an order should be passed keeping the final order reserved till a specific date. The cases where the order is kept pending for more than 14 days, will be submitted to the administrative Assistant Commissioner setting out reasons for delay. The administrative Assistant Commissioner may either approve the delay or direct the Commercial Tax Officer to issue declaration forms.
5. As recommended in Para. 7.38 *et seq.* every dealer is to be inspected at his place of business by the attached Inspector and also by the Commercial Tax Officer at regular intervals, the minimum frequency of such spot inspection being fixed under Departmental instructions. Such inspection should disclose if the dealer has any mala fide intention to misuse declaration forms. If the scheme for regular inspection as recommended is acted upon, the Committee is inclined to believe that issue of declaration forms in respect of the large majority of dealers can be a routine affair.

5.54. **Refund**—While the Committee has been in session and was considering whether there would be any difficulty in providing that in case of refund arising out of the assessment order the refund voucher should be sent to the assessee along with the final notice of assessment, it is learnt that the Government had already decided to frame such a rule. It was not, therefore, necessary for the Committee to probe further into this question.

5.55. In the case of refund arising out of an appellate/revisional order including order in second appeal, the refund vouchers will be sent to the assessee within 30 days from the date of appellate/revisional order, if the order is passed by an Assistant Commissioner or Additional Commissioner or the Commissioner, and within 30 days from the date of receipt by the Department of the order if it is passed by the Tribunal.

5.56. Difficulty may occur when refund arises out of an appellate or revisional order and the Department intends to challenge the said appellate or revisional order before the next higher authority or the High Court. In these cases also, refund will be allowed within 30 days, unless the Commissioner decides by an order in writing to withhold the same on the ground that the appeal/second appeal/application for reference/application for review has been filed or a proceeding for *suo motu* revision has been initiated against the order necessitating the refund and that he has reasons to believe that there may be loss of revenue if the refund is not withheld.

5.57. In all cases where a refund is delayed beyond 30 days, whether by default or in accordance with Commissioner's order to withhold refund, the dealer will be entitled to interest at the rate of 1 per cent per month, or part thereof.

5.58. **Security**—Demand of security is made under the law for better tax compliance. The existing provision will be fortified and simplified with the following further provisions:

1. Security may be demanded from an applicant for provisional registration before or after his application is granted, as is provided in the case of registration.
2. Payment of security demanded in accordance with law will be a precondition for grant of registration or provisional registration.
3. The power to demand security will be delegated to the registering authority.

Along with the aforesaid provisions, the following further provisions are recommended to mitigate the hardship of the dealers:

4. Security may be in cash, savings certificate or similar other approved security, or security bond with two sureties who will be registered dealers acceptable to the authority demanding the security. A proforma security bond is appended at Appendix J.

5. Where security is deposited in the form of savings certificate or in other approved security, the authority empowered to demand security will also be empowered to accept on behalf of the Governor, the said savings certificate pledged in favour of the State.
6. Savings Certificate pledged as security will be returned to the dealer on maturity. If necessary, he may be asked to pledge a fresh savings certificate of like amount.

5.59. **Clearance Certificate**—There is no law governing the issue of Sales Tax Clearance Certificate. Dealers, both registered and unregistered, as well as persons like contractors, who are outside the definition of “dealer”, apply for these certificates in terms of a decision of the Government. The applicants require these certificates for submitting tenders to State Government Departments like Public Works, Irrigation and Waterways, etc., or bidding at auction of forest coupes held by the Forest Department. There is no law requiring that these authorities must insist upon a Sales Tax Clearance Certificate. They do so in terms of an administrative decision of the State Government. Central Government Offices in West Bengal and private business houses are under no obligation to demand a Sales Tax Clearance Certificate from a person submitting a tender for works, supply or purchase.

5.60. Even for the limited purpose these Certificate serve, as many as 40,000 Sales Tax Clearance Certificates were issued in 1977-78. It is obvious that the large majority of these 40,000 applicants for Clearance Certificates must have been unsuccessful with their tenders, but nevertheless had to face all the attendant troubles of obtaining the certificates. The area of hardship can, therefore, be reduced to a very large extent if the tender inviting Departments, instead of insisting upon production of a Sales Tax Clearance Certificate by all persons submitting tenders, demand the same from the successful tenderer only. In that case, not more than a thousand clearance certificates will be issued in a year.

5.61. The Committee learns that Registers indicating receipt and disposal of applications for Sales Tax Clearance Certificates are not properly maintained in all unit offices. As a result, it could not make an objective study of the extent of delay in disposing of these applications. Taking all the relevant factors into consideration, the Committee recommends that:

1. The Government will, in partial modification of the previous administrative instructions, request all Departments of the State Government, Offices of the Central Government in West Bengal, State-owned Corporations, Public Undertakings, Local Authorities and like organisations to demand from a successful tenderer or a successful bidder in public auction, a Sales Tax Clearance Certificate before formally accepting the tender or bid;

2. A suitable provision will be introduced in the Statute governing issue of Clearance Certificate providing, inter alia, that a defaulter in the matter of payment of due tax will be denied the same and that an application for the purpose must be disposed of within a week;
3. A suitable Register will be prescribed for noting particulars of applications for Sales Tax Clearance Certificates received and disposed of;
4. A Sales Tax Clearance Certificate will be valid for one year.

5.62. **Certified Copy**—There is a general grievance that issue of Certified Copies is inordinately delayed. The Committee failed to obtain the relevant data from the Commissioner's Office but is convinced on enquiry from a number of Commercial Tax Officers that the grievance is not without substance.

5.63. Recommendation made by the Committee for furnishing free copies of assessment order along with the final notice of assessment (Para. 3.21) will substantially reduce the area where certified copies will be required. With such reduction in work-load, issue of certified copies will not present any hardship to the dealers. Moreover, the Committee has already recommended that submission of certified copies will be optional and not obligatory in respect of appeals against non-assessment orders (Para. 4.20).

5.64. Drastic reduction in the number of applications for certified copy will render surplus 7 out of 8 copyists now working on piece-rate basis in the Department. Separate recommendation has been made for their rehabilitation (Appendix Y—remarks).

5.65. **Liability of Person-in-charge to Prosecution**—By an amendment, effective from 1st April 1978, to the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954, Sections 22A and 16A, respectively, were introduced in the two Acts. These sections are deeming provisions whereby "every person who at the time of offence was committed, was in-charge of.....the conduct of the business, shall be deemed to be guilty of the offence". Simultaneously, sections 16A and 14A respectively were also introduced in the said two Acts requiring that every dealer shall declare the name(s) of the persons(s) so responsible. Rule 73A1 was also inserted in the Bengal Sales Tax Rules, 1941, laying down that every registered dealer shall send a declaration to the Commercial Tax Officer containing "information required to be sent under section 16A".

5.66. A Chamber of Commerce strongly represented before the Committee that whether or not a person was "in-charge of, and was responsible to the dealer for the conduct of the business" at the time when an offence

was committed, is a question of fact to be proved on evidence. The mere fact that a dealer declared in Form XXXV prescribed under Rule 73A1 that Mr. so-and-so was a person-in-charge could not be taken as conclusive in this regard. It is not necessary for the Committee to reproduce all the arguments put forward on behalf of the Chamber, including reference to similar provisions in other Acts like the Prevention of Food Adulteration Act; it will be sufficient to observe that by putting his signature in the Form XXXV, may be under compulsions of service, an employee of a dealer may often have to accept a criminal liability. While the proviso to section 16A might be a sufficient safeguard in the long run, nevertheless rule 73A1 read with Form XXXV does contain, in the Committee's opinion, a seed of excessive hardship to dealers' employees without any corresponding gain to the State. The Committee recommends a review of rule 73A1.

5.67. Receipt/Issue of Letters—Letters received in the unit offices are generally diarised on the day of receipt, but the practice in the Central Office is otherwise. In that office, several days usually elapse after receipt of letter before it is diarised. Many letters are mislaid in the process. The Committee has made recommendations for the establishment of self-contained branches in the Central Office each having its separate receipt section (Para. 6.28). It further recommends that each clerk-in-charge of receipt section in the unit offices as well as self-contained branches of the Central Office will be responsible for diarising the letter. The receipt given to messengers of the said letters will contain the serial numbr of diary entry.

5.68. The issue registers maintained in each office do not always show the manner and date of despatch. Instances have come to the notice of the Committee that there may be a gap of days, even weeks, between the date of issue of a letter or notice and its actual despatch. The Committee recommends that each office or section having arrangement of issue and despatch of letters will maintain two issue registers with separate running serial numbers, one for issue of letters to be sent by ordinary post which will invariably be under certificate of posting and the other for letters to be sent by registered post or messenger. The first issue register will be taken to the post office along with the letters to be posted, and the issue register itself will form the certificate of posting, for which purpose appropriate postage stamps will be affixed in the register to be defaced by the date stamp of the post office. This system is in vogue in the Central Despatch Office of Writers' Buildings. The second issue register will show the date of posting by registered post (Post Office receipt number will be quoted in the Register) or the date of delivery through messenger.

Ancillary and General Topic

5.69. Court Fee—Court fee is required to be paid on application for registration and declaration forms under the Central Sales Act Act, but not under the State Act. The Committee recommends that there will be uniformity in this regard under both the laws.

5.70. **Disposal of Seized Goods**—It is recommended that a provision be introduced in law enabling the Department to sell seized goods that may remain unclaimed beyond a prescribed period by public auction or to destroy the same if these are not saleable. A provision for sale of seized goods is there in the West Bengal Taxes on Entry of Goods in Local Areas Act, 1962.

5.71. **Disposal of Seized Books of Accounts**—The Committee recommends introduction of similar provision for destruction of seized books of accounts which remain unclaimed in spite of proper notice including public notice having been issued for such purpose. Such a provision is necessary to get rid of a large number of seized books lying in the Department without serving any purpose. In the Central Section alone, more than a thousand bundles of such seized books (600 of them were seized at least 10 years ago) are occupying valuable office space.

5.72. **Removal of Difficulty**—In the composite State Sales Tax Law to replace the 5 existing Acts, there will be a provision empowering the State Government to make such provision as may be necessary for removing any difficulty that may arise in giving effect to the provisions of the recommended composite law, by making an order to that effect and publishing the same in the Official Gazette. Section 74 of the Delhi Sales Tax Act, 1975, may serve as a model of this recommended provision.





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CHAPTER 6

ORGANISATION

6.01. Under the terms of reference, the Committee was, *inter alia*, required to recommend measures needed for strengthening the organisational set-up in the Commercial Tax Department. With this end in view, the Committee has examined the existing organisational set-up in its various aspects, namely, objectives and functions, hierarchical levels, responsibility centres, line of command, span of control, authority and responsibility, etc. Furthermore, the Committee has also deliberated upon some of the important issues of organisational dynamics appropriate to the Department.

6.02. Since its establishment about four decades ago, the Commercial Tax Department has grown manifold. Such growth having been mainly on the basis of particular needs at particular times in particular areas, imbalances have crept in the reorganisational set-up over this long period of time. While examining the set-up in its totality, both void and overlapping have been identified by the Committee. These are discussed in details below.

6.03. While the primary objective of the Department continues to be collection of tax preceded by assessment of liability, disposal of appeal and other necessary proceedings, some of the allied functions have considerably gained in importance with the passage of time. For example, Economic Survey and Statistics as an aid to tax planning may now have qualified as an important and independent function of the Department. Similarly, Public Relation in the present day of complex and often changing tax laws and procedures has become all the more important. Economic Survey and Statistics is not formally represented as an independent function in the existing set-up, and public relation matters are presently dealt with only in a perfunctory manner by a Public Relations Officer, who has no adequate support. Another area where the Committee has noted complete void is Training and Development of Officers and Staff. In a large and law as well as procedure-bound organisation like the Commercial Tax Department, the importance of Training and Development in achieving and sustaining efficiency and effectiveness can hardly be over-emphasised. On the other hand, the Committee has also noted overlapping of activities in a major area, namely Investigation. In the existing set-up, both Bureau of Investigation and Central Section undertake some form of investigation or other. The Central Section, however, also constitutes a mixed basket of other unlike functions varying from management of checkpoints to law. The Organisation Structure recommended by this Committee aims at avoiding such overlapping and provides for functions hitherto either not represented or only inadequately represented in the set-up.

6.04. In the present set-up, there are five levels of hierarchy from the Commissioner to the Inspectors. The other three levels are represented by the Additional Commissioners, Assistant Commissioners and Commercial Tax

Officers. In the opinion of the Committee, the existing number of levels is adequate in view of its following recommendations regarding span of control. However, the Committee feels that two major 'grey areas' exist regarding Level and therefore regarding Line of Command also. Firstly, in the existing set-up, Additional Commissioners do not act as the 'linking piu' between the Commissioner and Assistant Commissions. They do not have any direct organisational linkage with Assistant Commissioners or through them, with Commercial Tax Officers. Strictly speaking, in the present set-up, Additional Commissioners' linkage with the rest of the Directorate exists only through the Commissioner to whom they report. This present position has the effect of somewhat delinking Additional Commissioners from the 'mother' structure. Furthermore, this has also resulted in a very wide span of control, almost unmanageable, for the Commissioner to whom presently report 5 Additional Commissioners and 18 (sanctioned posts—30) Assistant Commissioners. The Committee, therefore, recommends, in the interest of administrative efficiency, that Additional Commissioners be brought into the mainstream of administration representing a formalised tier in the 'mother' structure between the Commissioner and Assistant Commissioners. The second 'grey area' relates to the Charge Officers. They are selected from among Commercial Tax Officers in each 'Charge' and are responsible for the administration of respective Charges. However, their organisational status vis-a-vis Commercial Tax Officers in the Charge is that of a 'first among equals'; they do not form any hierarchical tier in the organisation separate from that of Commercial Tax Officers. In this situation, Charge Officers' authority over the Commercial Tax Officers is necessarily informal in the final analysis, and is also very much dependent in practice on personal peer-relationship with concerned Commercial Tax Officers. The Committee, therefore, recommends, for the sake of least peer conflict and clearly defined Line of Command, that the concept of Charge Officers be abolished. This recommendation is to be considered in conjunction with the Committee's recommendation regarding re-structuring of Charges and new role of Circles. The concept of Charge for the purpose of assessment and other proceedings is, however, recommended to continue. This matter has been dealt with in more details below.

6.05. Under the existing scheme of administration, "Charges" may be said to be the Units of administration in this State in respect of sales tax matters because it is in the Charges that most initial work such as registration and assessment of dealers is carried out. "In Calcutta, a Charge Office consists of a section of the city and outside Calcutta it coincides in some cases but not in all, with an administrative district". (Sales Tax Manual—Volume II). At present, there are 31 Charges including 14 Mofussil Charges, under the overall supervision of 9 Circles. However, as all planning and control activities in the Department are centralised at one level, namely, at the level of the Commissioner, Charges, and not Circles, are in effect treated as units for revenue target and cost budget. The Committee feels that control tends to become less effective because of the

distance between the Controller (the Commissioner) and the controlled (Charges). Responsibility Centres for planning and control at the Department level will henceforth be the Circles. The Circle Head will in turn ensure through Commercial Tax Officers attached to Charges under him, and the Administrative Officer recommended by the Committee for each Circle that the Circle's revenue and collection target is achieved and its cost budget is not exceeded. The concept of Charge will continue so far as the dealers are concerned, but for administrative purpose Charges will be only sub-units of Circles.

6.06. In the present set-up, there are 3 control points, namely, the Commissioner, administrative Assistant Commissioners and Charge Officers. The Commissioner's existing span of control is unmanageable as it has been noted earlier and the Committee's recommendation to bring Additional Commissioners into the mainstream of administration will considerably ease this situation. Four Additional Commissioners will be brought into the mainstream of administration to exercise overall authority over the Circles and will form a control point. In the recommended set-up, the span of control is 4 to 6 Circles each for such Additional Commissioners. In the recommended set-up the Commissioner will exercise direct control over these 4 Additional Commissioners as well as 3 more Additional Commissioners and 4 Assistant Commissioners earmarked for specialised functions. At present, although the administrative Assistant Commissioner exercises overall control over Charges, the Charges are also treated as distinct units for all practical purposes. In the recommended set-up, each Circle Head, namely, the administrative Assistant Commissioner will be responsible for the administration of the Circle Office as well as of 3 sub-units (Charges) consisting of not more than 15 Commercial Tax Officers. Although the span of control of 15 (or more in case of Mofussil) Officers may appear to be very wide, the Committee feels that in view of the homogeneity of Commercial Tax Officers' functions, the effective span of control will be reasonable. Further, the administrative Assistant Commissioner will be assisted by an Administrative Officer at each Circle. In this regard the Committee has also taken into consideration the fact that the Commercial Tax Officers will have only marginal man management function at their level. The Committee has earlier recommended the abolition of the concept of Charge Officers and the continuance of the concept of Charge. Further, in view of the unwieldy growth of some of the charges, e.g., 24-Parganas Charge has as many as 19 Commercial Tax Officers, the Committee recommends (vide Annexure) restructuring of the present scheme of Charges. To sum up, with the introduction of Additional Commissioners as a control point and the abolition of Charge Officers, control points will continue to be 3 in the recommended set-up, too.

6.07. The Committee has also considered the issue of 'authority to be commensurate with responsibility'. During the personal interview with Officers at different levels, they have expressed that it becomes acutely difficult for them to properly discharge their duties and responsibilities unless

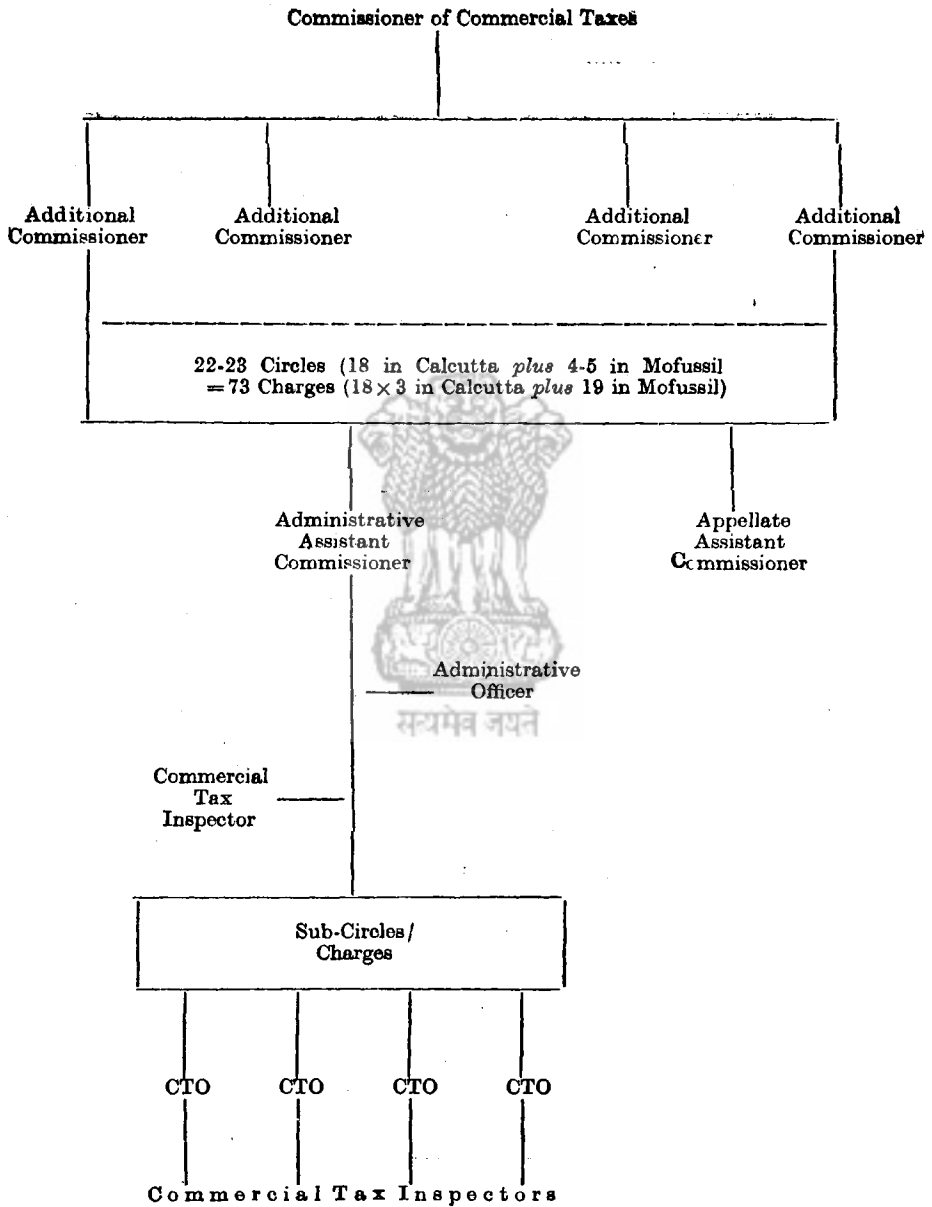
necessary administrative and financial powers are vested in them, particularly inasmuch as such powers relate to the general staff working under them. The Committee is in agreement with this view and recommends that the Circle Heads will have necessary powers over and relating to all members of the staff attached to the respective Circles. These powers will include establishment, discipline (subject to the constraints of Government Rules) and performance appraisal and will be final in case of staff members and recommendatory in case of Commercial Tax Officers and Inspectors. This would, however, require that policies in these matters are formulated at the Department level and powers are exercised by the Circle Heads in accordance with policies so laid down. It would further require an effective information system for the Commissioner and Additional Commissioners (Zonal Administration) to ensure that such powers are exercised uniformly and judiciously by various Circle Heads.

6.08. Further, the Committee feels that in order to ensure that the recommended organisational set-up, or for that matter any set-up, functions efficiently and effectively, the more important issues of employee motivation need to be taken proper care of. Some of the recommendations by the Committee regarding the Organisation Structure itself, e.g., clearly defined line of command and decentralisation of power to the Circle level, are expected to go a long way in motivating the employees, the Officers in particular. However, at the personal level, a reasonable growth prospect is possibly the strongest motivating factor. In this matter, the Committee is of the opinion that even within the constraints of the Government framework, much can be achieved by introduction of a comprehensive system of Performance Appraisal and well structured Promotion Policy. Furthermore, when the Training and Development activities are properly recognised as recommended by the Committee, these will also act as effective organisational dynamics in the Department.

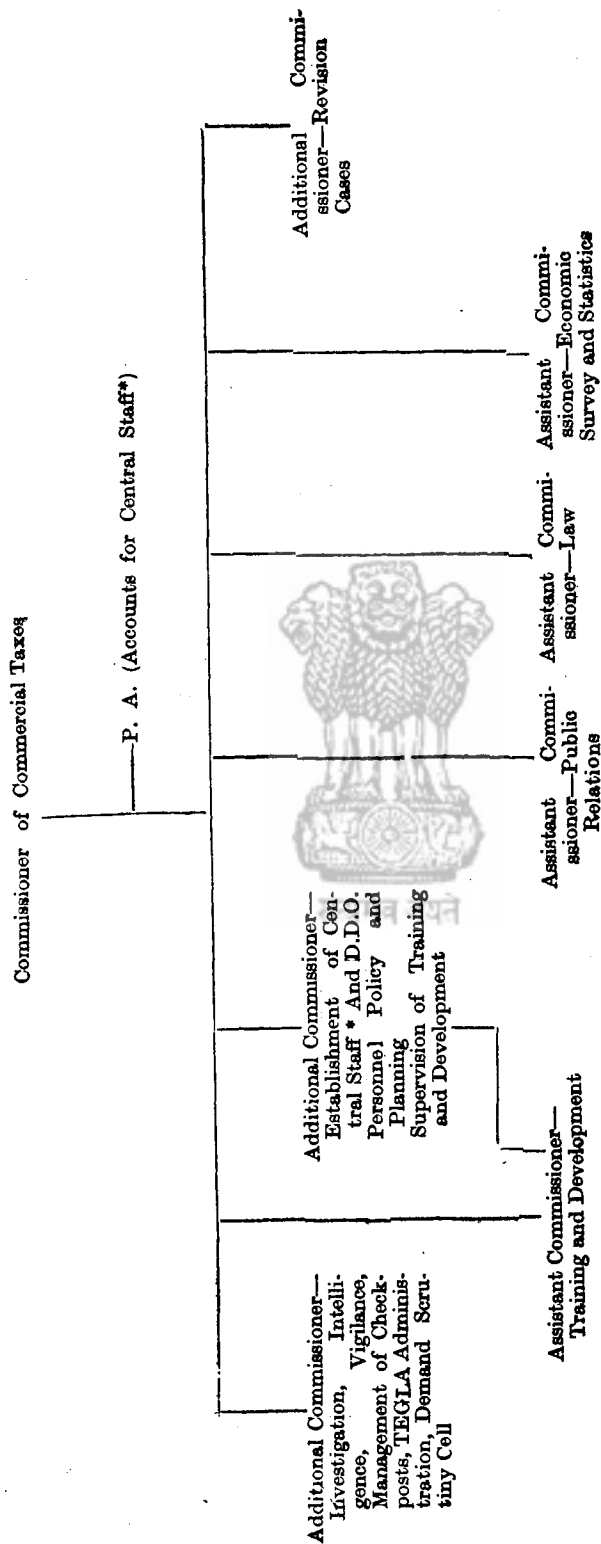
Recommended Organisational Set-up

6.09. The set-up will have the following two segments both reporting to the Commissioner.

1. Mother Structure



2. Common Services and Specialised Functions

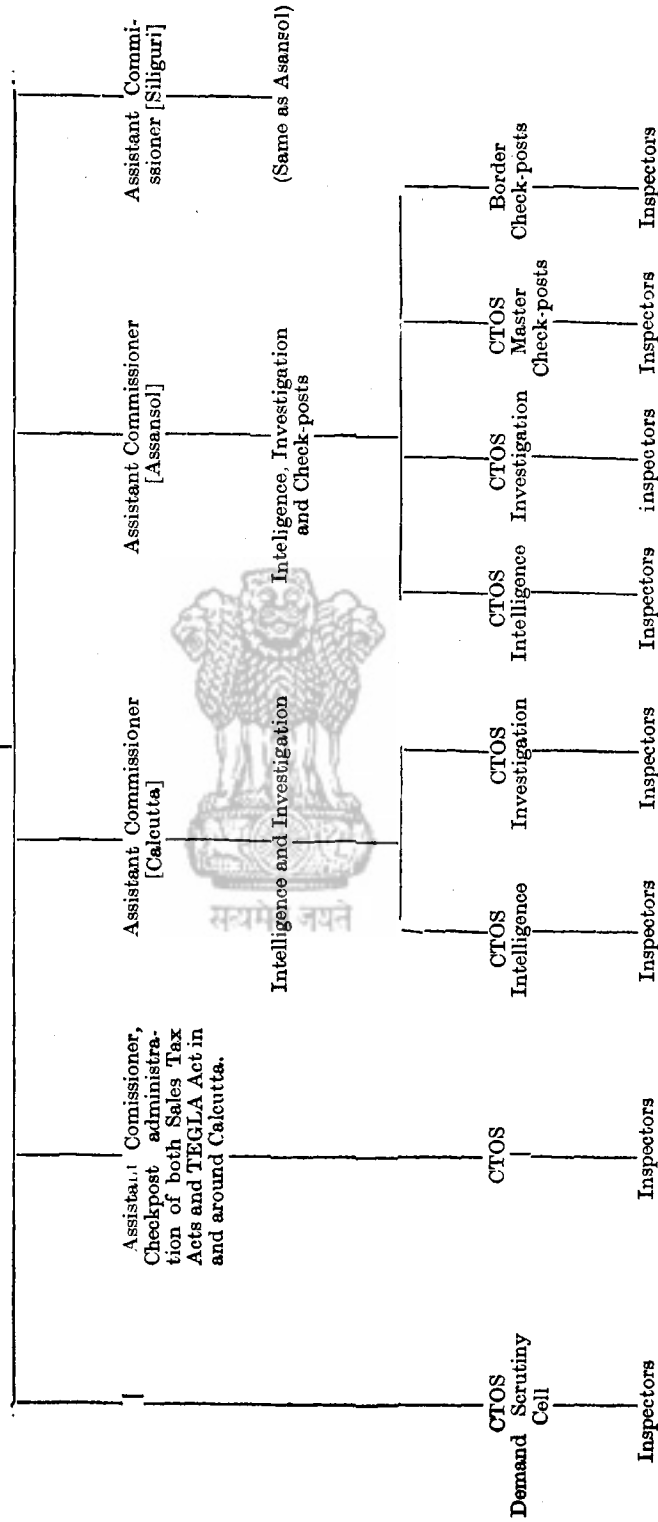


*Officers and General Staff other than those attached to the 'Circle' Set-up.

The above diagram shows only the head of each function and his organisational status. Detailed organisation set-up of each function is given separately, vide Para. 6.26 et seq.

ADDITIONAL COMMISSIONER

Intelligence and Investigation, Vigilance, Check-post administration, TEGLA administration, Demand Scrutiny Cell.





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Commissioner of Commercial Taxes

6.10. The Commissioner will—

Be the head of the Department organisation and have direct authority over all functional units including that for Investigation.

Form the Department's linkage with the Government.

Be responsible to the Government for achievement of revenue targets at an agreed/budgeted level of cost of collection.

Assist the Government in policy making regarding taxes administered by the Department.

Exercise control over the Department's working by review of monthly results of each Zone in the key result areas, namely, disposal of assessment and appeal cases, collection of taxes and new registration.

Be responsible for manpower planning of the Department and performance appraisal of all Additional Commissioners and Assistant Commissioners attached to the Central Office. Additional Commissioners (Functional) will be consulted for performance appraisal of Assistant Commissioners in regard to their respective spheres.

6.11. The Commissioner's above functions and responsibilities will be in addition to his legal functions and responsibilities.

6.12. The Committee strongly feels that the Commissioner will be an ex-officio Secretary to the Government of West Bengal so that he can more effectively interact with various Government Departments and other external agencies. The Commissioner of Commercial Taxes enjoys the rank of a Secretary in the States of Maharashtra, Bihar, Orissa, Uttar Pradesh, etc. He will thus be vested with the powers of a Secretary to the Government subject to control by the Finance Department, as all other Government Departments are.

Zonal Administration

6.13. The total jurisdiction of the Commercial Tax Department in the State of West Bengal will be divided into 4 administrative Zones, 3 Zones for Calcutta and Howrah and 1 Zone for the Mofussil. Each Zone will be under the charge of an Additional Commissioner whose span of control will be 6 Circles in Calcutta and Howrah and between 4 and 5 Circles in Mofussil (vide flow chart at Para. 6.09).

6.14. An Additional Commissioner (Zonal Administration) will—

Be the administrative head of the concerned Zone.

Assist the Commissioner in setting and achieving Circle revenue targets of the Zone under his Charge.

Ensure, by necessary inspection, progress and quality of assessment and appeal proceedings in the Circles under the Zone.

Be responsible for manpower planning and performance appraisal of Assistant Commissioners attached to various Circles in the Zone.

6.15. An Additional Commissioner (Zonal Administration)'s above functions and responsibilities will be in addition to his any legal functions and responsibilities.

Circle Administration

6.16. The jurisdiction of each Zone, in the recommended set-up, will be divided into various Circle as recommended above. The Circle as responsibility centres will be under the charge of administrative Assistant Commissioners. However, each Circle will also have an appellate Assistant Commissioner who will be responsible to the Additional Commissioner of the concerned Zone. Each Circle in Calcutta and Howrah will have jurisdiction over 3 Charges each comprising a maximum of 5 assessing Commercial Tax Officers. The jurisdiction of a Mofussil Circle will be 4 and 5 Charges, each comprising 4 assessing Commercial Tax Officers on an average.

6.17. An administrative Assistant Commissioner will—

Be the administrative head of the concerned Circle.

Be the Drawing and Disbursing Officer for all Offices, Officers and general staff under or attached to the Circle. (In the Mofussil, this authority will be exercised by the Seniormost Commercial Tax Officer in each Charge away from Circle Headquarters).

Be responsible for achieving revenue/collection targets and cost budget of the Circle.

Be responsible for establishment matters of the Circle including manpower planning and performance appraisal of the Circle Staff and Officers up to the rank of Commercial Tax Officers. In the matter of performance appraisal of attached Inspectors, the concerned Commercial Tax Officers will be consulted.

Be responsible, in particular, for judicious file/work allocation among Commercial Tax Officers and Inspectors other than those attached to Commercial Tax Officers.

Ensure, by necessary inspection, progress and quality of assessment, registration and other proceedings in the Circle.

Have overall responsibility of ensuring that books of accounts, etc., are inspected by the Officers and Inspectors in the Circle at dealers' place.

Be responsible for satisfactory and speedy disposal of dealers' complaints regarding registration, issue of declaration forms, etc., and other general grievances. (In the Mofussil this will be the responsibility of the Seniormost Commercial Tax Officer in a Charge in routine cases where spot action is necessary and possible. Other cases of complaints and grievances will be recorded and processed by the Head Clerk at the Charge Office for disposal by the administrative Assistant Commissioner of the Circle in course of his inspection visits which will be more frequent under the recommended Organisation Scheme).

6.18. The administrative Assistant Commissioner's above functions and responsibilities will be in addition to his other statutory functions and responsibilities.

6.19. In discharging his above administrative responsibilities, the administrative Assistant Commissioner will be assisted by an Administrative Officer who will in turn be assisted by 4 Head Clerks, 1 each for 3 Charges under the Circle and 1 for the Circle affairs. In the Mofussil, the Charge Head Clerks will be placed under the seniormost Commercial Tax Officer in the Charge.

6.20. Head Clerks will be equivalent, in rank, etc., to the Head Clerks of Directorate Offices. These posts will be filled up by promotion of Upper Division Clerks. The Administrative Officer will be equivalent, in rank, etc., to Commercial Tax Officers. These posts will be filled up by promotion of Head Clerks. Initially, when the scheme will be first introduced, promotee Inspectors may be allowed to opt for consideration for promotion to posts of Administrative Officers, but after the scheme is established, Inspectors who did not initially opt for such promotion would not be eligible for promotion to the post of Administrative Officer. At such initial stage, after selection to posts of Administrative Officers is completed, promotee Inspectors may also be allowed to opt for transfer to a post of Head Clerk. In this case also, no option will be allowed in future. Upper Division Clerks will, however, continue to have two channels of promotion, either to Head Clerk and then Administrative Officer or to Inspector and then Commercial Tax Officer.

6.21. There will also be an Inspector for each Circle who will not be attached to the Commercial Tax Officers. His main functions will be—

Inspection of books of accounts, etc., in pursuance of Appellate Authorities' direction under rule 80A.

Collection, under the instruction of the Administrative Assistant Commissioner, both general and specific, trade and business information pertaining to the Circle,

General support to attached Inspectors, under instruction of the administrative Assistant Commissioner, and in such case all functions of the attached Inspectors as may be allotted.

Charges

6.22. Although abolition of the post of Charge Officers is recommended, the concept of 'Charges' will continue for the purpose of assessment and other proceedings. A Commercial Tax Officer in a Charge will be responsible for—

Assessment of dealers and collection of tax assessed, penalties imposed and any other dues from the dealers.

All registration matters, namely, granting registration and cancellation/amendment of registration certificates.

Issue of Declaration Forms.

Inspection of dealers' place of business.

Checking of reports from attached Inspectors and taking necessary action thereon.

6.23. At present, each Commercial Tax Officer in Calcutta is required to make 400 assessments a year. In the idealised condition when one assessment per year per file is required to be made, this means allotment of 400 files to each Commercial Tax Officer in Calcutta. Since 70 per cent. of Calcutta dealers have files under Central Sales Tax Act, 235 dealers will account for 400 files when all State Sales Tax Laws are encompassed in one Act. The Committee is of the opinion that instead of "files", "dealers" would be a better criterion for allotment of work to Commercial Tax Officers. In view of the facts that the Committee has recommended that each Commercial Tax Officer will spend 5 full working days per month on inspection (Para. 7.41) and that an ordinary assessment under the composite law involving first point and last point sales tax as well as much more extensive purchase tax will be more complicated than an ordinary assessment under the existing law, the average optimum workload of a Commercial Tax Officer under the idealised condition stated above is recommended at 230 dealers. Although grievance was made of unbearable workload under the present prescribed quota, the Committee believes that under the idealised condition, as stated above, the recommended load of 230 dealers will be manageable in view of the Committee's recommendations to introduce summary assessment and stenographic support. However, the idealised condition cannot be attained until the backlog of 2.5 lakh pending assessments as on 1.4.78 is reduced to a considerable extent. Considering the quantities involved, the Committee recommends that to start with, each Commercial Tax Officer in Calcutta will be allotted 175 registered dealers' files. He will, however, be required to pull up adequate number of arrear assessments. At an annual compounded growth rate of 6 per cent. in the number of registered dealers as noted by the Committee, the average number of registered dealers per Commercial Tax Officer will after 5 years be 235, which marginally exceeds the recommended optimum average

workload. The Government will, therefore, ~~make a work study~~ at the end of 4 years so that the recommended set-up can be suitably expanded before the workload exceeds the optimum. The above estimates have been on the basis of an average dealer in Calcutta. Since the work involved in making an assessment in particular and attending to other miscellaneous work under the law in general vary according to the turnover and other factors of a dealer, it will be necessary to determine actual number of allotment to a Commercial Tax Officer on the basis of the class of dealers under his charge. For this purpose, the Government may devise a working formula for differential allotment of dealers in different units, the average being kept at 175 dealers in the beginning. The dealers in mafussil charges have lower turnover on the average and only 40 per cent. have registration under the Central Sales Tax Act. Considering these facts, the Committee recommends 275 dealers as the average allotment for a mofussil Commercial Tax Officer in the beginning, increasing in 5 years to above 370 dealers corresponding to 518 files. Here also the actual allotment will vary from place to place depending on the class of dealers. For the purpose of differentiating between small and large dealers, each file may be assigned a suitable co-efficient based mainly on the gross turnover slab to which it belongs, ranging between 1 for summary assessment files to 5 for special assessment files. The co-efficient equivalent of 230 dealers can then be determined on the basis of average distribution of different classes of dealers in Calcutta and such number of dealers allotted to each Commercial Tax Officer as would make the aforesaid predetermined co-efficient equivalent. In performance appraisal, the same method may be adopted.

6.24. Each Commercial Tax Officer will be given the services of 1 Bench Clerk in the rank of Upper Division Clerk and 1 Steno-typist-cum-assistant so that assessment orders can be issued to the dealer as a matter of course, as recommended elsewhere (Para. 3.22) in this Report, and hardship caused to the dealers on account of undue delay in various other matters is mitigated. This will also ensure that necessary Registers and other records are properly and regularly maintained.

6.25. Further, 1 Inspector will be attached to every Commercial Tax Officer. The duties and functions of an attached Inspector will be—

Detecting cases of dealers escaping registration, and bringing them under the fold of assessment.

Detecting other cases and forms of evasion, and for that purpose conducting search and seizure in appropriate cases, under intimation to the Commercial Tax Officer.

Inspection of the dealers' books of accounts, registers and other documents under the instruction of the Commercial Tax Officer.

Cross verification of purchase/sale transactions under the instruction of the Commercial Tax Officer.

Assisting the Commercial Tax Officer in collection of taxes, penalties and other dues from the dealers.

Investigation and Intelligence

6.26. The Committee's detailed recommendation on a suitable organisation set-up for this specialised function is given elsewhere.

Training and Development

6.27. The Committee recommends that in order to improve the quality of work of the Department, staff and Officers' training will be recognised as a separate and continuing function under a permanent unit of the Department. The Committee further makes the following recommendations regarding the scope of work and some major working guidelines for this functional area:—

- (1) The objective of all training activities will be two-fold, namely,
 - (a) developing the potential and rectifying the deficiencies of officers and staff thus enabling them to do their present jobs more efficiently and more effectively, and
 - (b) preparing them for their next higher jobs. The Committee, however, recognises the fact that within the framework of the present promotion policy and particularly in the absence of proper career planning, the emphasis will need to be on the former aspect of training.
- (2) The major areas of training will be—
 - (a) Systems and Procedures;
 - (b) Accountancy, including local variations;
 - (c) Sales and Purchase Tax, Mercantile and other allied Laws; and
 - (d) General Management Principles and Practice.

The exact coverage of training programmes will vary with the level, job content and job objective of staff and officers to attend the programmes. For example, the clerical staff will be imparted training in existing systems and procedures, the Administrative Officers in development of systems and procedures with a smattering of law, whereas the course for Inspector, Commercial Tax Officers and appellate Assistant Commissioners will be accountancy and Law-oriented and that for administrative Assistant Commissioners and Additional Commissioners will be general management-oriented. Training needs at various levels will be examined from time to time and the course coverage accordingly revised.

- (3) Training courses will be of two broad categories—
 - (a) Initial courses to be attended on recruitment or promotion.
 - (b) Refresher courses for Inspectors and above, after 6 to 8 years of service at the same level. However, if major deficiencies are identified in course of performance appraisal, the concerned officers will be sent to Refresher courses, even earlier.

- (4) Course faculty will be drawn, as far as possible, from within the Department. The Committee feels that the Officers, particularly those attached to the Investigation and Intelligence, and Law Sections may provide some very useful and interesting case studies for training courses. Guest faculty from other Government Departments and Commercial Tax Departments of other States may be invited for courses in systems and procedures and for courses in Law respectively. For general management courses, external faculty may be invited; alternatively, Officers may be sent to suitable outside courses.
- (5) An Assistant Commissioner will be in charge of the Training Section. He will be assisted by a secretariat of appropriate size. This Section will also have a well-stocked library and a Librarian. The Assistant Commissioner will be responsible for necessary co-ordination and smooth conduct of courses and will also act as a faculty wherever his experience and knowledge are appropriate. An Officer in the rank of Commercial Tax Officer also will be provided for this Section when increased workload justifies such addition.

Central Establishment, etc.

6.28. (a) The Central Office will be under the administrative control of an Additional Commissioner (Central). He will be in charge of the Central establishment. In addition, he will be responsible for assisting the Commissioner in personnel policy and planning for the entire Department and be in overall charge of training and development to be assisted by an Assistant Commissioner, as recommended in Para. 6.27 infra.

(b) Offices of the different Zonal Additional Commissioners will be separate wings of the Central Office. Offices of the functional Additional Commissioners and specialised Assistant Commissioners will also be separate wings of the Central Office.

(c) Each wing in the Central Office will have separate issue and receipt sections to reduce the possibility of mislaying of letters and records.

Public Relations

6.29. The Committee recommends that the role of the Public Relations Section in the Department will be revised against the backdrop of the present multi-tax situation (Income Tax, Sales and Purchase Tax, Excise Duty, etc.) which itself is ever changing, resulting in confusion and ignorance, innocent or otherwise, finally culminating in a peculiar combination of awe and apathy among the business community toward any form of tax law. Sales and Purchase Tax being the main source of State revenue, the Committee recommends that the Public Relations Section will be properly organised to dispel this aversion through necessary publicity and

prompt and willing service to the enquiring dealers in particular and the general public. With this objective in view, the functions of Public Relations Section will be—

- (1) Providing routine general information by the reception desk.
This reception desk will also refer the enquiries to the correct desk or section, if complete information cannot be furnished by it.
- (2) Providing information of Legal Procedure.
- (3) Providing information as to the stated position of laws as amendment up-to-date, but refraining from giving any interpretation of such laws.
- (4) Distribution of various forms.
- (5) Publicising the activities of the Department through newspapers, radio, television, hoardings, information stall in trade/industry fair, etc.
- (6) Publication of nominally priced brochures on Sales and Purchase Tax for dealers and general Public.
- (7) Publication of House Journal, contents of which will include recent changes in law, important case laws, etc.

This section will be under the charge of a Chief Public Relations Officer (equivalent to an Assistant Commissioner) who will be assisted by a Public Relations Officer (equivalent to a Commercial Tax Officer) and an appropriate number of Public Relations Assistants (Upper Division Clerks).

LAW SECTION

6.30. The objective of the Law Section is to co-ordinate and supervise the Department's activities as a party in law suits and quasi-law suits before Courts and Quasi-Courts, including the Commercial Taxes Tribunal.

6.31. The functions of the Law Section include:—

- (a) To move the Legal Remembrancer for appointment of suitable lawyers to represent the Department before Courts;
- (b) Either to brief the lawyer so appointed after getting instructions from the Authority who is a party in the suit or matter, or to advise the said Authority to brief the lawyer appointed by the Legal Remembrancer;
- (c) To assist the said Authority to affirm affidavits as may be advised by the lawyer;
- (d) To keep in touch with the lawyer and watch developments of the case from time to time;

- (e) To inform the appropriate Authority of any interim or final orders passed by the Courts and generally to act as a liaison office between the lawyer and the Departmental Authority;
- (f) To consider and decide, in consultation with the lawyer and subject to approval by the Legal Remembrancer, if an appeal is to be filed;
- (g) To allot cases before the Tribunal to Departmental Representatives;
- (h) To obtain case records from the Assistant Commissioner for submission to the Tribunal in connection with revision and other cases;
- (i) To brief the Departmental Representatives in the aforesaid cases;
- (j) To study judgements passed by the Tribunal for considering if applications for reference or review should be filed and to file the same in appropriate cases;
- (k) To forward copies of Tribunal's judgement to the Assistant Commissioners with the information if any reference has been filed.

The Committee recommends that the functions of the Law Section will include, over and above the 11 items stated above, the following 3 functions:—

- (l) To scrutinise important appellate orders to find out any apparent errors of law;
- (m) To prepare index and summary of all important Tribunal decisions and unreported High Court and Supreme Court decisions; and
- (n) To keep the Sales Tax Laws up-dated and free from lacunae.

These recommended additional functions are discussed below.

Scrutiny of Appellate Orders

6.32. By a Departmental instruction issued in 1974, all appellate Assistant Commissioners were required to forward to the Law Section copies of all appellate orders where disputed amount was Rs.25,000 or more and where assessment was modified (whatever be the extent of relief). The idea was that these will be scrutinised to consider if the Department ought to prefer application for revision against any such order before the Tribunal. The Committee understands that no systematic scrutiny of these orders was ever made. Subsequently, the Tribunal held that the power given to the Commissioner to challenge an appellate order before the Tribunal had, by implication, taken away his power to revise *suo motu* an appellate order in favour of revenue. Although this order of the Tribunal has been sought

to be challenged in a reference application, the Government, perhaps by way of abundant caution, omitted the rule prescribing the manner of Commissioner's challenging an appellate order in revision before the Tribunal, as it evidently wanted to retain the Commissioner's power of *suo motu* revision of appellate order. The function of the Law Section to scrutinise all appellate orders where relief of Rs.10,000 or above has been granted, as recommended at Para. 7.51, will be performed by the Senior Law Officer with the assistance of the Commercial Tax Officer(s) posted in Law Section. The Zonal Additional Commissioners may also refer to the Law Section appellate orders which they may find of doubtful legal validity. A Commercial Tax Officer who may be of the opinion, for reasons to be recorded, that an appellate order in respect of an order passed by himself or his predecessor is erroneous will have the right to forward the same to the Zonal Additional Commissioner through the administrative Assistant Commissioner with a request to revise it, and the Zonal Additional Commissioner may refer it to the Law Section for scrutiny if the error pointed out by the Commercial Tax Officer is one of law. Law Section will give its opinion on every appellate order sent to it either by the Assistant Commissioners themselves or the Zonal Additional Commissioners and the respective Zonal Additional Commissioner will be the final authority to decide, after considering the opinion of the Law Section, if he should initiate *suo motu* revision proceeding in respect of any such order.

Index of Important Decisions

6.33. The Law Section does not maintain any index of important decisions of the Tribunal, High Courts and the Supreme Court. Such an index can be of great help to not only the Departmental Representatives in arguing cases before the Tribunal but also the appellate and assessing authorities in disposing of disputed questions of law. Established journals like the Sales Tax Cases do report some important High Court and Supreme Court cases but a number of decisions are either not reported in these journals or reported very late. Tribunal decisions are reported in a local journal but the extent of coverage of this journal is not uniformly good, as a very large number of important decisions particularly those in favour of revenue go unreported. It is recommended that the Law Section will prepare an Annual Volume of Index of Tribunal decisions and important unreported High Court and Supreme Court decisions on Sales Tax Laws, together with another volume containing summary of such decisions. These may be on the lines of the various Law Digests like A.I.R. Digest, Sales Tax Digest, etc. For this purpose, the Departmental Representatives will, as soon as the final order of the Tribunal is placed before them, prepare a brief summary of the decisions and suitable indices of the same with sufficient cross-references. Similarly, summary and indices in respect of High Court and Supreme Court cases will be prepared by the Commercial Tax Officer, Law Section, who is in charge of such cases, as soon as a

certified copy of the judgement is received in Law Section. The Committee has recommended at Para. 4.36 that it should be possible for the Tribunal to dispose of 2,500 revision cases a year. Since the recommended strength of Departmental Representatives is 10, every Departmental Representative will be required to prepare summary and Index of 250 cases a year, or less than 1 case a working day.

Up-dating Provisions of Law

6.34. In the present set-up, there is no agency to ensure that Sales Tax Laws are promptly up-dated to obviate administrative difficulties and plug lacunae. The Law Section is the most suitable agency to perform this function. For this purpose, it will study the Income Tax Law and Sales Tax Laws of all important States and compare the provisions thereof with those of the West Bengal Sales Tax Law(s) and suggest if this State can usefully adopt any provision noticed in those Laws. Amendments made in those other Laws will also be studied as soon as they are made, for the same purpose. It will also devise legal ways and means to plug any shortcoming or lacuna of law that may come to its notice on perusal of judgments passed by the Tribunal, the High Courts and the Supreme Court and also such other shortcoming as may be brought to its notice by any employee of the Department through the administrative Assistant Commissioner or any other head of office. This function will be performed by the Senior Law Officer with the assistance of Commercial Tax Officer(s) of the Law Section.

Organisation

6.35. At present, the Law Section forming a part of the Central Office is headed by a Senior Law Officer, in the rank of Commercial Tax Officer, assisted by 3 Commercial Tax Officers and 8 Inspectors. There are also 5 Departmental Representatives in the rank of Commercial Tax Officer. There are considerable grey areas in the organisational set-up. The Senior Law Officer is appointed by and is under administrative control of the Judicial Department. The Commissioner's line of command on him is not clearly defined. The Committee recommends that the Senior Law Officer will be appointed by, and be under the administrative control of, the Commissioner. The other Commercial Tax Officers, the Departmental Representatives and the Inspectors are nominally under the administrative control of the Assistant Commissioner, Central Section who, in any case, can hardly exercise any direct control on these Officers. The Committee recommends that they will be under the control of the Senior Law Officer. As a corollary to this recommendation, the post of Senior Law Officer will be up-graded to that of Assistant Commissioner. The importance of the functions now performed by the Senior Law Officer and that of recommended additional functions make it essential that the Senior Law Officer will be an Assistant Commissioner of about 5 years seniority.

Registers

6.36. Suitable registers are neither prescribed nor maintained in the Law Section; as such, it could not furnish specific reply to queries made by the Committee in respect of such routine matters as number of cases pending before the High Court, the Supreme Court and the Tribunal. The Committee recommends that registers as per pro forma suggested at Appendices "K" and "L", will be maintained by the Law Section. The Law Section will also maintain such other registers as may be necessary for its proper functioning.

Man Power

6.37. It is recommended that there will be 4 Inspectors in the Law Section, 2 of whom will be deputed to attend the High Court cases regularly, the other 2 remaining in a pool to be utilised as and when necessary for deputing to High Court (when the Department may be facing litigation in more than 2 High Court Benches) or to other Courts/Tribunal as and when necessity may arise. The present strength of 3 Commercial Tax Officers is adequate for the present functions of the Law Section. But since the Committee has recommended some additional functions, one more Commercial Tax Officer will be necessary. Since there are 5 Benches of the Tribunal, some of them occasionally holding camps at far away places, the number of Departmental Representatives should be more than 5. Taking into consideration additional functions of the Departmental Representatives as recommended at Para. 6.33, it is recommended that there will be 10 Departmental Representatives. In the Income Tax Department, 2 Departmental Representatives are attached to each Bench of Tribunal. With the increase in the strength of Officers, the supporting strength of Stenographers, Clerks, etc., will naturally be increased proportionally. Since the Committee recommends establishment of an effective Library in the Law Section, there will be a Librarian with requisite supporting staff to man the Library.

Allotment of Tribunal Cases to Departmental Representatives

6.38. Since the Committee has recommended two Departmental Representatives per Bench it will be better if Departmental Representatives are earmarked for a particular Bench so that every Departmental Representative has to plead on alternate days before a particular Bench. This will be convenient for the Departmental Representatives who may utilise the other days for preparing the case and doing other jobs as recommended in Paras. 6.33 and 6.39. The Bench-wise allotment of Departmental Representatives may be revised monthly or quarterly so that every Departmental Representative has an opportunity to appear before every Bench over a period of time.

Scrutiny of Tribunal Orders

6.39. The Committee recommends that the primary responsibility to decide if an application for review, reference or writ should be filed against an order of Tribunal will be on the Departmental Representatives.

Library

6.40. It is recommended that a Law Library will be established with adequate books, journals, furniture and space. A copy of index of decisions in Tribunal, as recommended at Para. 6.33, will be maintained in the Library.

ECONOMIC SURVEY AND STATISTICS

6.41. The Committee has elsewhere mentioned about the organisational weakness and inadequacy of this specialised function. As a matter of fact, the Committee's own working has also suffered from the absence and inadequacy of available data in many respects. In view of all this and particularly in consideration of the fact that relevant and reliable data are the major input for all planning and control action by any management, the Committee recommends that a separate Economic Survey and Statistics Wing be set up in the Department. This being a very specialised function, the Committee refrains from giving a detailed scope of work statement for this function, particularly as it could not, for reasons that need not be stated, study the working of similar organisations in a few other States, but the Committee envisages that this Wing will collect, collate and analyse all such data/information as are necessary for planning and control at various levels in the Department. Further, this section will assist the users of all such data/information in their proper interpretation, whenever necessary.

6.42. Information may be either (a) external, i.e. pertaining to the State/National Economy, e.g., growth of trade in a particular commodity or a class of commodities, or (b) internal, i.e., operating information such as outstanding assessment cases, etc. External information is required for the purpose of tax planning by the Government and to facilitate the Department's assistance to the Government in that matter. External information is also required, for example, for estimation of tax revenue expected and of tax leakage suffered, the latter being the difference between estimated revenue and actual collection. On the other hand, internal information, i.e. operating statistics, are required for administrative planning and control within the Department.

6.43. External statistical information will be obtained by conducting independent surveys and collection of secondary data from other published work, etc. and internal operating statistics will be collected from internal data sources, namely, administrative Assistant Commissioners and Investigation and Intelligence Wing. Although little useful purpose is now

served by it, Electronic Data Processing facility is already available to the Department and the same will be made a part of the Economic Survey and Statistics Wing.

6.43A. This Wing will be headed by an Officer equivalent in rank, etc., to an Assistant Commissioner. This will be an ex-cadre post and the incumbent will be required to have adequate experience of statistical work at a senior level and reasonable exposure to Electronic Data Processing. He will be assisted by a Commercial Tax Officer who will provide to the Wing the necessary input of knowledge and experience of the Department's working procedures and needs. Further, as this Commercial Tax Officer will also liaise on behalf of the Department with the concerned Computer Centre/Service Bureau, the Committee recommends that before appointment to this post a Commercial Tax Officer will be sent to a suitable short course on Computer Appreciation. If an Officer with suitable qualification and experience is not available to head this Wing, the post may be upgraded to be equivalent in rank, etc. of an Additional Commissioner.

Revision (Second Appeal)

6.44. There will be an Additional Commissioner to hear second appeals arising out of non-assessment orders of the lower forum.

Performance Appraisal

6.45. Confidential Annual Reports are prepared by appropriate Officers in respect of their subordinates in all Departments of the State Government. A grievance was made by several Service Associations that the present system was neither scientific nor objective, particularly because it is not a true appraisal of performance. It was pointed out that the State Government, by an order issued in 1978, took an interim decision to ignore these reports for promotions within the so-called non-gazetted categories. Such a decision has, however, not been taken in regard to other categories of Government employees. The working system in the Commercial Tax Department is such that the matter need be evaluated in the context prevailing in the Department, as there are certain special features in the working of the Department. The Committee has, therefore, examined the issue with a view to assisting the Government.

6.46. Earlier in this Chapter also, a reference has been made to the direct relationship between a proper Performance Appraisal system and Employee Motivation. The Committee has examined the present position

in the matter of Performance Appraisal in the Department and finds that it has been reduced in practice to a mere periodical ritual. The Committee, therefore, makes the following recommendation for its improvement:—

1. Performance Appraisal will be made with a view to—

(a) *Succession Planning for Officers*—In the recommended set-up for specialised functions, quite a few jobs will require special knowledge, aptitude and personal qualities. Examples may be cited of Investigation, Law and Training functions. Performance Appraisal Reports will help to make available a list of Officers suitable to take over in the event of a job becoming vacant in any of these Sections.

(b) *Promotion at Officers' level*—At present Performance Appraisal Reports are treated only as 'hygiene factors'. In other words, an Officer with an adverse confidential Report is not considered for promotion, but one with an excellent Confidential Annual Report is not preferred to another with an average Confidential Annual Report but longer seniority. Promotion at Officer's level is recommended to be based on performance-cum-seniority consideration.

(c) *Training and Development at all levels*—Performance Appraisal Reports will help identify deficiencies and hence training needs of employees. This will be followed up by programmes for necessary training and development.

2. Performance criteria will be selected carefully with the following considerations:—

(a) *Job level*—At present, majority of these criteria are common for both Officers and Staff. At least some suitable scheme of weightage will be introduced, e.g., *relatively* more weightage for 'initiative' and less for 'accuracy' for Officers and vice versa for general staff.

(b) *Job Requirements*—Job requirements vary even among the peers, i.e., at the same level, e.g., an assessing Commercial Tax Officer and a Departmental Representative. Here also a suitable scheme of weightage will be introduced.

3. Performance Appraisal will be made by someone who has direct knowledge of the appraisee's working. Where due to special reasons of organisation hierarchy, appraisal is made by a higher authority, the immediate superior to whom the appraisee reports will be consulted.

4. Results of Performance Appraisal will be made known to the appraisee, as far as practicable. He will be appraised of, at least, his major strengths and weaknesses, and proposed action/plan for his improvement will also be discussed with him.

The Committee, while recognising that some of the above recommendations may require shift from the age-old Government practice, firmly believes that their implementation will usher in a healthy working environment.



CHAPTER .

TAX LEAKAGE AND EVASION

7.01. Item 1 of the terms of reference requires the Committee to recommend "measures needed, to ensure checking evasion of tax." Strictly speaking, evasion means an "act of defeating intention of (law)." In this strict meaning, evasion and avoidance of tax are the same thing. By common use, however, evasion has come to mean, at least in the context of the tax compliance, something more than avoidance. Although practised widely, evasion is almost a dirty word, but avoidance is supposedly not.

7.02. The Committee proposes to deal with the problem of evasion of tax in its wider meaning which encompasses the entire gamut of tax leakage. It can be divided into three broad categories, viz.—

- (a) Tax leakage due to non-realisation of correctly determined dues;
- (b) Tax avoidance; and
- (c) Tax evasion.

The last category can again be divided into two classes, namely—

- (i) evasion by dealers without there being any direct responsibility of any taxing authority, and
- (ii) evasion through overt or covert lapse on the part of any taxing authority.

7.03. The Chart at page 99 will show schematically the various types of tax leakage and broad measures necessary to counteract each of them. As the legends at the top of the Chart indicate, tax leakage is by definition the gap between tax potential and tax yield. However, in spite of its best diligence, the Committee failed to make any estimate of tax potential of the State as no data were available either in the Department itself or in any other public or private organisation from which tax potential of West Bengal could be estimated. The Committee could not also find any reliable independent study or published work on this topic. In view of this difficulty, the Committee recommends, even before it has discussed the problems of tax leakage, that the Economic Survey and Statistics Wing of the Department to be set up in pursuance of its recommendation at Para. 6.41 *et seq* will make an estimate of West Bengal's Sales and Purchase Tax potential as early as possible. The potential estimate made by this Wing, modified from time to time on the basis of changing factors like market trend, state of economic activities and tax policy, will form the target of tax yield of the Department; and the inevitable gap between the target and actual achievement representing tax leakage of any given year will have to be tackled by the concerted effort of the Unit Offices

and special agencies of the Department, as indicated by the bottom boxes of the Chart. There is, however, an element of over-simplification in the above statement. Tax payable in respect of a particular year is not realised fully in the same year; a part is realised after assessment in a subsequent year and a part may not be realised at all. Realisation in a given year similarly represents, in part, achieved tax potential of a past year. Difference between potential and achievement of a year is, therefore, leakage in respect of a somewhat undefined period; but nevertheless the gap calculated in respect of a year may be taken, in a general way, as the target of anti-evasion measures of the next year.

Unrealised Dues

7.04. Tax dues payable by dealers, as correctly and finally determined, often remain unrealised due to various reasons as indicated in the schematic chart at page 99. Such unrealised dues are one of the components of tax leakage, as already indicated in the preceding paragraph in the final analysis. The Committee tried to find out from the Unit Offices the actual quantum of outstanding dues. It appears to the Committee that the records maintained in the Unit Office do not correctly show the outstanding figures of unrealised dues. Table 8 has been prepared on the basis of whatever figures the Unit Offices could furnish, modified to some extent by figures maintained by the Central Office and other related data. The Committee apprehends that the figures shown in the said Table may not be quite accurate. But they show a trend which is unmistakable: unrealised dues are steadily mounting from year to year. The only redeeming feature is that the rate of increase shows a declining trend in the last few years. Nevertheless, the backlog of outstanding dues as at the beginning of 1977-78 continued to increase at about 7.7 per cent during the year, the total increase in the quinquennium ending on 31st March, 1978 being as high as 98.6 per cent.

7.05. The assessed tax dues are normally realised by the assessing Commercial Tax Officer. He has sufficient power under the statute to enforce payment of assessed dues. The Committee has already recommended further measures in this regard, e.g., charging of interest (paras. 5.05 and 5.10), imposition of deterrent penalty (paras. 5.08 and 5.10), withholding of declaration forms (para. 5.49), making security deposit a condition precedent to registration (para. 5.58), etc. With the same end in view, namely, arming the Commercial Tax Officers with further power to enforce payment of assessed dues, the Committee recommends that failure to pay assessed dues by a registered dealer without reasonable cause will be a sufficient ground for cancellation of registration certificate. Such a provision exists in the Central Sales Tax Act as well as the Sales Tax Laws of many States including Maharashtra and Delhi.

7.06. With all the legal power at their disposal, the Commercial Tax Officers may nevertheless find that all their efforts are of no avail. In such circumstances, they refer the arrears to the Certificate Officer for realisation

under the Bengal Public Demands Recovery Act, 1913. Formerly, respective Collectors of the Districts received these requests for realisation of sales tax dues and Deputy Magistrates appointed by him with the designation of Certificate Officer were responsible for realisation of the dues. Of late, two significant changes have been made in the procedure. A separate Certificate Organisation under the Commercial Tax Department has been constituted, where Commercial Tax Officers are appointed as Certificate Officer, 24-Parganas. These appointments, however, require prior concurrence of the Collector of 24-Parganas who, in his turn, has to obtain sanction from the Commissioner, Presidency Division, in view of the specific procedure laid down by the Bengal Public Demands Recovery Act, 1913. This Certificate Organisation deals with all cases of arrear realisation emanating from Unit Offices situated in Calcutta, except Howrah Charge. Secondly, the right to deny liability to pay dues as provided under the Bengal Public Demands Recovery Act, 1913, has been taken away by making certain amendments in the Sales Tax Laws. These measures, organisational and statutory, have brought the Certificate Organisation nearer to the field of operation of Sales Tax Administration. Collection through Certificate proceedings has markedly improved shortly after this change was brought about in 1973. Nevertheless, the position is yet far from satisfactory. The Committee is of the opinion that the changes referred to above should be taken to their logical conclusion by providing further statutory and organisational changes. These are discussed and recommended below.

7.07. The Bengal Public Demands Recovery Act, 1913, was designed to realise arrears of land revenue. A debtor for land revenue is *ex hypothesi* the owner of a piece of land. In the agrarian economy where land revenue was the major, if not the only, source of State Revenue, the debtor was tied to his land and homestead. He could not and did not go underground. The Bengal Public Demands Recovery Act, 1913, contains appropriate provisions for realisation of land revenue after taking for granted the aforesaid peculiarities. Sales Tax revenue is on the contrary payable by traders who may or may not have any piece of land or other immovable property. He holds his assets in cash, bank deposit, stock-in-trade and other movables. If he faces any serious difficulty, he can wind up his business within a short period and go underground. All these peculiarities of the urban tax-payer make the Bengal Public Demands Recovery Act, 1913, a less than satisfactory tool for realisation of tax from him. It was probably in consideration of this difficulty that the Government of India incorporated Sections 222 to 225 in the Income Tax Act in 1962. The aforesaid sections and the Second Schedule together with the Income Tax (Certificate Proceedings) Rules, 1962, now constitute the legal basis of tax realisation machinery of the Income Tax Department. The Committee recommends that the composite Sales and Purchase Tax Law recommended by it will contain a separate Chapter on certificate proceedings on the lines of Income Tax Law referred to above. This step will make the composite Sales Tax Law a complete code in itself, as already indicated at Paragraph 2.51.

7.08. Under the recommended law, Collectors of the Districts will cease to have any authority in sales tax realisation proceedings. The appellate hierarchy will also be set up under the Sales Tax Law. Inclusion of all provisions for realisation of tax in the same code will further set at rest the uncertainty about the legal soundness of the recent amendment in the Sales Tax Laws taking away the right, available under the Public Demands Recovery Act, of the Debtor to deny liability. (This question is pending for decision before the Calcutta High Court in a number of cases.)

7.09. Under the Delhi Sales Tax Act, transfer of any property during the pendency of a proceeding under that Act is void as against the claim in respect of tax and penalty that may be raised as a result of such proceeding. The Committee has some doubt whether such a provision of law will stand scrutiny of courts. A similar provision under the Bombay Sales Tax Act laying down that the transfer of immovable property during the pendency of any proceeding under the Act is void only if such transfer is made with an intention to defraud the revenue, appears to be reasonable. The Committee recommends that the Government will obtain competent legal advice on this question and, if so advised, will include such a provision in the composite sales tax law of West Bengal.

7.10. Under the Bengal Public Demands Recovery Act, 1913, transfer of immovable property by a certificate debtor after a certificate has been filed is void. Since there is a time-lag between the making of an assessment and the service of a demand notice and also in between the service of a demand notice and the filing of a certificate, the aforesaid provision of the Bengal Public Demands Recovery Act serves little purpose, as the debtor may very well transfer his property before the actual filing of certificate. The Committee recommends that whether or not the recommendation contained in the preceding paragraph is accepted by the Government, the composite law will provide that transfer of immovable property by a dealer after an assessment has been made and before the dues payable in terms of the said assessment have been paid, will be void. A similar provision exists in the Income Tax Acts.

7.11. The experiment of departmentalisation of the Certificate Organisation in Calcutta having shown positive results, the Committee recommends complete departmentalisation of the certificate organisation in the District as well. It will, therefore, be necessary to appoint Certificate Officers in the districts besides Calcutta. It is recommended that two such certificate offices, one at Siliguri having jurisdiction over the North Bengal districts and another at Asansol with jurisdiction over South Bengal Districts except Howrah, may be set up. The district of Howrah may be brought within the jurisdiction of Certificate Officer, Calcutta and 24-Parganas. The Committee could not obtain reliable statistics relating to certificate cases and is, therefore, handicapped in making a specific recommendation on the number of Certificate Officers to be appointed. The present sanctioned strength of the Certificate Organisation at Calcutta is 7 (seven) Certificate Officers. The

number is said to be inadequate. But if the Committee's recommendations contained in Para. 7.18, particularly, that relating to the creation and working of "Unrealised Demand Scrutiny Cell", be accepted, the number of certificate cases will tend to diminish. On this consideration, the Committee recommends retention of the strength of the Calcutta Organisation at the present level and appointment of two Certificate Officers at each of the two new offices to be set up at Siliguri and Asansol. With gain of experience, the strength can be suitably revised. Appellate Officers in the rank of Assistant Commissioner will be authorised to hear appeals against the order of the certificate officers. The number of appeals is not many. In the year 1977-78, only 6 appeals were preferred before the Collector, 24-Parganas against orders of the Certificate Officer. During the current year, 11 such appeals were filed up to the end of December 1978. Therefore, the appellate function in respect of Certificate proceedings may be performed by one of the Appellate Assistant Commissioners in Calcutta and the Appellate Assistant Commissioner at Siliguri and Asansol, in addition to normal sales tax work. No addition to the strength of Assistant Commissioner is recommended on this ground.

7.12. At present, interest is payable on certificate dues at $6\frac{1}{4}$ per cent per annum from the date of filing certificate. Since the Committee has recommended compulsory interest at the rate of 3 per cent per month on outstanding payment delayed for over 3 months, the same rate will be applicable to certificate dues as well. Before sending the requisition for certificate, the Commercial Tax Officer will calculate the interest up to the end of the month in which the requisition is made and indicate the month in the requisition. Interest payable on certificate dues will be calculated from the next following months at the rate of 3 per cent per month.

7.13. In certificate proceedings, distress warrant which is equivalent to decree in a civil suit is executed by the Nazir who is an Upper Division Clerk, on the analogy of the practice in Collectorates. In the Income Tax Department, distress warrant is executed by Income Tax Inspectors. The nature of duty of a Nazir has little in common with that of a clerk and is undoubtedly executive in nature. The Committee recommends that Inspectors of Commercial Taxes will be appointed as Nazir in the Departmental Certificate Organisation. To start with, two such Nazirs will be placed at the Calcutta Certificate Office and one each at Siliguri and Asansol.

7.14. The Committee also recommends that a small contingent of Policemen will permanently remain at the disposal of the Certificate Officers at all the three recommended Certificate Offices, with jurisdiction over the entire area under the respective Certificate Offices, to assist the performance of duty of the Nazir.

7.15. In the present procedure, quite a few statutory and routine notices issued by the Certificate Officer are first sent by registered post and if a notice comes back unserved, it is served by affixation at a conspicuous

place at the last known address of the Certificate Debtor. This process involves much delay. The fact that a notice sent by registered post has come unserved may escape the notice of the Certificate Officer for months. Again, a notice might have been served by registered post, but the acknowledgement card might be lost in transit in post office or misplaced in the Certificate Office itself. In either case, the next step under law cannot be taken until the Certificate Officer can see the acknowledgement card. Time-consuming correspondences have to be entered into with the Post Office which delay proceedings for months. Service by process is attempted after such long delay when the Certificate Debtor is likely to have alienated or suppressed his assets and may have gone underground. This problem can be obviated if all statutory notices are served through Process Server at the very first instance. Postal charge of sending a letter by registered post (acknowledgement due) is now Rs.2.80 p. while that of sending it through a Process Server works out to Rs.2.81 p. on the basis of quota fixed by the Government (1250 notices per Process Server per year) and the present average gross emoluments of a Process Server (Rs.300 p.m.). For service in Calcutta, as well as Head Quarter stations of the mofussil Certificate Offices, cost of travel of the Process Server can be ignored as, in any case, service by Process has to be resorted to under the present procedure in respect of postal notices coming back unserved. Therefore, cost of the recommended procedure will not be more than what is spent now on sending notices by registered post, except where the addressee belongs to an out-of-the-way place. It may be remembered that under the Civil Procedure Code, Courts do not usually issue any summons or notice by registered post; these are served through Process Server only. An added advantage of serving notice through Process Server is that he may make a report on the condition of the Certificate Debtor while submitting the service return to the Certificate Officer. The Committee recommends that—

- (i) Rules will provide that notices will ordinarily be served through Process Server, but the Certificate Officer will have option, for reasons to be recorded in writing, to send the same by Registered Post (e.g., where the Certificate-debtor resides at a far away place);
- (ii) The Process Server may serve notice on the Certificate Debtor personally if he is available at the given address or on any of his servants, agents or any member of his family, if the Certificate Debtor is not available at the given address;
- (iii) If neither the Certificate Debtor nor any of his servants, agents or family members be available at the last known address, the Process Server may, in the presence of any witness that may be available, affix a notice at any conspicuous place at or near the last known place of business or residence of the Certificate Debtor;

- (iv) The Process Server will declare upon oath or solemn affirmation before the Certificate Officer the manner in which he has served the notice, and upon such declaration the notice will be deemed to have been served upon the Certificate Debtor on the date mentioned in the declaration;
- (v) If the Process Server declares upon oath or solemn affirmation that in spite of his best diligence he could not find any person willing to sign as witness, then the fact of service shall not be open to question merely on the ground of absence of witness.

7.16. Appointment of a Receiver for management of business and/or realisation of book debts may be helpful in realising dues from Certificate Debtors in certain circumstances. The Tax Recovery Officer under the Income Tax Act has power to appoint Receiver for these purposes under Rule 69 of the Second Schedule of the Income Tax Act. The Committee recommends that the same power will be available to the Certificate Officer under the composite Sales Tax Law.

7.17. The Bengal Public Debts Recovery Act, 1913 provides for sending the debtor to Civil Jail in appropriate cases. This provision has rarely been used. The Committee feels that this extreme step should be taken in deserving cases. The Committee learns that in the U.S.A. failure to pay Income Tax is a criminal offence for which the defaulting assessee may be committed to prison. In our country, however, non-payment of Government revenue is a mere civil offence and if a person is sent to civil Jail for such offence, the Certificate-holder, i.e., the State, has to pay the cost of maintenance of the prisoner. There appears to be no constitutional bar in following the U.S. example of declaring the default to pay state revenue a criminal offence. The Committee recommends that Government may examine this aspect in consultation with competent State Lawyers. The Committee further recommends that even if cost of maintenance has to be paid in respect of a revenue defaulter committed to Civil Jail, the Government will not hesitate to bear such cost in deserving cases. For this purpose, adequate fund will be made available to the Certificate Officer. It will not be necessary to take recourse to committing to Civil Jail in very many cases; if selectively applied to a few prominent evaders, it will have a deterring effect on fellow defaulters and prospective ones.

7.18. Under the present procedure, the assessing Officer refers all cases of unrealised dues to the Certificate Officer. The cases referred to the Certificate Officer can be divided into the following broad classes:—

- (a) Where the assessing Commercial Tax Officer could perhaps realise dues by his efforts within a reasonable time;
- (b) Where the Commercial Tax Officer could not have realised dues within a reasonable time, but the Certificate Officer would be able to do so either by instalments or by selling assets which the assessing officer has intimated to the Certificate Officer;

- (c) Where the assessee has gone underground but his assets are known;
- (d) Where the assessee has gone underground and his assets are not known;
- (e) Where dues are known to be definitely unrealisable.

Since the Certificate Officer has to deal with every case on equal footing, irrespective of its probable realisability, his energy and organisational facilities are equally divided between the cases of all the aforesaid classes. If the Certificate Officer could be relieved of the routine exercises involved in the fruitless pursuit of cases falling under classes (d) and (e), he could have been more effective in pursuing cases of the nature (b) and (c). The Committee has given very anxious consideration to this aspect and makes the following recommendations:—

1. Commercial Tax Officers will give utmost emphasis on pre-assessment collection by ensuring that the dealers make regular periodical payments, so that tax admitted to be payable by dealers, as far as may be, do not form part of demand created after assessment.
2. Assessments will be made expeditiously, so that raising of additional demand may not be delayed, thus giving the defaulting assessee opportunity to conceal assets.
3. Vigorous attempts will be made by the assessing Officers themselves to realise additional dues demanded as a result of assessment, by taking recourse to coercive measures already recommended, e.g., imposition of penalty (Para. 5.10), withholding of declaration form (Para. 5.49), demand of security (Para. 5.58), cancellation of registration certificate if security is not paid (Para. 5.58) or dues are not cleared (Para. 7.05), etc.
4. List of assets within the knowledge of the Commercial Tax Officer will be enclosed to the requisition for realisation of dues by certificate proceeding.
5. Where a defaulting dealer is untraceable and/or his assets are conspicuous by absence, cases will not be forwarded to the Certificate Officer straightway, but will be forwarded instead to an "Unrealised Demand Scrutiny Cell" which will be established in the Intelligence and Investigation Wing.
6. Demand Scrutiny Cell will be adequately manned by Commercial Tax Officers and Inspectors. Its functions will be—
 - (a) To make intensive enquiry to unearth any secret asset or illegal alienation of assets of the dealer. and after such intensive enquiry:

- (b) To advise the Commercial Tax Officer to refer appropriate cases to the Certificate Officer either with the request to realise dues on the basis of assets unearthed by it or with the request to send the debtor to Civil Jail on the ground that he has deliberately made realisation difficult; or
- (c) To write off such debts as are considered unrealisable.

7.19. Under the present law and procedure, early filing of certificate is considered essential, because a charge is created on the immovable property of the debtor only after a certificate has been filed. The Committee has already recommended that such charge will be created as soon as the assessment is made (Para. 7.10), if not as soon as a proceeding under the Act is initiated (Para. 7.09). When this recommendation is acted upon, some delay in filing certificate for the purpose of making effective enquiry to unearth assets of the debtor will cause no harm. However, in order that such a law is not held to be unreasonable restriction on the fundamental right of property, arrangement will have to be made to allow members of the public to enquire about sales tax demand raised on any particular dealer. This can be done by maintaining registers of defaulting dealers, open for public inspection, in the Unit Offices and/or Demand Scrutiny Cell. Explanation should also be added after the provision relating to confidential nature of proceedings [Section 25 of the Bengal Finance (Sales Tax) Act, 1941, and similar provisions in the other Acts] declaring that particulars of unpaid dues will be kept open for public inspection.

7.20. Of over Rs.100 crores outstanding dues as on 1st April 1978, about half is believed to be unrealisable. But no effective step was ever taken to write off such paper demand. One reason why public servants do not usually take the responsibility of writing off unrealisable dues is the apprehension that some secret asset of the certificate debtor may some day pop up and the public servant may be held guilty of causing loss of revenue by premature writing off. Since the writing off of a debt is a unilateral action taken by the creditor, the debtor should not *ipso facto* acquire any vested right as a result of such unilateral action; and there is apparently nothing to prevent the State from passing legislation by way of abundant caution to the effect that a debt written off at one time may be written back if and when any asset of the debtor is eventually unearthed. The Committee recommends that such a provision be incorporated in the composite law and thereafter outstanding dues in respect of dealers having no known asset be written off. This work may effectively be done by the Demand Scrutiny Cell recommended above. Work load of this cell will be flexible in the sense that tempo of activity in the Cell may be speeded up or slowed down according to the available manpower. It is recommended that a substantial part of leave reserve in respect of employees of all categories be posted in this Cell, withdrawing such person from time to time as the working strength in various cadres may demand. This will ensure that temporary vacancies created in Unit Offices as a result of leave or otherwise can be promptly filled up and there is no dislocation in the continuity of work there.

7.21. In order that the Assessing Officer may furnish the Certificate Officer with details of the defaulting dealers' assets, law will require that applicants for registration shall fully declare in the application for registration all their business assets irrespective of nature and all immovable personal assets of every partner, and shall be legally bound to declare any change in such assets, whether by accretion, alienation, transfer or otherwise, within a specified time from the date of such change. Law will further require that registered dealer or any other dealer liable to obtain a registration certificate shall not transfer, alienate or otherwise create any charge on any of his immovable assets valued over Rs.50,000 or such lower amount as may be prescribed, unless he has given to his appropriate Commercial Tax Officer a clear 30 days' notice of his intention to do so.

7.21A. While on the topic of unrealised tax-dues, the Committee would briefly dwell on the question of such dues of sick industries taken over by the State Government. Since the Government is accepting substantial liabilities of these taken-over industries, their sales tax dues may well be paid off by book transfer from one head of account to another. The consequential increase in loan to the sick industries concerned may be converted into share holding of the Government. This will serve two purposes simultaneously: to show the performance of the Commercial Tax Department in a better light by reducing tax arrear, and to clearly indicate the Government's total support to the sick concerns by consolidating the entire amount under a single head.

Tax Avoidance

7.22. As already stated, tax avoidance is distinguished from evasion in common parlance. While the latter involves clear transgression of law, the former is practised within the letters of law but in violation of its spirit. Under the present law, if a person makes sales of lakhs of rupees within the period of two months after exceeding the taxable quantum and then closes down the business, no tax can be legally demanded of him. Under the present law, he cannot be prevented from starting a new business and repeating the same exercise. Such illustrations can be multiplied. Cunning dealers may tread on the border line of law and escape with impunity by means of legal wizardry.

7.23. There is another type of tax leakage falling somewhat in between tax avoidance and evasion. Non-submission of returns and non-payment of tax in time or failure to apply for registration after being liable to pay tax are instances of this type. The present law has little or no stringent provision to bring to book the persons indulging in these types of malpractices. In the chart at page 99 these have been described as "Passive avoidance" and its correlation with evasion shown by a connecting line.

7.24. Active avoidance by finding out lacunae of law can be counteracted by continuously changing the law as and when any such lacunae are detected. This will be one of the functions of the Law Section as

recommended in paragraph 6.31(n). Every authority under the Sales Tax Law will promptly bring to the notice of the Law Section any lacuna of law as soon as he comes to know of it and the Law Section will promptly examine and find out the remedial measure. Besides, the Law Section will be up-to-date with change in Sales Tax Laws of all States as well as Income Tax Laws, and whenever it comes across any significant modification, initiate steps for making similar modifications therein. The Committee recommends that the Law Section will be vigilant and keep law up-dated without waiting for loopholes in legislation having actually caused loss of State revenue.

7.25. In its recommendations made in the preceding Chapters, particularly Chapter 5, the Committee has tried to suggest some measures to plug certain loopholes of law that have come to its notice. It makes the following further recommendations with the same end in view:

- (i) Law will provide that a registered dealer shall not issue any declaration form prescribed under the law to any person who does not hold a registration certificate as a dealer or a contractor, valid on the date of the transaction for which the declaration form is issued. This recommendation, anticipated at paragraph 2.14, will act as a disincentive against avoidance of registration. The Central Sales Tax Act, 1956 contains a similar provision.
- (ii) A dealer ceasing to be liable to pay tax on the ground of cancellation of registration for discontinuance of business, or continuous fall in turnover below the taxable limit, or any other reason, will be liable to pay purchase tax on the purchase price of goods remaining unsold or unutilised on the date of cancellation of registration certificate. This provision will ensure that a dealer with declining sale is not encouraged to make substantial purchase at a concessional rate of tax and then go out of business without being liable to pay tax on the goods purchased by him. As a matter of fact, under the existing provisions of law, a dealer who anticipates cancellation of his registration may feel encouraged to misuse declaration forms by showing fake purchases without corresponding sale and may thus abet others to evade payment of tax.
- (iii) To guard against any abuse of privilege by holders of provisional certificates, the recommended composite law will provide that a provisional certificate holder will be liable to pay purchase tax on all goods purchased by him during the validity of provisional registration unless he obtains a regular registration certificate within two years from the date of obtaining provisional registration certificate and also on all goods purchased in contravention of the terms of provisional registration. Liability for purchase tax in the former case will accrue on the date on which the period of two years from the date of obtaining provisional registration

expires and in the latter case on the date of purchase of goods in contravention of the terms of provisional registration. In order that this liability, particularly the former one, can be enforced, adequate security commensurate with the value of purchases estimated to be made in two years will be demanded by the registering authority.

- (iv) A recent Supreme Court Judgment in respect of a Delhi hotelier has been instrumental in refusal by almost all hoteliers and other eating establishments of the State to pay any sales tax, on the plea that supply of food and drinks by them to their customers is not sale, being merely incidental to the service of entertainment. Tax avoidance of the aforesaid nature, which also occurred in the past (in Contractors' cases in the fifties) any may recur in future in unpredictable circumstances, can be counteracted by providing that "when a person after purchasing goods in course of business transfers the same goods or other goods manufactured out of the same goods, to any person otherwise than by way of sale, whether such transfer is in the form of or incidental to entertainment, service, gift, hire or anything else, but excluding a transfer by way of execution of works contract, the person shall be liable to pay purchase tax on the purchase price at a rate equivalent to a specified multiple of the rate of sales tax applicable to either the goods purchased by him or the goods manufactured out of the same, whichever rate is higher." The multiple to be specified will be the same as the selling price of finished product (without the element of entertainment added thereto) is of the cost of raw materials, on an average. The Committee believes that four will be a fair multiplier.

- (v) The Committee received suggestions that a transferee in respect of the business of an unregistered dealer who has incurred liability to pay tax should also be covered by the provisions of section 17 of the Bengal Finance (Sales Tax) Act, 1941. Under the Sales Tax Laws of many States, registration certificate of a business stands cancelled or merged in the transferee's registration certificate on transfer. These laws also provide that both transferor and transferee are jointly and severally liable for undischarged tax liability of the transferor. Section 32 of the Delhi Sales Tax Act, 1975 reads as follows:

"Section 32(1): Where a dealer, liable to pay tax under this Act, transfers his business in whole or in part by sale, gift, lease, leave or licence, hire or in any other manner whatsoever, the dealer and the person to whom the business is so transferred shall jointly and severally be liable to pay tax (including any penalty) due from the dealer up to the time of such transfer, whether such tax (including any penalty) has been assessed before such transfer, but has remained unpaid, or is assessed thereafter.

(2) Where a transferee or lessee of a business referred to in sub-section (1) carries such business either in his own name or in some other name, he shall be liable to pay tax on the sale of goods effected by him with effect from the date of such transfer and shall, if he is an existing dealer, apply within the prescribed time for amendment of his certificate of registration."

The Committee recommends that the recommended composite law will contain provisions similar to the above.

In Delhi law, there are also provisions for liability of (a) Company in liquidation (section 33), (b) partners, including retiring partners, of a firm (section 34), (c) guardian and trustees (section 35), (d) court of ward (section 36), (e) firm, association or family which has discontinued business [section 37(1)], (f) change in constitution of firm or association [section 37(2)], (g) dissolved firm or partition of Hindu family [section 37(3)] and (h) a dealer who has expired [section 37(4)].

Some of these provisions are merely reiteration of the provisions of other general laws like the Indian Partnership Act, while some others seem to be worth emulating. Since the law recommended by the Committee will be a complete code in itself, the Committee recommends the adoption of all these provisions in the composite law.

- (vi) As a corollary to the previous recommendation, registration certificate issued to a dealer under the law will be amended if there is a change in constitution (by admission/retirement of partners) of a registered dealers's firm (without dissolution) and change in trustee or guardian or when a Hindu family is converted into a Partnership one with all or any co-parceners as partners. But when the business of a registered dealer is transferred to another, registration certificate will not be amended but cancelled, as already recommended.
- (vii) When an order cancelling the registration certificate is quashed on appeal and the registration certificate is restored, the liability of the dealer during the interregnum is not clearly spelt out in the present law. The Delhi Sales Tax Act provides that liability to pay tax is also revived retrospectively when the cancelled registration is restored on appeal, with the safeguard that any tax paid by the dealer on purchases during the period when a registration certificate remained cancelled would be adjusted against future liability. Adoption of such a provision is recommended.
- (viii) Complementary to the provision of the above recommendation, law will also provide that registration by mistake creates liability to pay tax during the period for which such mistaken registration is in force.

- (ix) The Central Sales Tax Act lays down that no person other than a registered dealer shall collect tax and a registered dealer shall not collect tax except in accordance with the provision of the Act. Section 22 of Delhi Sales Tax Act also contains a similar provision. So do many other Sales Tax Laws. The Committee recommends adoption of such a provision in the composite Sales Tax Law. The Jha Committee has also recommended that a provision for enforcing the recovery of any amount illegally realised as tax by a private person should be adopted by all States. The Committee has specifically referred to the Gujarat Sales Tax Act for this purpose. The principle is a sound one. It is recommended that such a provision will be included in the composite Sales Tax Law.
- (x) Under the Bengal Finance (Sales Tax) Act, 1941, unregistered dealers may be required to furnish periodical returns. But this provision was hardly made use of. The Committee recommends that it may be made more specific by providing that the Commissioner may direct any unregistered dealer having annual turnover of more than 50 per cent of the taxable quantum applicable to him, to furnish returns. Such a provision will facilitate keeping watch on unregistered dealers on the threshold of liability and will also act as a disincentive against avoidance of registration.

Evasion

7.26. Tax evasion is practised either by suppression of a part of gross turnover or by inflating claim for exemption or concessional tax, or by a combination of both. In most cases of evasion by suppression of sale or inflation of claim, return is submitted late, obviously because manipulation of accounts needs some time. If regular and timely submission of return and timely registration could be enforced, the evil of tax evasion could be contained to some extent. The Chart at page 99 indicates this fact by the connecting line between passive avoidance and tax evasion.

7.27. Suppression of sale is practised generally by suppression of manufacture and/or import and/or local purchase. Instances are rare, but not altogether absent, of sales being suppressed in spite of manufacture/import/purchase being recorded in full in the books of accounts. Such a case will reveal gross loss in the trading account, when the assessing authority can demand maintenance of stock register or quantity-wise reconciliation of purchase, sale and stock. It may also involve inflation of value of closing stock. The Committee has recommended at paragraph 7.38 *et seq* for regular periodical inspection of every dealer's place of business. If the inspecting officer insists upon production of inventory of closing stock as at the close of the previous accounting year at every inspection and if the dealers are asked to estimate the value of stock held on the date of such inspection, it will be very difficult for any dealer to suppress sale without corresponding suppression of manufacture or import or purchase.

7.28. Suppression of manufacture is possible only when purchase of inputs is also suppressed. Regular periodical inspection and, where the end product is excisable (as most products now-a-days are), verification with returns and statements furnished to the Central Excise authorities should make suppression of manufacture difficult. Most manufacturers (and also many other dealers) have to operate on bank credit and submit regular returns to the banks declaring stock position of raw materials, work-in-progress and finished products. Enquiry with the banks concerned would make it difficult for the manufacturers to suppress manufacture.

7.29. System of check-post, check on godown keepers, transport operators, and bank records [Paragraph 7.45(v)], should make suppression of import difficult. Verification of declaration in Form "C" to be made in the course of ordinary and special assessment (Paragraph 3.24 *et seq*) should also be of value against suppression of import.

7.30. Suppression of local purchase means that another dealer is suppressing his sales, unless of course a purchasing dealer is bold enough to suppress his purchase after issuing declaration forms. Regular inspection and periodic cross-verification of selected transaction should counteract this type of suppression.

7.31. Claims for exemption or concessional rate of tax are often falsely made on account of purported sales (a) of exempted goods, (b) to registered dealers in the State, and/or (c) to registered dealers in other States. Of these, the first one is not practised on a large scale and can be detected by thorough examination of books on regular inspection. A special type of such false claims is considered at paragraph 7.37. False claim for inter-State sale to registered dealers in other States is difficult to control except with active co-operation of Sales Tax authorities in other States. The Intelligence and Investigation Wing should be able to devise ways and means to foster close co-ordination with Sales Tax authorities in other States with a view to counteracting this type of evasion. It is recommended that in all suspicious cases of purported inter-State sale or consignment covered by declaration in Form "C" or Form "F", as the case may be, the assessing/inspecting officer will demand evidence of actual inter-State movement and verify the alleged inter-State despatch by making enquiry with the railway or, in the case of road transport, with the check-post. Cases of serious suspicion should be brought to the notice of the Intelligence and Investigation Wing for proper investigation.

7.32. Making of false claim for sales to registered dealers in the State are by far the most common form of tax evasion. Although the racket is now believed to be under control, past experience would justify the apprehension that such racket is likely to reappear in virulent form in future unless constant vigilance is maintained by all concerned. The *modus operandi* of the racket is quite simple to describe. A person or a group of persons having no intention to carry on real business of selling goods puts

up the show of a business and obtains registration on the basis of fake paper transactions. Thereafter, he goes on obtaining declaration forms. When sufficient declaration forms have thus been procured, he sells these forms for a consideration to others who wish to prefer false claims pretending sales to registered dealers on the strength of these illegally procured declarations. The former group of fake dealers usually go underground as soon as these declarations are sought to be verified and the latter group of dealers invariably pretend that they are not to answer for any misdeed of the purported purchasing dealers who issued the declarations.

7.33. In the Departmental jargon, the former class of fake dealers is known as *Becharam* (form-selling ones) and the latter type of dealers are known as *Kenaram* (form-purchasing ones). The *Becharams* are always fishy individuals often with bogus names and addresses and invariably without addresses and invariably without any assets. They operate in one name for a limited period, generally not exceeding 2 to 3 years, to reappear in a different charge under different fake names to obtain fresh registration. One variation of their technique is to purchase a moribund business of a registered dealer and get the registration amended in their name in order to obviate difficulties in obtaining a new registration certificate. A *Becharam* may get himself introduced as a partner of such a moribund firm, to be followed by retirement of the previous proprietor or partners, and then start the racket of selling declaration forms.

7.34. *Kenarams* are by contrast established dealers with substantial sale, generally of consumer goods. Their accounts invariably display a typical tell-tale pattern: frequent sale of substantial amount, generally on cash payment, but occasionally on part cash and part cheque payment, to a purported registered dealer who was hardly ever heard of before. Enquiry would reveal that the alleged purchasing dealer was untraceable at the declared place of business shortly after the period of such alleged transaction. A *Kenaram's* account would show with regular periodicity similar substantial sales to another such new customer of dubious bonafides. Such a state of affairs disclosed by the books of accounts would raise serious suspicion in the mind of any prudent person, but under the law the claim for sale to registered dealers cannot be disallowed merely on such suspicion. In most cases, *Kenaram* dealer's successfully fight out disallowance of such dubious claim in protracted proceedings up to the High Court level.

7.35. The remedy of course would lie in ensuring that *Becharams* do not get registration certificate and declaration forms. A number of existing provision in the Bengal Finance (Sales Tax) Act, 1941 and the Rules made thereunder, as well as various Departmental practices, are directed towards this objective. The Committee has recommended a few more steps with the same end in view. Nevertheless, it is not possible to make fool-proof arrangements to guard against registration certificates being granted to potential *Becharams* without at the same time causing hardship to bona fide dealers. The Committee has already recommended that the Commercial Tax

Officer will himself make spot enquiry before granting registration (Paragraph 5.46), and the registered dealers will be under surveillance for a period of few years from the date of registration in the matter of issue of declaration forms (Paragraph 5.53). If the Commercial Tax Officers and Inspectors are given adequate training as recommended in paragraph 6.27 particularly in the matter of detection of dubious registered dealers, they should be able to identify the potential *Becharams*. The Committee also makes the following recommendations:

- (i) Instead of the present requirement of having signature of the proprietor or partners of the applicant firm attested by another registered dealer, law will require submission of identity certificates in respect of proprietor and/or partner or director in the case of Company, given by either (a) a registered dealer of repute or (b) any other suitable person who is generally authorised to identify persons, i.e., stipendiary Magistrate, M.P., M.L.A., Government servant of sufficient high rank, etc.
- (ii) The Commercial Tax Officer will have discretion to demand photograph of the Proprietor, Partners or Directors, if in his opinion it is necessary to do so for proper identification. Antecedents of the applicant and his partners or directors, if any, will have to be disclosed and these will be verified in appropriate cases.

7.36. *Becharams* thrive because *Kenarams* are eager to procure declaration forms by unlawful means by covering their taxable sale. If regular periodical inspection, as recommended, are made at the place of the registered dealers, particularly those known to have indulged in preferring false claims on the basis of procured declaration forms, then they will find it difficult to indulge in this type of malpractice. The Central Section in the sixties and the Bureau of Investigation in the seventies largely succeeded in locating epicentres of this type of evasion and were able to stop it to a large extent. Their method was to concentrate on dealers of those commodities in which evasion by means of false claim was known to be rampant. It is a pity that the experience of the Investigating Officers of this Special Agencies was never disseminated among the Commercial Tax Officers and Inspectors in general. The Committee recommends that the Intelligence and Investigation Wing which will have to undertake the same job of counteracting the menace of misuse of declaration forms in the recommended set-up, will hold periodical seminars in which selected officers and inspectors of the Unit Offices will attend and thus get trained up in the ways and means of checking this type of evasion.

7.37. One type of false claim in respect of purported sales of exempted goods deserve some special consideration. This is practised by dealers whose end product is tax-free but inputs are taxable. They occasionally dispose of the raw materials purchased at concessional tax in a surreptitious manner

and falsely show in their books of accounts manufacture of exempted goods with those taxable inputs. Many small scale manufacturers of soap which is tax-free under rule 3, often sell vegetable oil purchased by them, pretending to sell soap manufactured by using this raw material. Similarly, many dealers on tax holiday under rule 3(66) have indulged in identical malpractice. In some cases these dealers may not have actually purchased taxable raw material at all but sold out their declaration forms in pretended purchase of raw material. The Committee has already recommended the repeal of rule 3(66) (Paragraph 2.42), but, nevertheless, this type of evasion may continue to be indulged in by other dealers whose end products are tax-free but inputs are taxable. It is recommended that special vigilance will be observed in respect of these classes of dealers and, for that purpose, suspected dealers belonging to these classes will be directed to maintain manufacturing account in the prescribed manner. It is almost impossible for a dealer who maintains manufacturing account to show fictitious manufacture because consumption of power and fuel as well as payment of wages are all related to quantum of end product actually manufactured. Scrutiny of manufacturing account will betray this type of evasion.

7.38. At various places of this chapter, the necessity of regular periodical inspection has been stressed. While the Intelligence and Investigation Wing will have its own specialised arrangement and manner of such inspection, the Committee recommends that every assessing Commercial Tax Officer belonging to the Unit Offices of the mother organisation and the attached Inspectors will also make regular periodical inspection of every dealer. As the Chart on page 99 will indicate, regular inspection has the potential of counteracting various types of tax-leakage, namely, non-submission of returns, non-registration, suppression of sales by various means and raising of false claim of various sorts. This aspect has been largely neglected in the existing set-up of the Commercial Tax Department. Table 9 shows the manner of utilisation of 96 Inspectors working in different Charge Offices for the period from 1st January, 1978 to 30th June, 1978. In about 150 working days during the aforesaid 6 months, the work done by each Inspector on an average is as follows:

Routine Inspection and Verification

(1) New Registration Enquiry	...	...	31.0
(2) Routine Verification	...	...	55.0
(3) Other Routine Enquiries	...	...	16.8
(4) Lawyers and Courts	...	...	10.1
(5) Other Routine Performance	...	...	23.8
(6) Collection Tagid	...	...	105.8
Total routine	...	...	242.5

Inspection for prevention and detection of evasion

(1) Verification of Returns	...	...	...	13.0
(2) Verification of Purchase, Sales and Stock	...	...	...	17.6
(3) Enquiry for finding liability in unregistered dealers	...	...	...	27.4
(4) Spot inspection to ensure issue of Cash Memo	...	...	...	13.0
(5) Search and Seizure	...	...	...	0.4
(6) Others	...	...	...	20.8
Total non-routine				92.2

The Committee, therefore, finds that the number of dealers visited per Inspector per working day is only 2.23, of which routine visit constitutes about 72.5 per cent.

7.39. Since the area of jurisdiction under an Inspector is topographically compact, particularly in Calcutta where a single building often houses scores of registered dealers, it should be possible for an Inspector, who has virtually no sedentary job to perform in office, to make routine inspection of at least 4 dealers in a working day. Non-routine inspections take more time to perform. But there is no reason why such an inspection would, on an average, take more than half a working day. The Committee's enquiry reveals that the present state of affairs is largely due to little initiative being allowed to the Inspectors who make most inspections under specific instruction of the Commercial Tax Officer. One of the Associations expressed a grievance that many non-statutory jobs are now entrusted to Inspectors, resulting in statutory job being partially ignored. This aspect is considered elsewhere in this report (Paragraph 11.11), but there can be no denying the fact that in the present set-up, the Inspectors, who are eyes and ears of the Department, if not also the arms thereof, have been under-utilised. In accordance with the recommendation made elsewhere (Paragraph 6.23), every Commercial Tax Officer and attached Inspector in the recommended set-up of Unit Offices will have around 175 registered dealers under him. Besides, there will be a number of unregistered dealers in the threshold of incurring liability of registration; their number can be estimated at 10 on an average for each group. If an Inspector visits the place of business of every such dealer within his jurisdiction once every three months on an average, it will take 185 days in a year for making 185 into 4 visits at the rate of 4 dealers per working day. The remaining 85 working days of 270 days a year (taking account of holidays and casual leave) can be utilised to perform non-routine inspections. Thus, he would be able to perform 170 such non-routine inspections in a year. In the district, the dealers being located at diverse places, this analysis does not hold good.

7.40. The Committee recommends that—

- (i) in Calcutta, Asansol and Siliguri, every registered dealer and every other dealer on the threshold of registration will be visited by the attached Inspector once every 3 months on an average, for a routine inspection;
- (ii) the main points to be noted at inspection will be departmentally prescribed (e.g., state of entry in primary books of accounts, sales vouchers issued, etc.) in a suitable pro forma inspection report; inventory of closing stock will be noted during the first inspection after the close of an accounting year;
- (iii) brief particulars of inspection will be noted in the Inspection Book recommend at paragraph 5.21.

7.41. Besides inspection by the attached Inspector, there will also be inspection by the assessing Commercial Tax Officer. The first information at the place of business of a dealer who has applied for registration will be made jointly by the Commercial Tax Officer and the attached Inspector, as already recommended at paragraph 5.46(4). Thereafter, the Commercial Tax Officer will inspect every registered dealer at least once a year. Such inspection will account for 46.25 full working days of a Commercial Tax Officer in a year or about four days per month. Since a Commercial Tax Officer will also have to make non-routine inspection as and when necessary, he will spend, on an average, five full working days per month on inspection. Suitable pro forma may be devised for recording routine inspection report by the Commercial Tax Officer.

7.42. In order that the inspection recommended hereinabove can be made effectively, law will provide that books of accounts and records of sales, purchases, etc., must be kept at the declared place of business of a dealer and that previous approval of the Commercial Tax Officer must be obtained for keeping books of accounts at any other place. Such a provision appears in the Bombay Sales Tax Rules.

7.43. Under the Kerala Sales Tax Rules, a dealer can maintain his books of accounts and other records in only one of the five prescribed languages, namely, Malayalam, Kannada, Tamil, Gujarati and English. The Committee recommends that rule will require West Bengal registered dealers to maintain books of account in one of the following languages: Bengali, Hindi, Gujarati and English and for the hill subdivision of Darjeeling—Nepali.

7.44. To the existing provision relating to search and seizure, the Committee recommends the addition of the following further provisions, viz.,—

- (i) Inspecting Officer will have power to make note or inventory of money or goods found on search at the place of business of a dealer.

- (ii) Inspecting Officers will have power to obtain extract from books of accounts or documents found on search of the place of business of a dealer and also to put marks of identification on such books of accounts or documents.
- (iii) Before releasing seized books of accounts or documents, the appropriate authorities will have the power to require the dealer to give an undertaking that the books of accounts would be produced on demand and to refuse to release the seized documents, if such an undertaking is not given by the dealer.

7.45. For effective enforcement of tax laws in general and as anti-avoidance measures in particular, the following provisions are also considered necessary :

- (i) A dealer, whose registration certificate has been cancelled, will be required to surrender his copy of registration certificate within 7 days of cancellation and in case of failure, he will have to pay the prescribed penalty for each day of delay.
- (ii) Under the existing law, most offences are punishable with simple imprisonment or fine. This is not sufficiently deterrent in the present day context. The Committee recommends that the more serious offences under the Act including suppression of sales, production of false account, submission of false returns, fraudulent use of declaration forms, etc., will be punishable with rigorous imprisonment for a minimum period of 3 months for the first offence and for a minimum period of 6 months for any subsequent offence. Comparable provision will be found in sections 276B *et seq* of the Income Tax Act, 1961.
- (iii) There will be a specific provision for assessment of escaped turnover and other cases of under-assessment. This will be distinguished from the power of review or revision. The time limit for initiating such reassessment proceeding will be 6 years from the date of order of the first assessment in the case of concealment, omission or failure to disclose the correct turnover by the dealer and 4 years from the date of such order in other cases; time limit for passing the final order of reassessment will be 1 year from the date of service of the notice of initiation or 6 years, or 4 years, as the case may be, from the date of original assessment, whichever is later.
- (iv) The dealers will be required to maintain books of accounts and records until completion of all proceedings under the Act in respect of a particular year or the time by which the reassessment proceedings might be completed under the law, whichever is later.

(v) **Sales Tax Authorities** will have power to require any person including a Banking Company and Post Office to furnish any information relating to purchase, sale, or despatch of goods by or to any dealer and to require any transport company or warehousing agent to give similar information and also to permit inspection of the goods or records in their possession. The authority will have power to require any person who maintains or has in his possession any books of accounts of any dealer, to produce such books of accounts before the said authority. The authority will have power to require any forwarding agent, transport agent and bank to submit periodical returns to the Sales Tax Authority disclosing the relevant transactions.

(vi) When a registration certificate is cancelled on the ground of cessation of business, the authority cancelling the said registration certificate will have the power to determine, on the basis of enquiry made, the date from which the business was discontinued, and on such determination, the registration will be deemed to have been cancelled with effect from the said date. This provision, present in Sales Tax Laws of quite a few States, will be very effective in counteracting evasion on the basis of procured declaration forms.

7.46. Errors of taxing authorities, both of omission and commission, often compound the evil of tax evasion. The Chart at page 202 schematically shows the Committee's ideas to combat errors of omission and commission of the taxing authorities. These are explained below.

7.47. **Training :** The Committee learns that newly recruited Commercial Tax Officers and Inspectors were hardly given adequate training. Taxation is now a highly complex subject and the personnel to execute tax laws have to be thoroughly skilled. The Committee has recommended at paragraph 6.27 the necessity of adequate training for the fresh recruits as well as through refresher courses for the serving Commercial Tax Officers and Inspectors. Such inservice training will minimise errors of omission.

7.48. Incidentally, frequent amendments in law, particularly in the rates of taxation and exemption, often lead to errors. It is recommended that these types of amendment will be made, as far as practicable, with effect from the 1st day of April of a year. Appropriate recommendations as regards printing and supply of up-dated Sales Tax Act and Rules, correction slips and departmental Manual on administration and procedures are made in paragraph 8.34.

7.49. **Inspection :** Although departmental instruction requires that every Unit Office under a Commercial Tax Officer will be inspected annually by the Assistant Commissioner and triennially by an Additional Commissioner or Commissioner, and every Assistant Commissioner's office will be inspected

biennially by an Additional Commissioner or Commissioner, such regular inspection appears to have been completely dispensed with since long. It is recommended that every Unit Office will be inspected once a year by the administrative Assistant Commissioner and once every two years by the Zonal Additional Commissioner; the Zonal Additional Commissioner will, however, inspect the appellate section of the Circle Office once every year. Such inspection will be made on the lines laid down at pages 33-34 of the Manual, Volume II. All reports of inspection will be forwarded to the officer next higher in rank than the inspecting officer, who will indicate the steps to be taken in respect of any defects, shortcoming, etc., pointed out in the report.

7.50. **Scrutiny or orders**—Apart from periodical inspection, the inspecting authorities, as indicated in the foregoing paragraph, will call for every month about 5 per cent of the records in which assessments/appeals were made during the previous month and scrutinise the orders passed. If any error of omission (or commission) is detected in such scrutiny, the inspecting authority will either revise the order by exercising *suo motu* power of revision or ask the subordinate authority to review the order or to make a fresh assessment in exercise of the recommended power to reassess cases of escaped turnover/[Paragraph 7.45(iii)].

7.51. Apart from scrutiny by the inspecting authority, the Law Section will also scrutinise all cases where relief granted on appeal exceeds Rs.10,000. For this purpose, every appellate authority will forward, through the administrative Assistant Commissioner, copies of appellate order granted relief exceeding such prescribed amount to the Law Section. The Law Section will scrutinise all these orders within six months and submit its finding to the respective Zonal Additional Commissioner who will initiate appropriate action in deserving cases. The administrative Assistant Commissioner, through whom these copies will be transmitted to the Law Section, will also have an opportunity to scrutinise the corresponding assessment order of the Commercial Tax Officer for an appraisal of its quality.

7.52. **Vigilance**—The Intelligence and Investigation Wing will conduct vigilance operation in respect of allegations of malpractices that may be received by it. The Committee does not wish to elaborate on this topic but would observe in passing that a more effective insurance against corruption is the inculcation of a conscientious sense of integrity in the employees, rather than vigilance. The Service Associations perhaps have a role to play in this direction.. The Government can create an atmosphere of mutual trust in which Service Associations will come forward to play this useful role.



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CHAPTER 8

LOGISTICAL AND OTHER SUPPORTS

8.01. Item No. 6 of the terms of reference of the Committee required it to suggest measures for "strengthening the logistics in terms of office facilities for disposal of business." In the Commercial Tax Department, *raison d'être* of which is collection of revenue, the importance of logistics can hardly be over-emphasised. Even the best of personnel armed with sufficient legal powers will miss the mark without adequate logistical support. Unfortunately, the present logistical arrangements in terms of office facilities are rather poor and this has contributed substantially to the present mess in which the Commercial Tax Department has fallen. There is hardly any area where the logistical support is adequate.

Accommodation and General Atmosphere in the Offices

8.02. The first shortcoming in this regard, as pointed out to the Committee, was utter lack of accommodation. The Committee has found that in most of the Unit Offices, members of the staff sit huddled together confusedly, conveying the impression that smooth transaction of business in the offices was just not possible for sheer lack of space. The floor of the office rooms was strewn with files and registers and records crammed into the Record Room. The Record Rooms were found full to the brim. The inevitable result of this state was utter lack of order in office and harassment and hardship to the tax-paying public. It was complained by many Unit Offices that returns and challans submitted by the dealers could not be found at the time of assessment in about 20 per cent of the files and as such, the dealers were required to furnish copies of the missing returns along with the dealers' copy of the Treasury Challans afresh to the Assessing Officers so that the latter could complete the assessments. Again, most of the Unit Offices complained of acute shortage of furniture. The space provided for the visitors as also their sitting arrangement was inadequate. The gangways connecting the two buildings at Beliaghata were found occupied by a large number of unauthorised mini-canteens. The offices appeared to be ill maintained and looked dirty and dingy; there was no congenial atmosphere for good working condition in the Beliaghata building. Even drinking water was not available in the floors of the office. The situation in the Madan Street building was found to be worse and no office worth its salt can function there. The Committee was told that the sanctioned strength of supporting staff of the Care-taker for Beliaghata Tax Buildings was inadequate. There is no Care-taker at all for the Madan Street building. It also learnt that a large number of vacancies of this inadequate sanctioned strength existed as on 1st April 1978. The present pitiable condition of the buildings was largely due to inadequacy in this field, it was told.

8.03. The Committee ascertained that the problem of office accommodation of staff was still worse in the Check-posts, both border and internal. Excepting the Gouripur and Sodepur Check-posts, which were housed in sheds constructed

and owned by the Government, all the internal Check-posts were located in rented premises, secured from the Railway, Port or Air Port Authorities. The working condition in most of these Check-posts was appalling mainly due to lack of accommodation. The atmosphere in the Howrah Station Check-post was nauseating because the adjoining area was used by the Railway for weighing consignments of fish arriving at the station. The shortage of space in the Check-posts sometimes created problems of storage of seized goods.

8.04. In view of the appalling shortage of space in Unit Offices and Check-posts, the Committee recommends that every endeavour be made to find adequate space for the offices and Check-posts under the Department. It further recommends that the Department will endeavour for having its own buildings at all mofussil headquarters and at the road Check-posts. The problem of accommodation at rail and port Check-posts will be sorted out with the authorities concerned.

8.05. Taking a comprehensive view of the matter, the Committee also recommends in regard to the Calcutta offices that—

- (a) the unauthorised mini-canteens operating in the Sales Tax Buildings at Beliaghata be removed and alternative arrangement for serving tea, etc., be made;
- (b) the Care-taker will ensure proper cleaning and swabbing of the buildings at Beliaghata buildings with his supporting staff;
- (c) the requirement of care-taking staff will be reassessed and the Government will create posts and fill up the vacancies early;
- (d) there will be an office of the Care-taker for the Beliaghata buildings and a spacious room will be provided with adequate arrangement for sitting of the care-taking staff;
- (e) The Madan Street building will be thoroughly repaired; a Care-taker will be appointed for the Madan Street building with adequate supporting staff to ensure that the building is kept in good working condition.

8.06. An important area of inadequacy identified by the Committee is the administration of care-taking staff at the Sales Tax Buildings at Beliaghata. The Committee was told that the care-taker has been appointed from the rank of Inspectors of Commercial Taxes who has no previous experience in sanitation and up-keep of large buildings. In other large Government buildings 'like Writers' Buildings', New Secretariat Building, Bhavani Bhavan, etc., the Care-taker is appointed by the Public Works Department. The Committee was told by the Commissioner of Commercial Taxes that the appointment of an officer of Commercial Tax Department was deemed necessary to ensure more effective administrative control over the Care-taker. That administrative control over the Care-taker alone has not been sufficient to ensure proper care taking, would be apparent on a casual inspection of the buildings, particularly the toilets. The Committee cannot agree to the appointment of an Inspector as Care-taker

for two reasons; for one thing, the Inspector having no experience in the up-keep and sanitation of the building is not equal to the job; secondly, the Department fails to avail itself of the services and productivity of an Inspector during the period of his tenure as a Care-taker; the Inspector is likely to lose much of his efficiency as an Inspector over the same period. The Committee, therefore, recommends that the Care-takers be appointed from the staff of the Public Works Department with adequate technical knowledge and/or experience of maintenance and sanitation of large buildings.

8.07. The Committee finds from the reports of Unit Offices that about 25 per cent of the floor space of the Record Rooms may be salvaged by removing old and unnecessary records. The Committee recommends that old and unnecessary records be destroyed in a phased manner and there be a regular programme of screening and destroying old and unnecessary records. The Committee has elsewhere (Paragraph 9.05) recommended adoption of certain principles for destruction of old and unnecessary records.

8.08. Furniture and fittings inside the Record Rooms merit better attention than what was given to them so long. It was reported that the wooden and steel racks placed inside the Record Rooms had toppled down at times due to lack of support, causing minor accidents. The Committee recommends that the racks be fixed with the walls or supporting angles be provided to keep them fixed. Considerable space will be recovered from the Record Rooms if racks made of slotted angles reaching up to the ceiling are secured. Step-ladders will be supplied for use in the Record Rooms. The record suppliers will be provided with aprons, dusters and cleaning soaps. The Committee was told that records were often found pest-mauled; as a result, reconstruction of records became often necessary. Regular arrangement for dusting and spraying insecticides inside the Record Rooms once a month will be made to guard against such eventualities. Outside agencies may be pressed into service for the purpose, if this cannot be done with the available manpower.

Furniture

8.09. As regards office furniture and equipments, the requirements will be assessed well in advance and adequate number of furniture purchased. There will be a regular and systematic arrangement for repair of broken furniture. The Committee found that visitors sit in long benches placed in the corridors and that no sitting arrangement was available for employees belonging to Group "D". The Committee recommends that visitors will be provided with visitors' rooms with chairs placed alongside a long table on each floor of the main building and in all Unit Offices elsewhere. Chairs will be provided for Group "D" staff, the strength of which cadre will also be taken into consideration in assessing floor space required for each office. Every Unit Office will be provided with a wall clock, which will be kept in a proper working condition by the care-taking staff.

8.10. The Committee has recommended elsewhere (Paragraph 6.24) that every Assessing Officer be provided with stenographic assistance. These stenographers will naturally require Typewriters.

Vehicles

8.11. Transport is another important area which calls for improvement in logistical support. For the purpose of exercising proper vigil on the assesseees and also for the purpose of searches and seizures, mobility of inspecting officers is essential. This cannot be ensured without a fleet of vehicles. Vehicles are also necessary for carrying cash with escorts from the various Check-posts and Banks. The Committee was told that the number of vehicles in the Commercial Tax Department was too inadequate and these were seldom available for the purpose of inspection of dealers' premises. The Committee was further told that in most cases the personnel sent on search and seizure duty were not provided with any vehicle. It has been reported that in good many cases, records seized from the assesseees had to be carried to office by Rickshaw and even as head-load, as office vehicles were not provided and taxis were not available. Taking a comprehensive view of the situation and to ensure better tax compliance, the Committee recommends that each circle situated in Calcutta be provided with three vehicles. So far as the offices situated outside Calcutta are concerned, each circle office having charge office(s) attached to it will be provided with the same number of vehicles as recommended above. The charge offices situated away from Circle Headquarters will be provided with one vehicle each. Since the Committee has recommended elsewhere (Paragraph 7.07 et seq) that there will be decentralisation of accounts down to the level of Circle (and charges in mofussil), those vehicles will also be available for carrying cash for disbursement.

Forms and Stationery

8.12. Another area requiring attention is the supply of forms and stationery. Almost all the Unit Offices had a complaint that supply of both forms and stationery was inadequate. After interviewing a large number of officials and studying the problem in depth, the Committee found that two broad category of forms were in vogue in the Department, namely, standard forms and non-standard forms. The Committee was further told that the Commissioner of Commercial Taxes got annual monetary allotment for forms and stationery from the Government and distributed a portion of the allotment to the Unit Offices. The procedure in this regard, it was told, was that the Unit Offices were required to submit indent of standard forms and stationery through the Commissioner within the monetary allotment made available to them. It was universally complained that the monetary allotment was insufficient. Consequently, there was a chronic shortage of forms and stationery articles in the Unit Offices causing serious dislocation of work. Allotment of funds to the Unit Offices, it was further stated, was made without any intelligible standard. Attention of the Committee was drawn to Memo No. 9789(40)-C.T., dated 11th June 1976, under which monetary allotment of stationery articles for the year 1976-77 was made. It appears from the said memo. that a sum of Rs.175 each was allotted to 24-Parganas Charge and Darjeeling Charge, though the number of files was 7 times in 24-Parganas Charge in comparison with Darjeeling Charge. The

Committee was further told that because of the lack of essential items such as envelopes, file covers, etc., the Unit Offices were put to serious difficulties almost round the year.

8.13. As regards non-standard forms used by the Department, such as returns forms, Challan forms, forms of notices, etc., the Committee was told that the Commissioner was required to get the forms printed from the Government Presses or Private Presses and supply the same to the Unit Offices on requisition. Here, again, chronic shortage of forms has been reported by almost all the Unit Offices. It was complained that the requisitions from the Unit Offices to the Central Office were met only partially, if not refused altogether on occasions. It was ascertained that the assessee requiring forms were often obliged to approach persons who sell those forms at a price, although the forms are not sold by the Government. In regard to the return forms, the Committee has already made suitable recommendation at paragraph 5.29.

8.14. It was reported that non-availability of forms of various types very often caused serious dislocation of work. Initiation of assessment proceedings, issue of demand notices, etc., suffered because of shortage of necessary forms. Letters and notices required to be sent by registered post were reported to pile up as they could not be despatched for shortage of envelopes.

8.15. The situation in regard to the stationery is equally bad, and chronic shortage in this sphere has been reported by almost all the offices. In course of oral interviews with individual Unit Offices, almost all the Unit Offices reported helplessness in this matter and often referred to "obtaining stationery articles by making personal arrangement".

8.16. After appropriate enquiry, the Committee is satisfied that there is a great deal of truth in the complaints received by it. It is learnt that a sum of Rs.18,450 was allotted to this Department for stationery articles during the year 1978-79. Patently, this amount is far too inadequate. The Committee was told that Government was moved by the Commissioner of Commercial Taxes for increasing the allotment to Rs.1,50,000 for purchase of stationery for the Department. It was further told that shortage in the sphere of stationery would continue to remain unless the allotment was suitably enhanced. On enquiry as to how the chronic shortage was met by the Central Office, the Committee learnt that powers of Commissioner in regard to contingent purchases was utilised to maintain a semblance of supply by the Central Office. The Committee, therefore, recommends that in order that departmental work does not suffer on this count, the Government will enhance monetary allotment in regard to supply of stationery articles to this Department to Rs.1,50,000, as made out by the Commissioner of Commercial Taxes, and review the position after the recommended set-up is brought into being.

8.17. So far as standard forms are concerned, the Committee was told that Government Presses were responsible for supply of standard forms including Service Books. Attention of the Committee was drawn to the resolution No. 1203-H.J., dated 9th April 1977. It appeared from the said

resolution that Government had allocated altogether a sum of Rs.22,511 for the year 1975-76 for the Department. What surprised the Committee was that the allotment for the year 1975-76 was made as late as on 9th April 1977. It was ascertained on enquiry that currently the Government Presses were supplying goods against indent for the year 1974-75. In other words, there is a backlog of four years in regard to supply of standard forms. In this background, chronic shortage of standard forms, as complained by the Unit Offices, is fully borne out.

8.18. In regard to the non-standard forms such as statutory notices, etc., the Committee learnt on enquiry that Government Presses seldom made full supply against the indents of the Department. The supplies by them were invariably piecemeal and it was difficult to keep track whether the indent was fully honoured. It was also learnt that works allotted to the private presses for supply of non-standard forms were beset with many difficulties. A number of instances were brought to the notice of the Committee when private presses failed to honour their commitment even on repeated attempts. Personnel belonging to the Central Office had to run after these presses to get the supplies and that also in piecemeal. In any case, the position in regard to supply of non-standard forms was thoroughly unsatisfactory.

8.19. Taking a comprehensive view of the matter, the Committee recommends that a press be set up for the Commercial Taxes Department which will print both standard and non-standard forms for the Department on paper and boards purchased by the Department. This alone will mitigate the difficulties in the sphere of supply of standard and non-standard forms. The Committee notes that the Settlement Department and the Calcutta Police have their own presses.

8.19A. Incidentally, the Committee finds that there is scope for economy of paper where a form is printed on one side of paper. It is recommended that all forms will be printed on both sides of paper. The forms of return contain a list of commodities, with code numbers, which runs to several foolscap sheets. This substantial wastage of paper can be avoided by omitting the list and requiring the dealer to mention name of the commodity (ies), the appropriate code number being inserted by the Electronic Data Processing Unit. It will also eliminate chances of wrong codification.

8.20. The Committee's attention was drawn on this issue to Government of West Bengal, Finance Department, Taxation Branch Memo. No. 754(5)-F.T., dated 28th February 1977. It appears from the said letter that a proposal to set up a press for the work of the Taxation Department was under consideration of Government. It is not known whether any progress has been made in the matter. In any event, there is a strong case for setting up of a press exclusively for the Commercial Taxes Department.

Other Supports

8.21. It was found that a good number of typewriters were lying in a state of disrepair in various Unit Offices. Some of these may not be repairable, although most can be brought back to working condition with minor or major repair. Since the Committee's recommendation elsewhere (paragraph 8.10) will necessitate supply of typewriters to stenographers to be attached to Commercial Tax Officers, it is recommended that the typewriters in a state of disrepair be immediately brought back to working condition before the requirement of new typewriters can be assessed properly.

8.22. It is essential that every Assessing Officer be provided with an almirah, so that he can keep urgent records in his custody. This will free him from dependence on the Record Room in respect of urgent work and will eliminate hardship to the assesseees. Since the Committee has recommended elsewhere (Paragraph 5.58) that the registering authority will have the power to demand security, certificate bonds demanded by them can also be kept in the almirah. The Committee noted that some steps have already been taken by the authorities in this regard. Each assessing and appellate officer will also be supplied with a handy calculator to facilitate calculation of taxes and rebates at various rates. Adding machine will be supplied to every Charge Office for checking of casting in the statement furnished by the assesseees, whenever necessary. Each office will be provided with a mechanical device to note the date of receipt and receipt number on each letter and the acknowledgement thereof; the device will be such that after two impressions of the receipt number (one on the letter and the other on the acknowledgement), the same will automatically move forward to the next number (Paragraph 5.67).

8.23. The Committee has recommended that there will be a Drawing and Disbursing Officer in every Circle Office in Calcutta. This will require purchase of adequate number of iron safes and cash boxes.

8.24. The Committee ascertained that the telephone facilities in the Calcutta Offices is inadequate. There is no direct line in the Charge Offices, Circle Offices and Central Section at present. All calls to and from these offices have to be routed through PBX Operators. The Committee was told that external lines can hardly be obtained. A number of persons interviewed by the Committee complained that the Assessing and Appellate Officers can hardly be contacted from outside over the telephone through the PBX.

8.25. The Committee, therefore, recommends that direct telephone lines be provided to each Charge and each administrative Assistant Commissioner for convenient disposal of business. It also recommends that the Assistant Commissioner in charge of Check-posts administration, the Chief Public Relations Office and officers in the Intelligence Wing will be provided with telephone connexions at their residence.

8.26. It was pointed out to the Committee that at some of the border check-posts (namely, Chichira and Dantia), there is no electricity. It is necessary that Patromax be provided at all the check-posts. In the check-posts without electricity, adequate number of Patromax will be supplied.

8.27. It was stated before the Committee that uniform, raincoats, etc., were not supplied regularly to the Patrolmen of various check-posts and these were not replaced when worn out. The Committee recommends that uniform, Gumboots, raincoats, etc., be supplied regularly to the Patrolmen in the check-posts by the respective Controlling Officers. The Controlling Officers have, therefore, to work out the requirement beforehand and supply the items to the personnel concerned with utmost despatch.

8.28. The Committee was also told that though other employees of Group "D" category of the Department are entitled to get uniform, liveries, umbrella, etc., these are not supplied at all. It is recommended that regular supply of these items be ensured.

8.29. The drop-gates and goomties at the road check-posts are necessary to be maintained properly with quick repair facilities. The Assistant Commissioner in charge will ensure their maintenance and quick repair.

8.30. Appropriate recommendation regarding library has been made at paragraph 6.27(5). Since library is an important logistical support, it will be fully equipped to meet the needs of the Department.

8.31. The Committee was told that the Central Office has a few Daftries, who have to bind the voluminous registers in the Department. Since the Department is required to maintain a large number of registers and records in bound volumes, it should have, apart from Daftries, a few Binders for doing the binding job. The Committee was further told that adequate implements were not available for binding job. The Committee recommends that a few posts of Binders be created and that the binding section be adequately equipped for doing the job properly. These Binders and Daftries will be available for the stitching and binding of the registers and records pertaining to the office situated in Calcutta. So far as mofussil offices are concerned, local administrative heads will get their registers and records bound through local binders on payment of charges.

8.32. A difficulty was pointed out to the Committee that territorial jurisdiction notification issued by the Government was merely descriptive of the boundaries of the respective Charges/Circles. It was not possible for one to know, particularly in an urban conglomerate like Calcutta, if a specific premises on a particular street belongs to a particular Charge. Instances were brought to the notice of the Committee where a dealer belonging to a Charge X was registered in Charge Y because of such lack of detailed description of the streets and premises number in the notification declaring jurisdiction. Instances were even brought to the notice of the Committee that applications addressed to the Commissioner by a dealer belonging to a particular Charge was sent by the Central Office to another Charge on account of same difficulty. With a view to obviating such problems in future, the Committee recommends that a jurisdiction register be maintained in the Central Office and details of the same be published for circulation amongst the officers and staff of the Department and different Chambers of Commerce for public information.

8.33. The Committee has noted that there is no seminar hall in the Commercial Tax Building. Seminar hall is necessary for manifold purposes. This can be used for imparting training to new entrants promotees in the Department, for holding meeting necessary for motivation, holding zonal council meeting, etc. The Committee recommends that in the third multi-storied building coming up in the Beliaghata Commercial Tax Buildings compound, provision will be made for a seminar hall with adequate accommodation and sitting arrangement.

8.34. The Committee recommends that a new edition of Sales Tax Acts and Rules will be published once in every 5 years and even at shorter intervals if and when extensive amendments are made. The amendments made from time to time will be printed in the form of correction slips printed on one side of paper and circulated amongst the officers and staff. Copies of Departmental Manual (on administration and procedure) will also be published and distributed among officers (including Inspectors) and the offices.

8.35. The Committee was told that the Annual Administration Reports of Commercial Taxes Department were not being published for a pretty long time. In many States such as Maharashtra, Gujarat, Uttar Pradesh, etc., such reports are published shortly after the close of the financial year. It is recommended that the Annual Administration Reports be published regularly, in respect of each financial year, shortly after the close of the year.

8.36. The Committee was also told that a Departmental Journal used to be published every month under the authority of the Commissioner of Commercial Taxes and it was considered to be immensely helpful. It was discontinued about 5 years back. As a Bulletin or Journal of the Department is essential as a motivating tool, resumption of this House-Journal is recommended. It will contain gist of important administrative decisions and case laws decided by the Commercial Taxes Tribunal, the High Court and the Supreme Court and such other material information as may be required to serve the object.



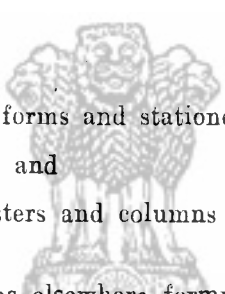
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CHAPTER 9

MAINTENANCE OF RECORDS AND REGISTERS

9.01. Item 1 of the terms of reference requires the Committee to suggest measures needed to strengthen the organisational set-up in the Commercial Taxes Department, inter alia, to ensure proper maintenance of records and information. In the Manual of Sales Tax Laws and Administration, Volume II, elaborate instructions appear about maintenance of records in general and registers in particular. But the Committee finds that these instructions have grown out of use. There was hardly a single Unit Office in which the required registers were regularly and fully maintained. As a result, information that ought to have been on the finger tips are often not available at all. The Committee's study was handicapped in no small measure for want of these information.

9.02. The Committee finds that the following are the main reasons for such state of affairs:—

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- (1) Lack of training;
 - (2) Sporadic paucity of forms and stationery;
 - (3) Lack of supervision; and
 - (4) Multiplicity of registers and columns in the registers.

9.03. The Committee has elsewhere formulated its recommendations in respect of training (Paragraph 6.27), regular supply of forms and stationery and regular inspection (Paragraph 8.19 and Paragraph 7.49). These will remove the first three impediments of regular maintenance of register. In this Chapter, the Committee proceeds to consider the fourth impediment, namely, multiplicity of registers.

9.04. As many as 97 registers have been prescribed in the Manual, Volume II. Of these, the first 30 and from 41 to 44 are of general nature and those are maintained in every Government Department. The Committee, therefore, does not wish to make any recommendation on the desirability or feasibility of simplifying or abolishing these registers. Among the others, some consequential changes will become imperative if and when the various recommendations of the Committee for changes in substantive and procedural laws are accepted and implemented. At Appendices "N" to "X" of this report, the Committee has suggested pro formas for a few registers in substitution of old ones. These pro formas are, however, illustrative and may have to undergo some changes on the basis of practice and procedure to be finally decided upon. Similar changes in other registers are also likely. The Committee hopes that the several pro formas suggested at the said Appendices will serve as illustrative models for simplification of many other registers.

9.05. Volume II of the Manual also contains detailed instructions about the period for which the various records and registers will be maintained. Nevertheless, in the 38 years of its existence there has hardly been any instance in the Department of destruction of old and useless records. As a result, unnecessary records take up valuable space in the Record Rooms and offices and current records often get mislaid in the crammed confusion of ever-piling records. It is recommended that a crash programme will be undertaken for getting rid of unnecessary records within a period of two years. For this purpose, every Commercial Tax Officer will sift every file of his group and take steps for destruction of unnecessary records found in the file. A note will be kept of each file sifted by him and report of every month's performance sent to the administrative Assistant Commissioner along with the months' progress report. Some performance credit will be given for this work in the monthly as well as the annual performance appraisal. Similar programme will be taken by the Central Office and specialised agencies for destruction of old records. Instructions in the Manual are exhaustive in this regard and it is enough for the Committee to reiterate the same and to recommend that the instructions will be followed. Periodical inspection to be made by the administrative Assistant Commissioners and Zonal Additional Commissioners will contain specific report on the progress of such work. The performance appraisal report for an officer will specially indicate if the target has been achieved.



CHAPTER 10

DELEGATION OF POWERS AND DECENTRALISATION OF
ACCOUNTS**Delegation of administrative and financial powers**

10.01. It has been stated in paragraph 6.07 that suitable powers commensurate with the responsibility are necessary to enable the Unit Heads at various levels to discharge their responsibility effectively. This Chapter will deal with this aspect.

10.02. It was represented before the Committee that one of the major ills currently afflicting the Commercial Tax Department is centralisation of almost all the powers as head of the Department in the hands of the Commissioner. It was stressed that because of this over-centralisation, administrative efficiency was suffering.

10.03. Admittedly, over-centralisation leads to a large number of bottlenecks. After examining the present situation obtaining in the Commercial Tax Department, the Committee recommends that—

- (a) powers of appointment of all employees of the Department will be vested in the Commissioner.
- (b) the Commissioner will delegate the powers of posting and transfer within the Zone/Wing of all officers up to the level of the Commercial Tax Officer to the Zonal/functional Additional Commissioners. In case of inter-Zonal transfer, however, Commissioner will be the authority for such posting and transfer.
- (c) powers of transfer and posting within a Circle will be delegated to the administrative Assistant Commissioner.
- (d) where inter-Circle transfers are involved, the Zonal Additional Commissioner, or the Commissioner in appropriate cases, will issue necessary orders.

10.04. In the matter of enforcement of discipline, the Committee makes the following recommendations:—

- (a) The Commissioner will be the disciplinary authority in respect of officers belonging to Group "A" and all officers/staff belonging to the Central Office.
- (b) Zonal/Functional Additional Commissioner will, subject to constraints of Government rules, be the disciplinary authority in respect of Inspectors in his Zone. He will also be the recommending authority for disciplinary action in respect of Group "A" officers in his Zone.

- (c) The administrative Assistant Commissioner will, subject to constraints of Government rules, be the disciplinary authority in respect of staff members in his Circle. He will also be the recommending authority for disciplinary action in respect of Inspectors and Commercial Tax Officers in his Circle.

10.05. It was represented before the Committee that because of centralisation of financial powers, running of the office administration was extremely difficult. A number of cases were cited where petty purchases/expenses for smooth running of the office administration could not be made by the head of office. Administration thus suffered due to concentration of all financial powers in the Commissioner.

10.06. After examining the problem in depth, the Committee recommends that all financial powers necessary for smooth running of the administration be delegated to the Zonal and Functional Additional Commissioners, the administrative Assistant Commissioners, and the seniormost Commercial Tax Officers in mofussil Charges. Government may declare them heads of offices for such purposes with detailed delegation of financial powers.

Decentralisation of accounts

10.07. Decentralisation of accounts was strongly pressed by almost all the employees' associations. The Committee was told that the Commissioner had constituted a Committee to examine the issue. That Committee submitted its report in October 1978. A copy of the report was made available to this Committee. This Committee is in general agreement with the recommendations made in the said report and recommends that the said report be accepted and acted upon with such modifications as are necessary to adjust with the organisational set-up recommended by this Committee.

10.08. The administrative officers in Circle, as recommended at paragraph 6.19, will be the Drawing and Disbursing Officer and be responsible for maintaining necessary accounts. In mofussil Charges, which is not a part of the administrative Assistant Commissioner's Office, the seniormost Commercial Tax Officer will be responsible for these jobs.

CHAPTER 11

GENERAL GRIEVANCE AND STAFF WELFARE

11.01. It is one of the cardinal requirements of good administration that the persons manning the administration and those coming in contact with it have little cause of grievance. The Committee has come across quite a large number of grievances ventilated by the members of public who have to call at the Commercial Tax Department or the employees manning it. Although most of these grievances have been considered in the foregoing Chapters, it is considered necessary to make a recital of the major grievances, so that the Government may be aware of the extent and intensity of the same.

11.02. The dealers' and the visitors' grievances include :

- (i) inadequacy and irregularity of supply of various forms including declaration forms;
- (ii) delay in getting Registration Certificate and amendments therein;
- (iii) difficulties in getting Sales Tax Clearance Certificate and Permits;
- (iv) long wait before a hearing is taken up;
- (v) lack of proper sitting arrangement;
- (vi) non-availability of drinking water;
- (vii) absence of proper public relation arrangement;
- (viii) delay in disposal of appeals and revisions;
- (x) delay in getting refund of tax paid in excess.

11.03. All these grievances canvassed by many including Chambers of Commerce have been dealt with by the Committee at the relevant places of this report. While the Committee has made recommendations in respect of most of these grievances, no specific recommendation was made in respect of a few minor ones because their removal needs no detailed recommendations. The Committee believes that the Government will take immediate steps for removal of all these grievances.

11.04. On behalf of the employees' associations, personal grievances ventilated before the Committee include—

- (i) inadequacy of medical arrangement at office;
- (ii) delay in getting monthly pay on pay day;
- (iii) delay in getting arrear dues, loans and advances, etc.;
- (iv) delay in getting pension, gratuity, etc.;
- (v) delay in sanction of leave of Inspectors and upwards;
- (vi) delay in issue of orders regarding confirmation, crossing of efficiency bar, etc.;

- (vii) transfer in the middle of a year;
- (viii) out of turn transfer and other hardship caused by absence of rational transfer policy;
- (ix) difficulty in getting residential quarters.

11.05. Some of these grievances should be removed with the decentralisation of Accounts Section and other connected recommendations contained in the report. The Committee believes that some of these grievances can be removed if the Government delegates power of sanction of leave, etc., to the lowest possible level in keeping with the recommendations for decentralisation in this report.

Medical arrangement

11.06. A Medical Officer is in wholtime attendance in the Commercial Tax Buildings but the employees can derive little benefit from this arrangement because the Medical Officer is completely without any logistical support. It is recommended that a small dispensary with minimum equipments and emergency medicines will be established in the Commercial Tax Buildings so that first-aid and minimum medical attendance can be offered to any one meeting with an accident or suddenly falling ill.

Transfer

11.07. It is recommended that there will be a rational policy ensuring, inter alia, that an employee having school-going wards does not face any difficulty on transfer.

Residential quarters

11.08. Adequate residential quarters will be provided for officers and staff posted at mofussil and in Calcutta. The Committee also recommends that in view of the pressing needs of keeping a sufficient number of officers close to the Sales Tax Buildings complex, the 12 residential quarters in the Sales Tax Buildings compound at Beliaghata will be kept exclusively earmarked for employees of the Commercial Tax Department.

11.09. A large number of grievances ventilated on behalf of the employees relate to their difficulties in the discharge of official duties. These include—

- (i) inadequate and irregular supply of forms and stationery;
- (ii) unmanageable work-load;
- (iii) uncongenial working condition at the check-posts;
- (iv) inordinate delay in filling up the vacancies, both by direct recruitment and by promotion;
- (v) inadequacy of sitting accommodation;
- (vi) insufficient space in Record Room;

- (vii) shortage of furniture;
- (viii) difficulty in handling bulky record;
- (ix) non-supply of livery, apron, uniform, duster, soap, etc.;
- (x) insanitary condition of office, particularly of the Madan Street building;
- (xi) absence of training arrangement;
- (xii) non-availability of up-dated law books and library facilities;
- (xiii) disparity between rank and responsibility of Head Clerks of Charge and Circle Offices;
- (xiv) proliferation of non-statutory duties of Inspectors.

11.10. Measures necessary to remove most of these grievances have been recommended at the various relevant places of this report. The last item is briefly considered below.

Proliferation of Inspectors' non-statutory duties

11.11. It is not practicable that Inspectors will be required to perform only statutory duties and functions. But the Committee discourages the tendency of the administration to proliferate functions of the Inspectors by allotting all sorts of duties to them. Recommendation has already been made that an Inspector will not be made the Care-taker of the Sales Tax Buildings (paragraph 8.06). Again, Collecting Cashier's functions are now entrusted to the Inspectors. A Collecting Cashier is equivalent in rank to an Upper Division Clerk. If the vacancies in this cadre could not be promptly filled up for any reason, the function should rather be performed as a stop-gap arrangement, by a Cashier equivalent in rank to a Lower Division Clerk. It is neither fair nor desirable that an Inspector will be asked to perform the duties of a Collecting Cashier. The Inspectors form a very important executive cadre for administration of the Sales Tax Laws and the Government will ensure that manpower in this cadre is not utilised for such less important jobs as can be entrusted to persons of lower rank.

11.12. The topic of staff welfare is relevant in this context. This is an area which is almost totally ignored in the Sales Tax Administration. All important Central Government Organisations have a Staff Welfare Officer of sufficiently high rank to look after staff welfare in general and collective recreational and cultural activities of the employees in particular. It is recommended that the Government will introduce such a scheme in the Department.



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CHAPTER 12

FINANCIAL IMPLICATIONS

12.01. Estimates of increase or decrease in revenue-yield as a result of recommendations having a direct bearing on revenue have been made in Chapter 2. These add up to a net increase of Rs.42 crores. The Committee has been rather conservative in making the said estimate. It could not quantify the entire positive implications of all the recommendations, many of which, though not directly aimed at altering the tax-structure, will nevertheless have a revenue accelerating effect. For example, the recommended modes of ordinary and special assessments, regular periodical inspection and other anti-evasion measures recommended by the Committee are likely to make substantial contribution towards increase of revenue. The Committee also believes that better working condition, increased man-power leading to more intensive enquiry and assessment and better motivation of the employees, which the Committee has striven to accomplish, will also have a substantial positive effect on revenue-yield. Precise effects of these factors are more or less imponderable at the moment. The Committee would, therefore, stick to its conservative estimate of a net revenue increase of Rs.42 crores.

12.02. Recommendations having a bearing on expenditure of the Department are in the areas of logistical support and staff requirement. Additional expenses to be incurred to implement recommendations on logistical support are mainly non-recurring in nature. The Committee estimates the total capital investment to implement all the recommendations at Rs.60 lakhs. Recurring expenses on this count may be taken at around Rs.10 lakhs per annum. A few economy measures have also been suggested, but the net savings on that count is ignored for the purpose of arriving at the total additional cost.

12.03. Specific recommendations for increase of man-power in the cadres of Inspectors and upwards have been made at appropriate places of the report. Increase in the lower cadres has not, however, been spelt out. Taking an overall view of the implications of the recommendations made in the Report, the Committee has made a broad estimate of man-power requirement at various levels. The estimated staff requirement for the proposed set-up emanating from this broad estimate is shown at Appendix "Y". The estimate does not include the additional requirement, if any, for the administration of the Amusement Tax Act and the West Bengal Tax on Entry of Goods in Local Areas Act, 1962 and for the Police set-up under the Bureau of Investigation.

12.04. Establishment of a printing press is one of the Committee's recommendations (Paragraph 8.19). Capital cost towards the same and ancillary depreciation/maintenance are included in the estimate made at Paragraph 12.02. But salary and wages, power, overhead, etc., are not

included in the estimates made at Paragraphs 12.02 and 12.03. Since the recommended printing press will obviate substantial expenditure now incurred towards printing of forms, the Committee believes that there will be a net saving on this count.

12.05. The Committee envisages that the growth rate of work will be around 6 per cent to 7 per cent per annum. The staff requirement estimated will also undergo suitable increase each year. The Committee recommends that adequate advance planning will be made to ensure that creation of posts and filling up of the same do not strain the available set-up at any given point of time. It also recommends for a regular appraisal of vacancies, actual and imminent, at all offices sufficiently ahead of time so that the vacancies are filled up without any time-lag. It further recommends that similar advance planning will be made for accommodation and logistical supports.

12.06. The total expenditure to run the Department will, therefore, be slightly over 1 per cent at the present level of tax-yield. If the increase in revenue, as estimated by the Committee, is taken into account, it will appear that the overall cost of collection of Sales and Purchase tax in the State will be well under 1 per cent of the net revenue. This is remarkable, when Gujarat and Karnataka, the two States having comparable revenue, incur expenditures around 1.5 per cent of their collection.



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CHAPTER 13

CONCLUSION

13.01. The Committee's field of study has been fairly wide. In fact, it would have been wider but for the constraints stated in Chapter 1 and elsewhere. Most of the data obtained by the Committee have been analysed and utilised to arrive at the various conclusions and recommendations, although there are a few which have not been specifically referred to in the text of the report. Tables appended to the report contain all such data, with reference to the paragraph(s) where these have been specifically used.

13.02. After studying all related facts, the Committee has framed its recommendations keeping two main objects in view, viz., (a) minimising procedural hardship faced by the public in dealing with sales and purchase tax matters and (b) ensuring maximum tax-yield with minimum possible burden on the poorer section of people. The various recommendations emanating from these twin objectives can be classified into those on (i) substantive law, (ii) practices and procedures, (iii) organisation and (iv) logistic support. It will have appeared from the report that these four broad classes of recommendations are very closely interlinked. Very few of the major recommendations can therefore be implemented in isolation without losing much of their effectiveness. The Committee recommends that its various recommendations will be viewed as integral parts of a complete package and time-priority for implementation of each recommendation carefully planned ahead. In general, recommendations on organisation and logistics will have to be given precedence over those on substantive and procedural law, although the process of drafting legislation for the purpose may be initiated immediately after taking policy decision on the entire report including recommendations on organisational matters.

13.03. In spite of its best diligence, the Committee's report could not be submitted before February 1979, although a part comprising the four Chapters on Law and Procedure was submitted in the middle of January 1979, so that the Government might have completed consideration of that part by now. On most topics, the Committee's study being related to

periods up to 31st March 1978, the report is already somewhat dated. The Committee believes that the Government will formulate its views on the report with utmost despatch so that its usefulness is not reduced by efflux of time.

Calcutta,
27-2-7979.

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SUMMARY OF RECOMMENDATIONS

Chapter 2

1. Instead of 5 different laws, there will be a single composite sales and purchase tax law in West Bengal. (Para. 2.05)

2. It will contain *inter alia* substantive provisions similar to those in the present Acts for levy of purchase tax on raw jute and paddy. (Para. 2.07)

3. Purchase tax on inputs where finished products are transferred to other States for sale there, will continue until the Central Government implements the recommendation of the Jha Committee to impose tax on stock transfer. (Para. 2.11)

4. Sales tax under section 5(1)(bb) of the Bengal Finance (Sales Tax) Act, 1941 will be substituted by purchase tax on all purchases (other than tax-free goods) by manufacturing dealers. (Para. 2.13)

5. Last point tax will continue to be the most important ingredient in the State's composite system of sales tax. (Para. 2.17)

6. Quite a number of commodities now taxed at the first point do not satisfy one or more of the criteria of first point taxation (Para. 2.22) and will be "denotified" (Para. 2.33). An illustrative list of such commodities is annexed at Appendix C.

7. To avoid double taxation on commodities taxed at the first point when those are used as components of other finished products, cost of inputs subject to first point tax will be deducted from gross sale-price of finished products to arrive at taxable turnover. (Para. 2.26)

8. Multipoint tax at a low rate has come to stay as an integral part of the State's composite tax policy and will continue. (Para. 2.27)

9. Special features of last point taxation, viz. (1) liability to pay tax only after taxable quantum is exceeded, (2) multipoint tax at a low rate and (3) declaration forms of various sorts, will be common to all commodities taxable at the first stage and the last stage. (Para. 2.28)

10. So-called luxury goods included in Schedule II of the Bengal Finance (Sales Tax) Act, 1941 will be subject to multipoint tax. (Para. 2.29)

11. Commodities subject to first-point levy will also bear multipoint sales tax. (Para. 2.30)

12. Permits will be abolished except under section 4B [of the Bengal Finance (Sales Tax) Act, 1941]. All sales of first-point taxable commodities will be taxed at the ordinary rate unless a declaration obtained from the selling dealer is produced, in which case multipoint tax at a low rate will be imposed. (Para. 2.32)

13. The recommended composite law will contain the following basic features, viz., (a) taxable quantum for liability to pay tax, (b) same rate of tax for all goods (except declared and so-called luxury goods), (c) multipoint tax at low rate in lieu of ordinary rate on sales of last point taxable goods to registered dealer covered by a declaration obtained from the buyer, (d) multipoint tax at low rate, in lieu of ordinary rate, on sales of first point taxable goods purchased from registered dealer and covered by a declaration obtained from the seller, (e) discontinuance of permit except in respect of a commodity subject to appreciable evasion and notified for the purpose, (f) check-posts for checking all incoming and outgoing goods and (g) purchase tax under a separate chapter in the same law. (Para. 2.33)

14. Except for unique commodities like wines and spirits, there will not be more than 5 or 6 rates of tax taking the composite State Sales Tax Law and the Central Sales Tax Act, 1956 together, viz., (1) tax on input of manufacture and also that of the second purchase tax when the finished product is stock-transferred, (3) rate on declared goods and also that on inter-State sales to registered dealers and Government under the Central Sales Tax Act, (4) ordinary rate of sales tax, (5) higher rate (one rate only) on so-called luxury goods. Concessional rate of Central Sales Tax under Section 8(5) will be at par with that stated in clause (3) or (4) above. Rate of purchase tax on Raw Jute and Paddy will be at par with that stated in clause (3) above and that for motor spirit at the first point of sale will be slightly lower than the present rate but subsequent sales of the commodity will bear multipoint sales tax at the rate as stated in clause (1) above. (Para. 2.34)

15. Rates may be fixed by the Government after taking due note of the rates prevalent in the neighbouring States. (Para. 2.35)

16. 2 per cent. basic surcharge will be repealed. (Para. 2.36)

17. Additional Surcharge at various rates will be repealed. (Para. 2.37)

18. Rebate under Section 5(2)(b) of the Bengal Finance (Sales Tax) Act 1941 and similar provisions in other tax laws will be replaced by provision similar to Section 8A(1)(a) of the Central Sales Tax Act, 1956. (Para. 2.39)

19. Price-linked exemptions as in item 7 of Schedule I, will be replaced by a more rational entry. Exemption under item 49 of Schedule I may be restricted to cotton genji only. (Para. 2.40)

20. There is no merit in the exemptions now admissible under clauses (39), (41) (except chanachur and dalmut) (43), (50), (56), (57), (59), (60), (80) and (81) of rule 3. (Para. 2.41)

21. Rule 3(66) will be omitted. The Government may consider a scheme of dispersal by providing tax holiday for a limited period to new industries established away from urban and developed areas. (Para. 2.42)

22. A dealer will be eligible for registration and liable to pay tax when his sales/purchases exceed any of the following limits, viz., (a) manufacturer—sales Rs.25,000 for all goods provided that sales of goods manufactured by him exceed Rs.5,000, (b) importer—sales Rs.10,000 for all goods, provided sales/purchases of goods imported by him exceed Rs.5,000, (c) others—sales Rs.50,000 for all goods, provided sales/purchases of taxable goods exceed Rs.5,000, (d) volunteers—sales Rs.10,000 provided sales of taxable goods exceed Rs.5,000 and (e) mills/exporters purchasing goods liable to purchase tax only—purchases Rs.10,000 of such goods. (Para. 2.44)

23. Rule 3(4) will be replaced by a substantive provision in the Act for grant of Provisional Registration Certificate. A provisionally registered manufacturing dealer will be at par with a registered manufacturing dealer in all matters except that while a manufacturing dealer becomes eligible for normal registration on exceeding turnover limit of Rs.25,000, a person will be eligible for provisional registration if he intends to establish a manufacturing unit likely to have annual turnover of Rs.25,000. A provisionally registered dealer will pay tax on the purchases and sales at the same rate as a normal registered manufacturing dealer. (Para. 2.42)

24. Commissioner's power to make a finding of fact, to the best of his judgment, on the question of liability will be made clear in law. Liability to pay tax will occur as soon as turnover exceeds taxable quantum, without there being any grace period. (Para. 2.47)

25. A dealer registered under the Central Sales Tax Act, 1956 will be liable to pay tax on all sales of goods purchased against 'C' form, whether or not he is otherwise liable under the State Act. (Para. 2.48)

26. Every dealer having a gross turnover of Rs.1 crore or more during a year shall pay from the first day of the following year a "high turnover tax" at $\frac{1}{2}$ per cent. on all sales except those of newspaper, electrical energy and declared goods subject to tax in the State, inter-State sales and sales in the course of export/import. (Para. 2.55)

27. Yield on "high turnover tax" will be around Rs.30 crores. (Para. 2.56)

28. Multipoint tax on all commodities (except declared goods) will yield about Rs.10 crores. (Para. 2.57)

29. All contractors having purchase-turnover of Rs.10,000 a year will be liable to obtain registration and pay tax on all purchases at a rate (a) equivalent to ordinary rate of sales tax on the commodity unless the purchase falls within category (b), or (b) equivalent to the rate of multipoint tax if the goods are purchased from a registered dealer in West Bengal and a declaration issued by the selling dealer admitting his liability to pay tax is produced. Annual yield on this count will be around Rs.4 crores. (Para. 2.58)

30. Any person constructing any building or other masonry structure within an urban conglomeration or a municipality involving purchase of materials exceeding Rs.50,000 for the entire work or Rs.10,000 a year will obtain a licence and pay tax on the same line as above, but in this case tax on purchases from registered dealers covered by declaration will be reduced to nil. Yield on this count will be around Rs.1 crore. (Para. 2.59)

31. Purchase tax on a few other classes of transactions has been recommended in other Chapters. (Para. 2.62)

32. The Government may consider the desirability of obtaining competent legal advice on the question if there is any constitutional bar to levy tax on both purchase and sales of the same commodity. (Para. 2.63)

33. The present Central Sales Tax Act, 1956 has an extra-territorial impact and may be replaced by a Central Sales-cum-Purchase Tax Act. This will authorise the importing State to levy tax on inter-State purchase. The Government will examine the idea and take up the matter at such forum as it deems fit. (Para. 2.64)

34. Rate of Sales Tax on sales to Government Departments will be reduced to 4 per cent. against issue and production of statutory declaration certificates duly signed by prescribed authority. (Para. 2.67)

Chapter 3

35. To reduce hardship of smaller dealers a "simple assessment procedure" will be introduced on the following lines:

- (a) Law will provide that the Commissioner may make an assessment on the basis of a return, (Para. 3.07) but such an assessment will be without prejudice to his right, within a specified time after making such an assessment, to call for books of accounts for scrutiny and, if such scrutiny reveals any justification to do so, to cancel the said assessment and make a best judgment assessment. (Para. 3.08). Non-production of books of accounts for scrutiny will be a sufficient ground for making a best judgment assessment. (Para. 3.09)
- (b) Any registered dealer, of more than two years standing, with gross turnover up to Rs.1 lakh will be eligible for simple assessment, except when there are specific grounds to suspect his bonafides. (Para. 3.10)
- (c) After a few years' experiment, eligibility for simple assessment may be extended to dealers with higher turnover slab and also to dealers, irrespective of turnover, with no claim for exemption or concessional tax, whose total purchases can be verified from independent sources. (Para. 3.11)

- (d) Statement of information (Appendix E), copies of Trading and Profit and Loss Accounts and Balance Sheet as well as list of declarations and name of commodities sold will be furnished by dealers with the returns. Declarations will be *prima facie* verified with the list of by the attached Inspector at the dealer's place. Dealing Assistant will submit the case with a pro-forma certificate (Appendix F) and Inspector's verification certificate to the Commercial Tax Officer. Deficiency, if any, in submitting the return and/or enclosures will be made good by sending a pro-forma letter (Appendix G). Simple Assessment will then be made by an order in the form at Appendix H. (Para. 3.12)
- (e) 10 per cent. cases of simple assessment will be selected at random by the Assistant Commissioner by a system explained at Appendix I and the Commercial Tax Officer will scrutinise these cases in accordance with law. (Para. 3.13)
- (f) When serious discrepancy is detected on scrutiny, appropriate action including levy of penalty, prosecution, etc., will be taken against the dealer. Such a dealer will be ineligible for simple assessment for two years, and other simple assessments already made in respect of the same dealer and its known associates will be subjected to scrutiny.
- (g) Assessment under the Central Sales Tax Act, 1956 of a dealer eligible for simple assessment will also be made in the same procedure *mutatis mutandis*. (Para. 3.15)

36. Ordinary assessment will be made where the dealer is not eligible for simple assessment and does not justify special assessment. Ordinary assessment will more or less follow the present procedure of best judgment assessment (Para. 3.16) with some modifications, namely,—

- (a) Statement of information (Appendix E) will form the core area of scrutiny of accounts. Degree of scrutiny of each item will be indicated on it. Registers of declarations (e.g. Register XXIII, Register 2, etc.) will be checked, and a minimum percentage of entries verified with books. A minimum percentage of the declarations produced in support of claim for exemption or concessional rate of tax will be selected at random for test-check and distinctive tick marks put against such entries in the statement of declaration as were selected for check. Doubtful transactions will be cross verified through attached Inspector. Casting of totals will be verified. (Para. 3.17)
- (b) Assessment case records will be kept ready in the Commercial Tax Officer's locker two days before the date of hearing. (Para. 3.18)

- (c) Not more than two dealers' assessment cases will ordinarily be fixed for hearing on a day. Hours fixed for hearing will be staggered. *Suo motu* adjournment will be intimated in advance, if possible. (Para. 3.19)
- (d) Prayers for adjournment will be discouraged and if such a prayer is allowed, the next date will be fixed in the presence of the dealer. Postal intimations in such cases will be sent only in exceptional circumstances. (Para. 3.20)
- (e) If an assessment proceeding is to be adjourned after part hearing, the next date will be a proximate one. (Para. 3.21)
- (f) Ordinarily, assessment order will be passed on the same day when books are examined, or on the following day. Otherwise, a speaking order will be passed in the dealer's presence keeping order reserved till a specified date. Demand notice, accompanied with a copy of assessment order, will be sent out within three days from the date of order. Any delay beyond three days will be explained in writing with the Commercial Tax Officer's approval. (Para. 3.22)

37. Special assessment, which will be under the same provision of law as ordinary assessment, will involve more extensive checking (Para. 3.23) and will extend to dealers (a) having gross turnover exceeding Rs.1 crore, (b) whose books of accounts have been seized, (c) subject to assessment in a special unit (e.g. Investigation Wing) and (d) selected by the administrative Assistant Commissioner for any adequate reason, by a confidential order. (Para. 3.24). Procedure for special assessment will involve all the steps recommended for ordinary assessment but with more elaborate check on the core area of accounts as well as declarations, cross-verification of adequate number of purchases/sales, scrutiny of income-tax assessment order (if a copy is made available) or by making an enquiry with Income Tax Department and if the assessee be a manufacturer of excisable goods, enquiry with Central Excise Department. Procedure for special assessment will vary according to the type of special assessee. (Para. 3.25)

38. Provision for rectification of mistake will be introduced on the lines of Section 154 of the Income Tax Act. (Para. 3.26) under which an assessing authority may, either *suo motu* or upon application, rectify any mistake made by himself or his predecessor provided (a) the mistake is apparent on record, being of clerical nature, (b) no appeal has been filed against the assessment and the time for filing appeal has expired, (c) in case of *suo motu* rectification having any adverse effect on the assessee, he has been given an opportunity of being heard and (d) the application for rectification or the *suo motu* rectification, as the case may be, is not barred by limitation. (Para. 3.27). Wrong application of rate of tax may be rectified by the person making the assessment but not by his successor, (Para. 3.28)

39. There will be a provision for cancellation of *ex parte* assessment upon application if (a) the assessee was not given an opportunity of being heard, or (b) he was prevented, by circumstances beyond his control, to avail of the opportunity, or (c) his application for adjournment was not considered at all. (Para. 3.29)

40. Appeal will lie against an order rejecting an application for rectification of mistake or cancellation of *ex parte* assessment. Copies of orders allowing either class of application or *suo motu* rectification in favour of the assessee will be forwarded to the administrative Assistant Commissioner. (Para. 3.30)

Chapter 4

41. Except a few classes of order, e.g., initiation of assessments, etc., all other orders under the law will be appealable. An appeal against an appellate order will be called a second appeal. The scope of revision will be limited to *suo motu* cases. (Para. 4.01)

42. Appellate Authorities will be discouraged from remanding assessments and encouraged to decide disputed questions on merit with the assistance of attached Inspector, if necessary. The power of remand will, however, remain with the Appellate Authorities. (Para. 4.02)

43. Introduction of time-bar in disposing appeal is not recommended. (Paras. 4.03 *et seq*)

44. Appeals should be disposed of within 6 months. (Para. 4.08)

45. The desired level of appeal disposal will be attained shortly after one year and a half, if 22 Appellate Assistant Commissioners, as recommended, are appointed. (Para. 4.10)

46. Fee for filing appeal will be fixed at the flat rate of Rs.5. The maximum fee for filing second appeal will be increased to Rs.500. (Para. 4.15)

47. An appeal, including second appeal, will be summarily rejected unless assessed tax etc. is paid in full before filing of appeal, but the Appellate Authority may condone this condition in full or in part. (Para. 4.17)

48. Requirement of filing certified copy of impugned order with memorandum of appeal will be dispensed with. (Para. 4.19). Where copy of order (against which an appeal is preferred) is not sent to the dealer, obtaining of certified copy will be optional and in case where this option is exercised, the time for obtaining the certified copy will be excluded in computing limitation. (Para. 4.20)

49. The requirement of filing the original demand notice with memorandum of appeal will be dispensed with or the same will be returned to the appellant with the final order of appeal. (Para. 4.21)

50. The Commissioner will have the power, as in old Section 18 of the Bengal Finance (Sales Tax) Act, 1941 to decide specific disputed questions and his decision on these questions will be binding on subordinate authorities. (Paras. 4.27 and 4.28)

51. There will be provision for dismissal of appeal for default. (Para. 4.29)

52. An appeal dismissed for default may be restored on application on proper grounds. (Para. 4.30)

53. There will be a time limit for applying for restoration. (Para. 4.32)

54. The jurisdiction of the Tribunal will not be further enlarged. (Para. 4.34)

55. Revision cases should be disposed of by the Tribunal within one year. (Para. 4.35)

56. The Tribunal should dispose of 2500 revisions/ references a year, at the rate of at least 2 cases per Member per working day. Adequate number of cases will be fixed before every Bench of the Tribunal so that it has adequate work on all days even if a few cases have to be adjourned. All cases should ordinarily be heard by a Single Member Bench, transfer to Division Bench being allowed upon application in appropriate cases. An Additional Commissioner appointed as Member of the Tribunal will not revert to his original post. Annual Administration Report and Monthly Progress Reports should be prepared by the Tribunal and sent to the Government. (Para. 4.44)

57. Tribunal should be made a permanent Department. (Para. 4.45)

Chapter 5

58. Imposition of penalty for failure to get registered after being liable to pay tax will be revived. (Para. 5.02)

59. Charging of interest will be compulsory when payment of tax and/or submission of return is delayed. The rate will be 1 per cent. per month for the first month, 2 per cent. per month for delay between one and three months and 3 per cent. per month for delay of more than three months, on the amount of tax withheld, fraction of a month being treated as a full month and minimum interest being Rs.10 per month irrespective of the amount of tax involved. The Assistant Commissioner will have the power to waive interest in exceptional cases. (Para. 5.05)

60. If tax is paid within 6 months from the due date but with full interest payable under the law, a dealer will get immunity from penalty for the default. (Para. 5.07)

61. Provision for imposition of penalty ranging between Rs.200 and twice the amount of tax withheld will however remain, to be used in respect of hardboiled defaulters. (Para. 5.08)

62. All the provisions of interest, 'buying time' and penalty as applicable in the case of submission of return and payment of tax before assessments will also apply *mutatis mutandis* to cases of default in payment of assessed dues. (Para. 5.10.)

63. Penalty ranging between the amount of tax suppressed and 2½ times of the same will be imposed for submission of false returns and/or suppression of sales tax. (Para. 5.11)

64. Provision for imposition of penalty under Sections 5A and 5B of the Bengal Finance (Sales Tax) Act, 1941 will be repealed and replaced by imposition of purchase tax in all cases of unauthorised use of goods and improper use of goods and improper use of declaration forms, whether bonafide or malafide. Malafide misuse will attract the provision for prosecution, or imposition of penalty in lieu of prosecution, in addition to levy of purchase tax. (Para. 5.12)

65. As in the Central Sales Tax Act, 1956, there will be provision for imposition of penalty in lieu of prosecution in respect of any offence under the State Sales Tax Law. Such penalty will range between Rs.200 and double the amount of wrongful gain. (Para. 5.13)

66. The provision of law and the form of demand notice will provide that demand is to be paid within 30 days from the date of service of demand notice. (Para. 5.15)

67. When instalment is granted, interest will be payable and default in making payment of a single instalment will render the dealer defaulter in respect of the entire unpaid dues. (Para. 5.16)

68. An assessment will be barred by limitation after the 30th June of the relevant year if the accounting year of the dealer ends on any day between the 1st January and the 30th June and after the 31st December of the relevant year if the accounting year of the dealer ends on any day between the 1st July and the 31st December. (Para. 5.17)

69. The Commissioner will have the power to transfer an assessment or any other proceedings from one Commercial Tax Officer to another even if the latter has no territorial jurisdiction over the dealer. (Para. 5.18)

70. If any person wishes to challenge the territorial jurisdiction of any Sales Tax Authority, he will make such challenge before the Commissioner within a prescribed time and the Commissioner's decision on such dispute will be final. (Para. 5.19)

71. The Commissioner will have power to direct any class of dealers, by notification published in the Official Gazette, to keep such accounts including records of purchases and sales as may be specified in the notification. Issue of Cash Memo or Bill showing particulars of the purchasers will be obligatory for registered dealers. Any class of goods or any class of dealer may be exempted from this compulsion. (Para. 5.20)

72. Registered dealers will be required to maintain an Inspection Book. (Para. 5.21)

73. Law will include provision about the manner of service of notice in the case of partitioned hindu family, dissolved firm and closed business. (Para. 5.22)

74. Cost Accountants will be permitted to practise before Sales Tax Authorities. The Commissioner may disqualify any person from practising before Sales Tax Authorities on grounds of misconduct. In the case of an Advocate and a Member of an Accountants' Institute constituted by law, such disqualification will be made only when the person is found guilty of misconduct by a duly constituted authority. (Para. 5.23)

75. Taxable turnover will be rounded to the nearest multiple of Rs.10. Tax, interest and penalty will be rounded to the nearest rupee. (Para. 5.25)

76. Return and Challan Forms will be sold at a nominal price through vendors. (Para. 5.29)

77. Returns will be filed annually. Tax will be paid either monthly or quarterly or annually, depending on the slab of the tax liability during the previous year. (Para. 5.30)

78. The main return required to be filed by all dealers will be brief. Detailed annexures will have to be filed by bigger dealers. (Para. 5.34)

79. Payment of tax, etc., will be accepted by the Public Sector Banks also. The scrolls will be maintained at Central Office and Commercial Tax Officer-wise statement will be prepared by a computer programme. Registration Certificate numbers will have numerals/alphabets indicating Circle, Charge and Group. (Para. 5.38 *et seq.*)

80. A dealer will be liable to pay tax with effect from the date when his sales exceed the taxable quantum. He must apply within 14 days for registration. A dealer applying in time will be registered with effect from the date of liability. A dealer who applies for registration beyond the statutory period of 14 days will be registered with effect from the date of application. A dealer who fails to apply for registration until the Department initiates a proceeding against him for fixation of liability will be registered with effect from the date of order. Spot inspection for registration will be made jointly by the Commercial Tax Officer and the attached

Inspector. Items for cross-verification will be selected by the Commercial Tax Officer. As Inspecting Officer will have the authority to cross-verify any transactions alleged to have been entered into with another dealer, even if the said dealer is outside the Inspecting Officer's territorial jurisdiction. The grounds on which an application for registration may be rejected will be specified in law. (Para. 5.46).

81. The Commissioner will not entertain application for administrative intervention in the matter of issue of declaration forms. A dealer will approach the Appellate Authority if he is aggrieved by an order of the Commercial Tax Officer. (Para. 5.48).

82. Declaration forms will be withheld from dealers having tax arrear exceeding Rs. 1,000. (Para. 5.49).

83. Except in cases of doubtful bonafide (where prior approval will be obtained from the Assistant Commissioner), all dealers will be issued adequate number of declaration forms estimated sufficient for three months. The Commercial Tax Officer will ensure that a dealer does not apply for declaration forms more than 4 times a year. Applications for declaration forms will be disposed of by a speaking order on the very date those are submitted. If an application cannot be disposed of on the same day, the matter will be reported to the Assistant Commissioner. If any enquiry is necessary before disposing of an application for declaration form, it will be made within 14 days. Every registered dealer's business will be inspected frequently to disclose if he has any malafide intention to misuse declaration forms and unless such intention is detected, issue of declaration form will be a routine affair. (Para. 5.53).

84. Refund vouchers will be sent to a dealer (a) with the final notice of assessment, or (b) within 30 days from the date of appellate/revisional order occasioning the refund, or (c) within 30 days from the date of receipt by the Department of an order passed by the Tribunal. (Para. 5.55).

85. The Commissioner may withhold refund where an appeal has been filed against the order occasioning the refund. (Para. 5.56).

86. In all cases of delayed refund the dealer will be entitled to interest at 1 per cent. per month or part thereof. (Para. 5.57)

87. Security may be demanded from an applicant for provisional registration. Payment of security will be a precondition for grant of registration. Security may be demanded by the registering authority. Security may be in the form of a Bond with two sureties acceptable to the authority. Demanding authority will accept Savings Certificate pledged in favour of the Governor as Security. Savings Certificates pledged as security will be returned to the dealer on maturity. (Para. 5.58)

88. Clearance Certificate will be demanded only from a successful tenderer. Such a certificate will be valid for one year. (Para. 5.61)

89. Rule 73A1 of the Bengal Sales Tax Rules will be reviewed. (Para. 5.66)

90. When letters are received in office through a messenger the receipt granted to him will contain the serial number of Diary Entry. (Para. 5.67)

91. All letters sent by ordinary post will be posted under certificate of posting. The issue register will serve the purpose of postal certificate. (Para. 5.68)

92. There will be uniformity in the matter of payment of court-fees for registration and declaration forms under the Central Sales Tax Act, 1956 and the State Sales Tax Law. (Para. 5.69)

93. Seized goods remaining unclaimed will be sold by public auction or destroyed. (Para. 5.70)

94. Seized books of accounts remaining unclaimed will be destroyed. (Para. 5.71)

95. Law will contain a provision empowering the Government to make provision for removal of any difficulty by making an order to that effect and publishing the same in the Official Gazette. (Para. 5.72)

Chapter 6

96. The present concept of Charge Officer will be abolished. (Para. 6.04)

97. Henceforth, the Circle Heads, i.e., Assistant Commissioners will be responsible for revenue targets and all allied matters. The concept of charges will continue for the dealers, but for administrative purposes the charges will only be sub-units of Circles. (Para. 6.05)

98. The Additional Commissioners will be brought into the main stream of administration and will act as a link between administrative Assistant Commissioner of Circles and the Commissioner. The State will be divided into 4 Zones with an Additional Commissioner each at its head for the purpose. (Para. 6.06)

99. Appropriate power commensurate with the responsibility will be delegated in accordance with the policy laid down by the Department. (Para. 6.07)

100. The Commissioner will be the head of the Department and be responsible to the Government for achievement of revenue target. His rank will be equivalent to the Secretary to the Government. (Para. 6.10 *et seq.*)

101. The Zonal Additional Commissioners will be responsible to the Commissioner for achieving revenue target of his Zone and be the administrative head of the Zone. The span of control of the Zonal Additional Commissioners will be 6 Circles in Calcutta and Howrah, and between 4 and 5 in Mofussil. (Para. 6.13 *et seq.*)

102. The administrative Assistant Commissioner of each Circle will be responsible for achieving the collection target of his Circle and be the administrative head of the Circle. Each Circle in Calcutta/Howrah will have 3 Charges while in Mofussil the number of Charges will be between 4 and 5. Each Charge in Calcutta and Howrah will have 5 Assessing Officers. In Mofussil, the average number of Officers will be 4. (Para. 6.16 *et seq.*)

103. Each Circle will have an Administrative Officer with adequate supports. The Administrative Officer will be promoted from amongst the Head Clerks. (Para. 6.10 *et seq.*)

104. There will be an Inspector for each Circle attached to the Office. (Para. 6.21)

105. Initially, each Commercial Tax Officer in Calcutta/Howrah will be allotted 175 live dealers under the State Act, the corresponding number for Mofussil being 275. This is likely to grow to 230 in Calcutta and 370 in Mofussil in 5 years time. There will be another work-study at the end of 4 years to rationalise the distribution of files amongst each Commercial Tax Officer by splitting up charges and Circles, if necessary. Each file will be assigned a suitable co-efficient ranging between 1 and 5 depending on the turnover for the purpose of performance appraisal. (Para. 6.22 *et seq.*)

106. Each Commercial Tax Officer will be assisted by a Bench Clerk and a Steno-typist-cum-Assistant. (Para. 6.24)

107. Each Commercial Tax Officer will be assisted by an Inspector. (Para. 6.25)

108. In order to improve quality of work of the Department, Staff and Officers' training will be a separate and continuing function under a permanent Wing of the Department. An Assistant Commissioner will be in-charge of this Wing to be assisted by a Secretariat of appropriate size. (Para. 6.27)

109. The Central Office will be under the administrative control of the Additional Commissioner (Central). He will assist the Commissioner in personnel policy and planning and be overall in-charge of training and development. Offices of different Zonal Additional Commissioners will be separate Wings of the Central Office. Offices of the functional Additional Commissioners and specialised agencies will also be separate Wings of the Central Office. (Para. 6.28)

110. The role of Public Relations Department will be revamped with appropriate support. This will be under the Charge of a Chief Public Relations Officer (equivalent to the Assistant Commissioner) with adequate supports. (Para. 6.29)

111. The function of the Law Section will be widened. It will include scrutiny of important appellate orders, preparation of index and summary of important decisions and up-dating the Sales/Purchase Tax Laws. (Para. 6.31 *et seq.*)

112. The Senior Law Officer will be equivalent in rank to an Assistant Commissioner and his control will be transferred from Judicial Department to the Commercial Taxes Department. (Para. 6.35)

113. The man power in the Law Section will be increased. (Para. 6.37 *et seq.*)

114. A law library will be established. (Para. 6.40)

115. A separate Wing will be established for economic survey and statistics. One of the functions of this Wing will be to determine the tax potential of the State. The head of the Wing will have adequate experience of statistics work at a senior level and reasonable exposure to electronic data processing. This will be an ex-cadre post either of an Assistant Commissioner, if a suitable person is available, or an Additional Commissioner, if suitable person is not agreeable to come as an Assistant Commissioner. (Para. 6.41 *et seq.*)

116. There will be an Additional Commissioner to hear the Second Appeals arising out of non-assessment orders. (Para. 6.44)

117. Scientific and objective performance appraisal will be introduced. (Para. 6.45 *et seq.*)

Chapter 7

118. The Economic Survey and Statistics Wing will make an estimate of tax potential. (Para. 7.03)

119. Failure to pay assessed dues by a registered dealer without reasonable cause will be a ground for cancellation of registration certificate. (Para. 7.05)

120. The composite Sales and Purchase Tax Law will contain a separate Chapter on certificate proceedings on the lines of Sections 222 to 225 of the Income Tax Act and the Second Schedule, together with the Income Tax (Certificate Proceedings) Rules, 1962. (Para. 7.07)

121. After obtaining competent legal advice, provision will be made that transfer of any immovable property during the pendency of a proceeding under the Sales Tax Law is void as against claim in respect of tax and penalty that may be raised as a result of such proceedings, or that transfer of immovable property during the pendency of any proceedings under the Act is void if such transfer is made with an intention to defraud revenue. (Para. 7.09)

122. Transfer of immovable property after an assessment has been made and before dues payable in terms of the said assessment have been paid will be void. (Para. 7.10)

123. The Certificate Organisation in Calcutta will have jurisdiction over Calcutta, 24-Parganas and Howrah. Two other Certificate Offices will be set up at Siliguri and Asansol with jurisdiction over the North Bengal Districts and all other South Bengal Districts respectively. One of the Assistant Commissioner will be the Appellate Authority in respect of certificate cases. (Para. 7.11)

124. The rate of interest on certificate dues will be 3 per cent. per month. (Para. 7.12)

125. Inspectors of Commercial Taxes will be appointed as Nazir in the Departmental Certificate Organisation. (Para. 7.13)

126. A contingent of Policemen will assist the Nazir. (Para. 7.14)

127. Notices under certificate proceedings will ordinarily be served through Process Server who will serve notices either personally or by affixation and his declaration upon oath or affirmation will be the conclusive proof of service. (Para. 7.15)

128. Certificate Officers will have the power to appoint Receiver to manage the business of a Certificate Debtor. (Para. 7.16)

129. In appropriate cases, Certificate Debtors will be committed to Civil Jail for default in payment of dues. (Para. 7.17)

130. Emphasis will be given on pre-assessment realisation of tax. Reference to Certificate Officer will be made only when dues cannot be realised by the Assessing Officer but the dealer has known assets. List of assets will accompany requisition for certificate proceeding. When a defaulting dealer is untraceable and/or he has no known assets, reference will be made to "Unrealised Demand Scrutiny Cell" to be established in the Intelligence and Investigation Wing. This Cell will make intensive enquiry to find out the defaulting dealers' assets and either advise the Assessing Officer to refer the case, with the list of assets discovered by it, to the Certificate Officer or write off such debts as are considered unrealisable. (Para. 7.18)

131. Register of defaulting dealers, open for public inspection will be maintained. A suitable explanation will be added after the provision similar to Section 25 of the Bengal Finance (Sales Tax) Act, 1941 providing for such public inspection. (Para. 7.19)

132. Law will provide that a debt written off at one time may be written back if and when any asset of the debtor is unearthed. A substantial part of leave reserve will be posted in the Demand Scrutiny Cell and the extent of work of this Cell will be kept flexible. (Para. 7.20)

133. Applicants for registration shall declare all business assets and all immovable personal assets of partners. Any change in these assets shall have to be notified. A registered dealer shall not transfer, alienate or otherwise create any charge on any of his immovable assets valued over Rs. 50,000 except after giving 30 days' notice. (Para. 7.21)

134. Tax dues of 'taken-over sick industries' will be paid off by hook transfer and, the amount so paid converted into share holding of the Government. (Para. 7.21A)

135. Law will be up-dated by continuous plugging of loop-holes. (Para. 7.24)

136. A registered dealer shall not issue any declaration to a person who does not hold a registration certificate valid on the date of transaction. A dealer ceasing to be liable to pay tax on the ground of cancellation of registration will be liable to pay purchase tax on the purchase price of goods remaining unsold or unutilised on the date of cancellation. A Provisional Certificate-holder will be liable to pay purchase tax on goods purchased during validity of Provisional Registration unless he obtains a regular registration certificate within 2 years and also on all goods purchased in contravention of terms of Provisional Registration. Adequate security will be demanded to cover this contingent liability. When a person after purchasing goods transfers the same goods or other goods manufactured out of it, to any person otherwise than by way of sale or in the execution of works contract, the person shall be liable to pay purchase tax at a rate equivalent to a multiple of the rate of sales tax applicable to the purchased or the manufactured goods. The transferer and the transferee of a business liable to pay tax shall be jointly and severally liable to pay tax due up to the time of such transfer. Liability of Company in liquidation, partners, including retiring partners, of a firm, guardian and trustees, court of ward, firm, association or family which has discontinued business, firm or association with a changed constitution, dissolved firm or partitioned hindu family will be provided for. When an order cancelling a registration certificate is quashed on appeal, the liability to pay tax will also be revived retrospectively. A registration granted by mistake will create liability to pay tax during the period for which such registration is in force. No person other than a registered dealer shall collect tax and a registered dealer shall not collect tax except in accordance with law. Any amount illegally realised in contravention of this provision will be recovered by the State. Un-registered dealers having annual turnover of more than 50 per cent. of taxable quantum may be directed to furnish returns. (Para. 7.25)

137. A dealer suspected of suppressing sale will be asked to maintain stock register or records of quantitywise stock reconciliation. Inventory of closing stock will be noted during routine inspection. (Para. 7.27)

138. Returns and statements furnished by manufacturer of excisable goods to the Central Excise Authorities will be verified. Statements furnished to bank by manufacturers operating on bank credit will be verified. (Para. 7.28)

139. Selected transaction will be periodically cross-verified. (Para. 7.30)

140. The Intelligence and Investigation Wing will foster close co-ordination with Sales Tax Authorities in other States. In suspected claims for inter-State sale or consignments, evidence of actual inter-State movement will be demanded and verified. (Para. 7.31)

141. Applicant for registration will furnish identity certificates in respect of proprietor or partners or directors. The Registering Authority will have discretion to demand photographs of these persons. (Para. 7.35)

142. The Intelligence and Investigation Wing will hold seminars to train up selected Officers and Inspectors of Unit Offices in the ways and means of checking evasion by misuse of declaration forms. Para. 7.36)

143. Special vigilance will be observed in respect of dealers who manufacture tax-free goods but purchase taxable inputs. Suspected dealers of this class will maintain manufacturing account. (Para. 7.37)

144. In Calcutta, Asansol and Siliguri, every registered dealer will be visited by the attached Inspector once every three months for a routine inspection. (Para. 7.40)

145. Every dealer will be inspected by the Commercial Tax Officer at least once a year. (Para. 7.41).

146. Books of account and other records will be kept at the declared place of business and previous approval will be necessary for keeping them at any other place. (Para. 7.42)

147. Language of account-keeping will be prescribed. (Para. 7.43)

148. Inspecting Officer will have power to make note or inventory of money or goods found on search, to obtain extract from books of account and also to put marks of identification on books or documents, and to require a dealer to give an undertaking, before seized books of account are released, that those would be produced on demand. (Para. 7.44)

149. A cancelled registration certificate will be surrendered within 7 days. The more serious offences under the Act will be punishable with rigorous imprisonment for a minimum period of 3 months. A specific provision for assessment of escaped turnover and other cases of under-assessment will be included in law. Period of limitation for such a proceeding will be rationalised. Sales Tax Authorities will have power to require any person including a banking company and Post Office to furnish information relating to purchase, sale or despatch of goods by or to any dealer. Similar power will extend over transport company and warehousing agent. The Authority cancelling a registration certificate on the ground of cessation of business will have the power to determine the date from which the business was discontinued and to cancel the registration certificate with effect from the said date. (Para. 7.45)

150. Training, including in-service training, will minimise errors of omission. (Para. 7.47)

151. Amendments in substantive provisions of law will be made, as far as practicable, with effect from the first day of April of a year. (Para. 7.48)

152. Administrative Assistant Commissioners and Zonal Additional Commissioners will inspect Offices under them with a predetermined regularity. (Para. 7.49)

153. The said Authority will also scrutinise every month about 5 per cent. of the records in which assessments/appeals were made during the previous month. (Para. 7.50)

154. Law Section will scrutinise all appellate orders where relief exceeding Rs. 10,000 was granted. (Para. 7.51)

155. The Government can create an atmosphere of mutual trust in which the various Service Associations will come forward to inculcate a sense of integrity in the employees. (Para. 7.52)

Chapter 8

156. In view of shortage of space in unit offices and check-posts, every endeavour will be made to find adequate space for the offices and check-posts under the Department. The Department will also endeavour for having its own buildings at all mofussil headquarters and at the road check-posts. Problem of accommodation at rail and port check-posts will be sorted out with the authorities concerned. (Para. 8.04)

157. The unauthorised mini-canteens operating in the Sales Tax Buildings at Beliaghata will be removed and alternative arrangement for serving tea, etc., made. The Caretaker will ensure proper cleaning and swabbing of the buildings in Calcutta. The requirement of caretaking staff will be re-assessed and the Government will create posts and fill up the vacancies early. There will be an Office of the Caretaker for the Beliaghata buildings. The building at Madan Street will be thoroughly repaired and a Caretaker will be appointed for it. (Para. 8.05)

158. Caretakers will be appointed from the staff of the Public Works Department with adequate technical knowledge and/or experience of maintenance and sanitation of large buildings. (Para. 8.06)

159. Old and unnecessary records will be destroyed in a phased manner and there will be a regular programme of screening and destroying old records. (Para. 8.07)

160. In the record rooms, racks will be fixed with the walls or supporting angles will be provided to keep them fixed. Considerable space will be recovered from the record rooms if racks made of slotted angles reaching up to the ceiling are secured. Step-ladders will be supplied for use in the record room. The Record Suppliers will be provided with the aprons, dusters and cleaning soaps. Regular arrangement for dusting and spraying insecticides inside the record rooms once a month will be made. (Para. 8.08)

161. Visitors' rooms with chair, placed alongside a long table will be provided on each floor of the main building and in all unit offices elsewhere. Chair will be provided for Group 'D' staff. Every unit office will be provided with a wall clock. (Para. 8.09)

162. Each Circle situated in Calcutta will be provided with three vehicles. Each Circle Office outside Calcutta having Charge Offices attached with it will also be provided with three vehicles. The Charge Offices situated away from Circle Headquarters will be provided with one vehicle each. It will be ensured that each Charge Office has a vehicle. (Para. 8.11)

163. The Government will enhance monetary allotment in regard to supply of stationery articles to the Department to Rs. 1,50,000 and review the position after the recommended set-up is brought into being. (Para. 8.16)

164. A Press will be set-up for the Commercial Taxes Department which will print both standard and non-standard forms for the Department. (Para. 8.19)

165. In order to effect economy of paper, all forms will be printed on both sides of paper. The list of commodities contained in the form of return will be omitted and the dealers may be required to mention the name of the commodity (ies), so that substantial wastage of paper on this count will be avoided. (Para. 8.19A)

166. Typewriters in a state of disrepair will be brought back to working condition before requirement of new typewriters is assessed properly (Para. 8.21)

167. Every Assessing Officer will be provided with an almirah so that he can keep urgent records in his custody. Each assessing and appellate Officer will also be supplied with a handy calculator to facilitate calculation of taxes and rebates. Adding machine will be supplied to every Charge Office. Each Office will be provided with a mechanical device to note the date of receipt and receipt number on each letter and the acknowledgment thereof. (Para. 8.22).

168. Direct telephone lines will be provided to each Charge and each administrative Assistant Commissioner. Residential telephone connections will be provided with the Assistant Commissioner in-charge of check-post administration, the Chief Public Relations Officer and the Officers in the Intelligence Wing. (Para. 8.25)

169. Petromax will be provided at all the check-posts. (Para. 8.26)

170. Uniforms, gum boots, rain coats, etc will be supplied regularly to the Patrolmen in the check-posts. (Para. 8.27)

171. Employees of Group 'D' category of the Department will be supplied with uniform, liveries, umbrella, etc., regularly. (Para. 8.28).

172. The Assistant Commissioner in-charge will ensure maintenance and quick repair of dropgates and goomties at the road check-posts. (Para. 8.29)

173. A few posts of Binders will be created and the Binding Section will be adequately equipped. In mofussil offices, local administrative heads will get their registers and records bound through local binders. (Para. 8.31).

174. A jurisdiction register will be maintained in the Central Office and details of the same will be published for circulation. (Para. 8.32).

175. Provision will be made for a Seminar Hall with adequate accommodation and sitting arrangement in the third multi-storied building coming up in the Sales Tax Buildings compound. (Para. 8.33).

176. A new edition of Sales Tax Act and Rules will be published once in every five years and even at a shorter interval if and when extensive amendments are made. Amendments made from time to time will be printed in the form of correction slips on one side of paper and circulated amongst the Officers and staff. Copies of Departmental Manual (on administration and procedure) will also be published and distributed among the Officers and the Offices. (Para. 8.34).

177. Annual Administration Report will be published regularly in respect of each financial year, shortly after the close of the year. (Para. 8.35).

178. A Departmental Journal will be published regularly. (Para. 8.36)

Chapter 9

179. A large number of registers prescribed in the Manual Volume II are outdated. Quite a few of them will be replaced. (Para. 9.04)

180. A crash programme for destruction of old records within two years will be undertaken. Performance credits will be allowed to the Officers for such destruction. Similar programme of destruction will be undertaken by the Central Office and other units. (Para. 9.05)

Chapter 10

181. Powers of appointment will be retained by the Commissioner but other administrative powers will be delegated to Zonal Additional Commissioners and administrative Assistant Commissioners. (Para. 10.03)

182. Barring some of the powers for enforcement of discipline, other powers will be delegated. (Para. 10.04)

183. Financial powers for smooth running of Office will be delegated. (Para. 10.06)

184. Establishment accounts will be suitably decentralised. (Para. 10.07)

Chapter 11

185. A large number of grievances will be removed with decentralisation of administrative/financial powers and accounts. (Para. 11.05)

186. A small dispensary with minimum equipment and emergency medicines will be established in the Beliaghata Commercial Tax Buildings. (Para. 11.06)

187. A rational transfer policy will be introduced. (Para. 11.07)

188. Residential quarters will be provided. 12 residential quarters in the Sales Tax Buildings compound will be earmarked for employees of the Department. (Para. 11.08)

189. Inspectors will be utilised, as far as practicable, for statutory duties. (Para. 11.11)

190. A detailed scheme of staff welfare on the lines existing in the Central Government Departments will be introduced in the Department. (Para. 11.12)

Chapter 12

191. The additional revenue measures recommended by the Committee will yield at least Rs. 42 crores per annum. (Para. 12.01)

192. Implementation of the recommendations on logistical supports will require a non-recurring expenditure of Rs. 60 lakhs. A recurring expenditure of Rs. 10 lakhs per annum will be sufficient. (Para. 12.02)

193. Expenditure on staff requirements recommended by the Committee will not exceed Rs.1 crore a year. (Para. 12.03)

194. Advance planning will be made to ensure that staff and other supports are available without straining the set-up at any given point of time. (Para. 12.05)

Chapter 13

195. The recommendations of the Committee will be viewed as integral parts of a complete package and time-priority for implementation of each recommendation will be carefully planned ahead. Recommendations on organisation and logistics will be given precedence over those on substantive and procedural law, although the process of drafting of legislation for the purpose may be initiated immediately. (Para. 13.02)

196. Government will formulate its views on the recommendations with utmost despatch. (Para. 13.03)

TABLE 1

(Vide Para. 3·03)

**Turnover-wise (State Acts) number of Registered Dealers as on 1st April 1978
(as per last assessment)**

Turnover	Number of Importers	Number of Manufac- turers	Others	Total	Percen- tage
1. Below Rs. 1 lakh ...	..	..	..	31,410	52·60
2. Rs. 1 lakh and above but below Rs. 5 lakhs.	1,438	4,948	10,313	16,699	27·96
3. Rs. 5 lakhs and above but below Rs. 20 lakhs.	819	2,187	4,639	7,645	12·80
4. Rs. 20 lakhs and above but below Rs. 50 lakhs.	225	577	1,567	2,369	3·97
5. Rs. 50 lakhs and above but below Rs. 1 crore.	123	262	498	883	1·48
6. Rs. 1 crore and above	91	309	308	708	1·19
Total of items 2 to 6	2,696	8,283	17,325	28,304	47·40
Total of items 1 to 6	2,696	8,283	17,325	59,714	100·00

TABLE 2

(Vide Para 3.03 and 5.31)

Tax-yield-wise (State Acts) number of Registered Dealers as on 1st April 1978
(as per last assessment)

Tax-yield		Number of Regis- tered dealers	Percen- tage
1.	Below Rs. 2 thousand per year	29,374	49.19
2.	Rs. 2 thousand and above but below Rs. 3 thousand per year	6,723	11.26
3.	Rs. 3 thousand and above but below Rs. 5 thousand per year	6,831	11.44
4.	Rs. 5 thousand and above but below Rs. 10 thousand per year	6,502	10.89
5.	Rs. 10 thousand and above but below Rs. 25 thousand per year	5,425	9.08
6.	Rs. 25 thousand and above but below Rs. 50 thousand per year	2,374	3.97
7.	Rs. 50 thousand and above but below Rs. 1 lakh per year	1,389	2.33
8.	Rs. 1 lakh and above	1,096	1.84
Total		59,714	100

TABLE 3

(Vide Para. 3·05)

Act-wise number of Registered Dealers

As on		The Bengal Finance (Sales Tax) Act, 1941	The West Bengal Sales Tax Act, 1954	The West Bengal Motor Spirit Sales Tax Act, 1974	The Bengal Raw Jute Taxation Act, 1941	
1		2	3	4	5	
1-4-1974	50,994	2,901	1,386	137
1-4-1975	54,049	3,038	1,372	101
1-4-1976	57,577	3,382	1,291	100
1-4-1977	61,556	3,631	1,257	100
1-4-1978	64,729	6,097	1,024	100

As on		The West Bengal Paddy Purchase Tax Act, 1970	The Central Sales Tax Act, 1956	Total	Percentage of increase over the preceding year	
1		6	7	8	9	
1-4-1974	479	32,045	87,942	5·17
1-4-1975	485	33,585	92,630	5·33
1-4-1976	492	35,952	98,794	6·65
1-4-1977	432	38,806	1,05,782	7·03
1-4-1978	511	41,149	1,13,610	7·40

TABLE 4

(Vide Para 3-05)

Number of pending Assessment Cases

Act	Assessment cases initiated but pending on					Assessment cases due for initiation but not actually initiated, as on 1-4-1978	Total assessment cases pending on 1-4-1978
	1-4-1974	1-4-1975	1-4-1976	1-4-1977	1-4-1978		
1. The Bengal Finance (Sales Tax) Act, 1941	56,862	57,404	59,690	62,376	65,627	71,674	1,37,301
2. The West Bengal Sales Tax Act, 1954	4,635	4,517	5,794	6,411	7,135	6,668	13,803
3. The Bengal Raw Jute Taxation Act, 1941	9	7	9	9	9	..	9
4. The West Bengal Motor Spirit Sales Tax Act, 1974.	1,700	1,600	1,700	1,400	1,300	4,800	6,100
5. The West Bengal Paddy Purchase Tax Act, 1970.	450	550	700	900	1,000	8,891	9,891
6. The Central Sales Tax Act, 1956	34,117	34,442	35,814	37,425	39,376	43,004	82,380
Total	97,773	98,520	1,03,707	1,08,521	1,14,447	1,35,037	2,49,484

TABLE 5

(Vide Para. 3·05)

Number of Assessment made

Year	Number of assessment made		
	Under the State Acts 1941	Under the Central Sales Tax Act, 1956	Total
1973-74	.. 58,015	30,000	88,015
1974-75	.. 60,237	31,188	91,425
1975-76	.. 66,878	35,833	1,02,711
1976-77	.. 62,235	31,667	93,902
1977-78	.. 66,392*	33,200	99,592**

Remarks—

*91·4 per cent of the cases relate to the Bengal Finance (Sales Tax) Act, 1941, 4·7 per cent. to the West Bengal Sales Tax Act, 1954 and the balance 3·9 per cent. to the other State Acts.

**12·73 per cent. were completed within 1 year from the end of the accounting year, 24·06 per cent. after 1 year but within 2 years, 27·88 per cent. after 2 years but within 3 years and 35·33 per cent. after 3 years.

TABLE 6
(Vide Para 4.07)
Disposal of Appeal, Revision and Review Cases by Assistant Commissioners

Year	Number of cases for disposal					Number of cases disposed of			Remarks
	O.B.	Added during the year	Total	Rejec- ted	Con- firmed	Modi- fied	Reman- ded	Balance pen- cing	
Appeal									
1973-74	5,080	7,249	12,329	562	1,619	2,099	1,995	6,275	6,054
1974-75	6,054	8,829	14,883	437	1,721	2,480	1,828	6,466	8,417
1975-76	8,417	8,635	17,052	578	2,129	3,277	2,496	8,480	8,572
1976-77	8,572	10,928	19,500	565	1,222	2,784	1,716	6,287	13,213
1977-78	13,213	9,259	22,472	429	1,778	2,726	2,010	6,943*	15,529
									*57.14% within 6 months, 12.11% after 6 months but within 1 year, 9.07% after 1 year but within 2 years and 21.68% after 2 years.
Revision									
1973-74	310	2,256	2,566	33	365	955	738	2,091	475
1974-75	475	650	1,125	109	125	189	179	602	523
1975-76	523	1,872	2,395	153	355	883	550	1,941	454
1976-77	454	1,422	1,876	45	122	254	134	555	1,321
1977-78	1,321	780	2,101	142	112	223	148	625**	1,476
									**60.85% within 6 months, 22.87% after 6 months but within 1 year, 12.60% after 1 year but within 2 years and 3.68% after 2 years.
Review									
1973-74	..	23	23	1	1	13	2	17	6
1974-75	..	6	12	3	..	6	..	9	3
1975-76	..	39	42	2	2	13	5	22	20
1976-77	..	17	37	1	3	6	1	11	26
1977-78	..	47	73	1	6	24	1	32***	41
									***46.88% within 6 months and 53.12% after 6 months but within 1 year.

TABLE 7

(Vide Para 5.42)

Disposal of applications for Registration under the Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954

Year	Under the Bengal Finance (Sales Tax) Act, 1941				Under the W. B. Sales Tax Act, 1954	
	O.B.	Added during the year	Total cases for disposal	Number of cases disposed of during the year	Balance	O.B. Added during the year
1	2	3	4	5	6	7 8
1973-74	716	4,430	5,146	4,258	888	39 288
1974-75	888	5,267	6,155	5,046	1,109	42 391
1975-76	1,109	5,761	6,870	5,536	1,334	45 1,278
1976-77	1,334	5,500	6,834	5,931	903	93 1,058
1977-78	903	5,100	6,003	5,105	898	30 3,199

TABLE 7—*concl'd.*

Year	Under the W. B. Sales Tax Act, 1954			Total				
	Total cases for disposal	Number of cases disposed of during the year	Balance	O.B.	Added during the year	Total cases for disposal	Number of cases disposed of during the year	Balance
1	9	10	11	12	13	14	15	16
1973-74 ..	327	285	42	755	4,718	5,473	4,543	930
1974-75 ..	433	388	45	930	5,658	6,588	5,434	1,154
1975-76 ..	1,323	1,230	93	1,154	7,039	8,193	766	1,427
1976-77 ..	1,151	1,121	30	1,427	6,558	7,985	7,052	933
1977-78 ..	3,229	2,799	430	933	8,299	9,232	7,904	1,328

Remarks—

- (1) Disposal during 1977-78 under the Central Sales Tax Act, 1956—4,742. Total disposal of New Registration applications during 1977-78—12,646. (80 per cent. being granted).
- (2) 68 per cent. of the applications were disposed of during 1977-78 within 2 months from the date of application and 32 per cent. after 2 months.

TABLE 8—*concd.*

Year	Balance for realisation			Amount Collected			Balance at the end of the year			Percentage of increase in outstand- ing dues	
	State	Central	Total	State	Central	Total	State	Central	Total		
1	11	12	13	14	15	16	17	18	19	20	
1973-74	..	55.51	18.41	73.92	4.15	1.89	6.04	51.36	16.52	67.88	23.53
1974-75	..	62.73	23.94	86.67	5.28	1.88	7.16	57.45	22.06	79.51	17.13
1975-76	..	71.31	30.38	101.69	6.08	2.25	8.33	65.23	28.13	93.36	17.42
1976-77	..	77.98	34.49	112.47	7.89	3.24	11.13	70.09	31.25	101.34	8.55
1977-78	..	84.55	38.56	123.11	10.10	3.88	13.98	74.45	34.68	109.13	7.69

Balance for realisation Amount collected

TABLE 9

(Vide Para 7-38)

Utilisation of charge Inspectors

No. of Inspectors: 96

Period : from 1-1-78 to 30-6-78

1. Routine Inspection and verification :

No. of visits in connection with—

(i) New Registration enquiries	..	..	..	2,973
(ii) Routine verification of books of accounts, purchases and sales, etc.				5,278
(iii) Amendment, cancellation of registration certificate, shifting of place of business, acceptance of files.				1,611
(iv) Collection tagid	..	..	..	10,158
(v) Attending Lawyers and Courts	..	..	..	972
(vi) Other purposes	..	..	..	2,286
(vii) Total	..	..	..	23,278

2. Inspections made for prevention & detection of evasion :

No. of visits in connection with—

(i) Verification of returns	..	..	..	1,242
(ii) Verification of purchases/sales and stock at shop/godown—				
(a) Once during the period	..	..	1,023	
(b) More than once during the period	..	..	665	
				1,688
(iii) Unearthing un-regd. dealers, otherwise registrable—				
(a) On own initiative	..	..	1,787	
(b) Otherwise	..	..	848	
				2,635
(iv) Spot inspection to ensure issue of cash memos/bills by surprise visit.				1,256
(v) Search and seizure	..	..	..	37
(vi) Inspection on the basis of information received from Govt./Quasi-Govt. office.				120
(vii) Other purposes	..	..	..	1,872
(viii) Total	—	..	..	8,850

TABLE 10

Statement showing number of Registered dealers, number of assessments made, Collection and Expenditure

Year	Number of Registered dealers under all Acts administered by the Department	Number of assessments made	Total Collection	Total expenditure	Percentage of the cost of Collection	
			Rs.	Rs.		
1968-69	..	Not available	52,037	61,91,81,000	62,09,000	1.00
1969-70	..	74,773	51,235	69,10,35,000	73,88,000	1.07
1970-71	..	77,679	57,433	73,17,83,000	70,26,000	0.96
1971-72	..	79,864	69,958	81,01,26,000	91,38,000	1.13
1972-73	..	83,621	86,410	96,62,95,000	86,45,000	0.89
1973-74	..	87,942	88,015	1,07,02,06,000	95,16,000	0.89
1974-75	..	92,630	91,425	1,31,90,00,000	1,12,62,000	0.85
1975-76	..	98,794	1,02,711	1,69,40,00,000	1,18,81,000	0.70
1976-77	..	1,05,782	93,902	1,92,64,00,000	1,36,84,000	0.71
1977-78	..	1,13,610	99,592	2,08,50,00,000	1,59,46,000	0.76

TABLE II

Act-wise break-up of collection figures

(Figures in crores of Rupees)

Year	The Bengal Finance (Sales Tax) Act, 1941 and the West Bengal Sales Tax Act, 1954	Surcharge and Additional surcharge* under the Acts named in the preceding column	Motor Spirit Sales Tax	Raw Jute Purchase Tax	Paddy Purchase Tax**	Central Sales Tax	Entry Tax and Misc. receipts	Total Collection
1968-69	5.48	2.35	..	20.55	2.41	61.92
1969-70	5.96	2.60	.19	22.07	2.73	69.10
1970-71	6.91	2.14	.32	25.25	2.52	73.18
1971-72	6.55	2.51	.31	22.30	11.39	81.01
1972-73	..	.51	8.37	2.14	.23	26.83	4.29	96.63
1973-74	..	.36	12.61	2.46	.18	25.14	2.50	1,07.02
1974-75	..	.28	11.06	2.56	.41	36.43	3.65	1,31.90
1975-76	..	1.35	12.77	5.58	.84	46.89	3.64	1,69.40
1976-77	..	2.47	15.93	2.69	.86	54.02	6.62	1,92.64
1977-78	..	3.09	19.62	3.24	.71	57.99	6.55	2,08.50

Remarks—

*Surcharge was introduced w.e.f. 1-2-72 and Addl. Surcharge w.e.f. 20-4-74.

**The levy was enforced w.e.f. 14-1-70.

TABLE 2

Number of Inquiry cases regarding Unregistered Dealers

Year	Number of cases for disposal			Number of cases disposed of			Balance
	O.B.	Added during the year	Total	Registered	Liability determined but not registered	Otherwise	Total
1975-76 ..	7,996	2,756	10,752	677	594	1,075	2,346
1976-77 ..	8,406	2,530	10,936	515	447	952	1,914
1977-78 ..	9,022	1,974	10,996	447	554	517	1,518
Total ..	25,424	7,260	32,684	1,639	1,595	2,544	5,778
Average per year ..	8,475	2,420	10,895	546	532	848	1,926
							8,969

TABLE 13

Part I—Staff Strength—Central Office (as on the 1st September 1978)

Sl. No.	Post	Sanctioned strength			Working strength	Number of vacant posts
		Perma- ment	Tempo- rary	Total		
1	2	3	4	5	6	7
1.	Commissioner ..	1	..	1	1	..
2.	Additional Commissioner.	6	..	6	4	2
3.	Personal Assistant to Commissioner.	2	..	2	2	..
4.	Administrative Officer.	1	..	1	..	1
5.	Public Relations Officer.	1	..	1	1	..
6.	Senior Law Officer	1	..	1	1	..
7.	Office Superintendent	1	..	1	1	..
8.	Head Clerk ..	5	2	7	3	4
9.	Head Cashier ..	..	1	1	..	1
10.	Accountant ..	..	1	1	..	1
11.	Cashier ..	1	..	1	1	..
12.	Assistant Cashier ..	1	..	1	..	1
13.	Caretaker ..	1	..	1	..	1
14.	Upper Division Clerk	27	9	36	27	9
15.	Lower Division Clerk	99	22	121	66	55
16.	Stenographer ..	7	1	8	8	..
17.	Bench Clerk-cum-Stenographer.	1	..	1	..	1
18.	Typist, Gr.-I ..	2	..	2	2	..

Sl. No.	Post	Sanctioned strength			Working strength	Number of vacant posts
		Perma- ment	Tempo- rary	Total		
1	2	3	4	5	6	7
19.	Typist (other than Gr.-I)	6	4	10	8	2
20.	Telephone Operator, Gr.-I.	1	..	1	1	..
21.	Telephone Operator (other than Gr.-I).	6	..	6	6	..
22.	Adding Machine Operator.	1	..	1	1	..
23.	Cash Sarkar ...	2	..	2	2	..
24.	Duplicating Machine Operator.	1	..	1	..	1
25.	Driver ..	7	..	7	6	1
26.	Record Supplier ..	4	1	5	4	1
27.	Motor Mechanic ..	..	1	1	..	1
28.	Process Server ..	2	4	6	5	1
29.	Duftary ..	3	..	3	3	..
30.	Peon/Orderly ..	21	6	27	23	4
31.	Darwan ..	10	..	10	7	3
32.	Night Guard ...	12	..	12	10	2
33.	Farash ..	12	9	21	14	7
34.	Mali ..	1	..	1	..	1
35.	Visti ..	2	..	2	1	1
36.	Sweeper ..	16	12	28	12	16
37.	Cleaner ..	..	1	1	..	1
38.	Copyist/Typist ..	5	1	6	5	1

Part II—Staff strength—Regional Offices (as on the 1st September, 1978)

Sl. No.	Post	Sanctioned strength			Working strength	Number of vacant posts
		Perma- nent	Tempo- rary	Total		
1	2	3	4	5	6	7
1.	Assistant Commissioner.	30	..	30	18	12
2.	Commercial Tax Officer.	350	2	352	291	61
3.	Inspector ..	310	87	397	237	160
4.	Head Clerk ..	41	2	43	38	5
5.	Upper Division Clerk	91	39	130	121	9
6.	Lower Division Clerk	653	60	713	586	127
7.	Cashier, Entry Tax	17	11	28	18	10
8.	Collecting Cashier, Entry Tax.	1	2	3	..	3
9.	Steno Typist ..	..	27	27	..	27
10.	Bench Clerk-cum-Stenographer.	30	..	30	17	13
11.	Record Supplier ..	58	6	62	51	11
12.	Peon/Orderly ..	414	48	462	299	163
13.	Darwan ..	1	..	1	1	..
14.	Night Guard ..	29	4	33	29	4
15.	Patrolman ..	49	34	83	54	29
16.	Sweeper ..	2	..	2	2	..
17.	Driver ..	..	..	7	7	..
18.	Puncher/Verifier ..	..	3	3	3	..
19.	Gr.-I Puncher/Verifier.	..	1	1	1	..

Sl. No.	Post	Sanctioned strength			Working strength	Number of vacant posts
		Perma- ment	Tempo- rary	Total		
1	2	3	4	5	6	7
20.	Input-output Clerk..	..	1	1	..	1
21.	Certificate Officer ..	..	7	7	5	2
22.	Head Clerk, Certifi- cate Office.	..	1	1	..	1
23.	Upper Division Clerk, Certificate Office.	2	..	2	2	—
24.	Lower Division Clerk, Certificate Office.	14	5	19	13	6
25.	Process Server, Cer- tificate Office.	6	..	6	5	1
26.	Peon/Orderly, Certi- ficate Office.	8	..	8	6	2
27.	Nazir, Certificate Office.	2	..	2	2	..
28.	Assistant Nazir, Cer- tificate Office.	4	4	8	4	4
29.	Copyist/Typist, Cer- tificate Office.	—	1	2	2	..
	Copyist/Typist, Asansol Circle.	..	1			

TABLE 14
Part I—Particulars of Refund cases under the Bengal Finance (Sales Tax) Act, 1941

Year	Number of Applications B.F.	Applications received during the year	Total cases for disposal	Number of applications disposed of			Balance	
				Refund allowed in	Applications rejected	Total number of applications disposed of		
1973-74	..	2,353	1,715	4,063	1,477 cases	259	1,736	2,332
1974-75	..	2,332	1,500	3,832	1,521	338	1,859	1,973
1975-76	..	1,973	1,977	3,950	1,361	331	1,692	2,258
1976-77	..	2,258	2,004	4,262	2,086	734	2,820	1,442
1977-78	..	1,442	1,538	2,980	1,228	156	1,384	1,596

Part II—Some details of the Refund cases disposed of

Year	Number of appli- cations disposed of	Number of cases where refund was allowed				Number of Applications Rejected			
		within 2months	within 6 months	within 1 year	Beyond 1 year	Total	within 2 months	within 6 months	Beyond 1 year Total
1973-74	..	382	372	258	465	1,477	90	53	12 104 259
1974-75	..	392	395	290	444	1,521	97	70	56 115 338
1975-76	..	398	394	303	266	1,361	78	53	76 124 331
1976-77	..	584	522	341	639	2,086	152	112	95 375 734
1977-78	..	332	596	142	158	1,228	64	48	22 22 156

TABLE 15

Disposal of Applications for Sales Tax Clearance Certificate

Year	Number of applications for disposal			Number of applications disposed of during the year	Balance pending
	O.B.	Received during the year	Total		
1975-76 ..	1,304	21,881	23,185	21,285	1,900
1976-77 ..	1,900	30,309	32,209	30,012	2,197
1977-78 ..	2,197	38,554	40,751	39,946	805

Remarks—In 99 per cent. cases, Sales Tax Clearance Certificates were granted and 1 per cent. applications disposed of by rejection.



TABLE 16
Disposal of Security Refund cases by Assistant Commissioners

Year	Number of cases for disposal			Number of cases disposed of			Number of applications pending
	O.B.	Added during the year	Total	within 3 months	within 6 months	beyond 6 months	
1975-76 ..	504	294	798	28 (12.02%)	65 (27.89%)	140 (60.09%)	565
1976-77 ..	565	575	1,140	88 (23.78%)	68 (18.38%)	214 (37.84%)	770
1977-78 ..	770	524	1,294	28 (7.37%)	56 (14.74%)	296 (77.89%)	914

TABLE 17
Disposal of Stay cases by Assistant Commissioners

Year	Number of cases for disposal			Number of cases disposed of			
	O.B.	Number of applications filed during the year	Total	within 1 month	within 3 months	within 6 months	Total
	2	3	4	5	6	7	
1975-76	..	..	1,009	4,742	5,751	1,437	926
1976-77	..	..	1,428	5,800	7,228	2,187	1,141
1977-78	..	..	2,051	5,181	7,232	2,212	1,035
				(30.84%)	(33.24%)	(42.24%)	(21.42%)
				(18.25%)	(42.24%)	(22.04%)	(22.04%)
				(15.52%)	(46.59%)	(21.80%)	(21.80%)

Year	Number of cases disposed of		Number of applications pending			
	beyond 6 months	Total	less than 1 month	less than 3 months	less than 6 months	Total
	2	9	10	11	13	14
1975-76	..	..	..	..	..	1,428
1977-78	..	904	(5.31%)	(10.11%)	..	..
9177-78	..	764	153	259	246	1,850
		(17.47%)	(6.16%)	(10.43%)	(9.90%)	(73.51%)
		(16.09%)				

TABLE 18

Number of Inspections made and Tours undertaken by Assistant Commissioners

Year	Number of Inspections made				Number of Tours under- taken			
	Charge	Circle	Check- post	Total	Dealer's places	Other places	Total	
1975-76	..	11	..	35	46	..	157	157
1976-77	..	9	..	50	59	..	227	227
1977-78	..	4	..	70	74	..	219	219

Remarks—Most of the Assistant Commissioners did not make any Inspection or undertake any tour during the years under report.



सत्यमेव जयते

APPENDIX A

List of Persons Organisations|Dealers from whom Suggestion|Memorandum on the Terms of Reference of the Study Committee was received.

Serial Number	Suggestion Memorandum from
1	Messrs. Machine Supply Agency, Calcutta.
2	Shri Madanlal Agarwala, Advocate, Midnapore
3	Messrs. Nathany Uddyong, Calcutta.
4	Coal Field Chamber of Commerce, Asansol.
5	Messrs. Kamal Kishore Dalmia Co., Calcutta.
6	Messrs. Badridas Gopikishan, Calcutta.
7	Messrs. Thaker Brothers, Calcutta.
8	Messrs. Joshi Tribhuban Mulshankar & Co., Calcutta.
9	Messrs. Jay Traders.
10	Shri Ramrishpee Agarwala, Calcutta.
11	Shri H. K. Ghosh, Advocate on behalf of the Democratic Lawyers' Association, Calcutta.
12	Shri Arvind M. Saha, Calcutta.
13	Messrs. Bengal Bag Agency, Calcutta.
14	Messrs. National Corporation, Calcutta.
15	Messrs. OM Commercial Corporation, Calcutta.
16	Messrs. The Calcutta Burlap Brokers, Calcutta.
17	Messrs. All India Supply Agency, Calcutta.
18	Messrs. Calcutta Supply Corporation.
19	Messrs. Narendra Kumar Papuria, Calcutta.
20	Messrs. Munshi Ram Jai Bhawan, Calcutta.
21	Messrs. Bengal Commercial Co., Calcutta.
22	Messrs. B. M. Co., Calcutta.
23	Messrs. Om Prakash Sanwarmal, Calcutta.
24	Messrs. Bijoy Kumar Daga, Calcutta.
25	Messrs. Lakhpatrai Agarwala, Calcutta.
26	Messrs. Madan Gopal & Sons, Calcutta.
27	Shri Naresh Kumar Taparia, Calcutta.
28	Messrs. Haribhajand & Co., Calcutta.
29	Messrs. Surajmal Hanumanprosad.
30	Shri Deoki Nandan Chhania, Calcutta.
31	Shri Manesh Kumar Chowdhury, Calcutta.

Serial Number	Suggestion|Memorandum from
32	Shri Gordhandas Chowdhury, Calcutta.
33	Shri Hanumandas Narraindas, Calcutta.
34	Shri Banarsi Das Kokra, Calcutta.
35	Messrs. Vijoy Kumar & Co. (Jute) Pvt. Ltd., Calcutta.
36	Messrs. The Calcutta Jute Shipping Corporation, Calcutta.
37	Shri Ratanlal Noopchand, Calcutta.
38	Shri Jagadishrai Hissarwala, Calcutta.
39	Shri Omprakash Gupta, Calcutta.
40	Shri Brijlal Mahabir Prosad, Calcutta.
41	Shri Kishanlal Binadkumar, Calcutta.
42	Shri Satyanarain Kharakia, Calcutta.
43	Shri Satyanarain Sureka, Calcutta.
44	Shri Purustonam Parekh, Calcutta.
45	Shri Gopiram Parmad Kumar.
46	Shri Lalchand Kharkia, Calcutta.
47	Shri Durga Prosad Lohaniwala, Calcutta.
48	Messrs. The East India Jute & Hessian Exchange Limited, Calcutta.
49	West Bengal Mufossil Hotel Traders Association, Jalpaiguri.
50	Paschim Banga Mufossil Mistanna Babasayee Samity, Bankura.
51	Calcutta Jute Goods Merchants Association, Calcutta.
52	Mirabazar Bikray Kar Data Babasayee Samity, Plassey, Nadia.
53	Shri Mangatrai Shreeniwas, Calcutta.
54	Shri Vinod Kumar Jain, Calcutta.
55	Shri Kewalram Shiw Kumar, Calcutta.
56	Messrs. Commercial Links, Calcutta.
57	Messrs. Chiranjilal Gourishankar & Co., Calcutta.
58	Messrs. The Calcutta Burlap Brokers, Calcutta.
59	Messrs. Pramad Kumar Sushil Kumar, Calcutta.
60	Messrs. Mahabir Trading Company, Calcutta.
61	Messrs. Ramesh Kumar Ashok Kumar, Calcutta.
62	Messrs. Mohan Jute Bag Manufacturing Co., Calcutta.
63	Midnapore Merchants Association, Midnapore.
64	The Bombay Hessian & General Merchants Association, Bombay.
65	Messrs. Somani Brothers, Calcutta.
66	Messrs. Kishorilal Govindram, Calcutta.
67	Messrs. Srikrishna & Sons, Calcutta.

Serial Number	Suggestion|Memorandum from
68	Messrs. Pushka Lal & Co., Calcutta.
69	Messrs. Bhim Trading Corporation, Calcutta.
70	Messrs. H. Trading Corporation, Calcutta.
71	Messrs. Anil Kumar Garg & Co., Calcutta.
72	Messrs. Pramode Trading Co., Calcutta.
73	Messrs. Rourkela Proofing Corporation, Calcutta.
74	Messrs. Ranchand Gupta & Co., Calcutta.
75	Messrs. Kishorlal Ramkumar, Calcutta.
76	Messrs. India Supply Abenay, Calcutta.
77	Messrs. Sagarmal Shamniwas & Co., Calcutta.
78	Messrs. Sunderlal & Sons, Calcutta.
79	Messrs. Nathooram Garg & Co., Calcutta.
80	Messrs. Gopinath & Sons, Calcutta.
81	Messrs. Gyrikram & Co., Calcutta.
82	Messrs. Kailash Pr. Vijay Kumar, Calcutta.
83	Messrs. Gouri Shankar Trading Co., Calcutta.
84	Messrs. Kanpur Commercial Agent, Calcutta.
85	Messrs. Sree Mahabir Co., Calcutta.
86	Messrs. A. K. Industries, Calcutta.
87	Messrs. Satyanarayan Yaninwala, Calcutta.
88	Messrs. Ramkumar Rajkumar, Calcutta.
89	Messrs. V. Panchanada & Co., Calcutta.
90	Messrs. Bhutra Commercial Co., Calcutta.
91	Messrs. Imutichhua Tilwarh, Calcutta.
92	Shri F. Agarwala, Calcutta.
93	Shri S. Laha, Calcutta.
94	Shri R. Agarwala, Calcutta.
95	Shri P. Farmani, Calcutta.
96	Messrs. S. S. & Sons, Calcutta.
97	Shri M. Chhow, Calcutta.
98	Shri S. Chhemia, Calcutta.
99	Messrs. Rajendra Traders, Calcutta.
100	Messrs. Binjusai Suppertones, Calcutta.
101	Shri Murarilal Agarwala, Calcutta.
102	Shri S. K. Gupta, Calcutta.
103	Messrs. Bengal General Order Supply, Calcutta.

Serial Number	Suggestion/Memorandum from
104	Messrs. Mahesh Commercial Co., Calcutta.
105	Messrs. Hindusthan National Traders, Calcutta.
106	Shri J. Mangara, Calcutta.
107	Messrs. Kundanlal Agarwala & Co., Calcutta.
108	Shri Rajendra Kumar Agarwala, Calcutta.
109	Messrs. Reliable Sales Corporation, Calcutta.
110	Messrs. J. P. Agarwala, Calcutta.
111	Messrs. Rama Trading Co., Calcutta.
112	Shri M. Goel, Calcutta.
113	Shri Dhanjai Ramesh Kumar, Calcutta.
114	Shri P. R. Agarwala, Calcutta.
115	Shri Kisha Marbery, Calcutta.
116	Messrs. Kalidas Paul & Co., Calcutta.
117	Messrs. Shree Kishan Shree Gopal, Calcutta.
118	Messrs. Brijudham Kalunina, Calcutta.
119	Messrs. Bengal Burlap Corporation, Calcutta.
120	Messrs. Shree Krishna Traders, Calcutta.
121	Shri B. Garg, Calcutta.
122	Messrs. Desai & Sons, Calcutta.
123	Shri Bhogilal Shah, Calcutta.
124	Shri K. K. Singh, Calcutta.
125	Messrs. Punjab Bardana Supply Agency, Calcutta.
126	Shri P. L. Gupta, Calcutta.
127	Shri H. Wazi, Calcutta.
128	Shri R. Ganpatrai, Calcutta.
129	Shri S. P. Kantolal, Calcutta.
130	Messrs. Binoy Bhandar, Calcutta.
131	Messrs. Victim Supply Syndicate, Calcutta.
132	Messrs. Premkumar Sagarkumar, Calcutta.
133	Messrs. Bañulal Dhamilal & Co., Calcutta.
134	Messrs. M. Alochand & Co., Calcutta.
135	Messrs. Ramkumar Babulal & Co., Calcutta.
136	Messrs. Rampratap Bawaniwala & Co., Calcutta
137	Shri Anadi Nath Manna, Calcutta.
138	Calcutta Motor Dealers' Association, Calcutta.

Serial Number	Suggestion|Memorandum from
139	Calcutta Machinery Dealers' Association, Calcutta.
140	Ultadanga Timber Merchants' Association, Calcutta.
141	West Bengal Bullion Merchants & Jewellers' Association, Calcutta.
142	Mr. K. Chaturvedi, Advocate, Calcutta.
143	Mr. P. P. Lahiri, Advocate, Calcutta.
144	Messrs. Shundar Lal Saraf, Calcutta.
145	Messrs. Ramdhari Farmania, Calcutta.
146	Shri Suraj Bhan Kandelila, Calcutta.
147	Shri Murarilal Agarwala, Calcutta.
148	Shri Duli Chand Bargal, Calcutta.
149	Shri Mangal Desai, Calcutta.
150	Shri Chandanlal Dharmchand, Calcutta.
151	Messrs. Nauranglal Rateria, Calcutta.
152	Messrs. Ramlal Ramsarup, Calcutta.
153	Messrs. Sitaram Shiwkumar, Calcutta.
154	Messrs. Jute Fibre & Fabrics, Calcutta.
155	Shri J. Pragji, Calcutta.
156	Messrs. Giani Ra Goel, Calcutta.
157	Messrs. A. Ranganatham Chetty & Co., Calcutta.
158	Messrs. Puramchand Rameshkumar, Calcutta.
159	Messrs. Pawan Kumar Co., Calcutta.
160	Messrs. Makers Corporation, Calcutta.
161	Messrs. Bimal Kumar & Co., Calcutta.
162	Messrs. Ram Narayan Gupta, Calcutta.
163	Messrs. Mahabir Prosad Agarawala, Calcutta.
164	Messrs. Rajendra Trading Co., Calcutta.
165	Messrs. Calcutta Chemical Industries, Calcutta
166	The Calcutta Electric Traders Association, Calcutta.
167	Tax Advocate & Practitioner's Association, Calcutta.
168	Messrs. Krishna Laminating Industries, Calcutta.
169	Messrs. Shree Krishan Co., Calcutta.
170	Messrs. Prabhudayal Tetampurila & Co., Calcutta.
171	Messrs. Ram Chandan Dulichand, Calcutta.
172	Messrs. N. G. Rakhan, Calcutta.
173	Messrs. Doshi Commercial Corporation, Calcutta.
174	Eastern Aluminium Rollers & Fabricators Association, Calcutta.

Serial Number	Suggestion|Memorandum from
175	Indian Chamber of Commerce, Calcutta.
176	Ranigunj Chamber of Commerce, Ranigunj.
177	Messrs. Kumar Brothers, Calcutta.
178	West Bengal Jute Fabrics Shippers Association Ltd., Calcutta.
179	Shri Nand Kisher Jalan, Calcutta.
180	Messrs. Muklania Sons & Co., Calcutta.
181	Messrs. Tayal Trading Co., Calcutta.
182	Messrs. Aserawd Bansal, Calcutta.
183	Messrs. Ramchander Agarwala, Calcutta.
184	Messrs. Bijoy Kumar Gupta, Calcutta.
185	Messrs. Hem Raj Modi, Calcutta.
186	Messrs. Singale Brothers & Co., Calcutta.
187	Messrs. Patodia Trading Co., Calcutta.
188	Messrs. Gunny Supply Co., Calcutta.
189	Messrs. Joshi Tribhuvan Moolanarsu, Calcutta.
190	Messrs. Muklania Sons & Co., Calcutta.
191	Messrs. Vinay Finance Corporation, Calcutta.
192	Messrs. Ramkumar & Sons, Calcutta.
193	Messrs. Hardwarimull Mahabirprosad, Calcutta.
194	Messrs. Parshottam Dass Bishan Kumar, Calcutta.
195	Messrs. Calcutta Gunny & Hessian Traders, Calcutta.
196	Messrs. Anin Laminators, Calcutta.
197	Messrs. Ramniwas Premchand, Calcutta.
198	Messrs. Hariram Ramkishan, Calcutta.
199	Messrs. Hariram Kharikia & Co., Calcutta.
200	Messrs. Ram Kumar Kharkhia & Co., Calcutta.
201	Messrs. Dhanoollal & Sons, Calcutta.
202	Messrs. P. K. Trading & Co., Calcutta.
203	Messrs. Geoganram Rampratap & Co., Calcutta.
204	Messrs. Dilip Kumar Goenka, Calcutta.
205	Messrs. Jute Trading Co., Calcutta.
206	Messrs. Khamchand Farmania, Calcutta.
207	Messrs. Mannalal Satyanarian, Calcutta.
208	Messrs. K. K. Agarwala, Calcutta.
209	Messrs. Mohan Lal Saraf, Calcutta.
210	Messrs. Balkishan Goel, Calcutta.

Serial Number	Suggestion|Memorandum from
211	Messrs. Kedia Solvent Oil Industries (Private) Limited, Calcutta.
212	Messrs. Satiskumar Benodekumar, Calcutta.
213	Messrs. United Gunny Supply Co., Calcutta.
214	Messrs. Beshanlal Bhagirathua, Calcutta.
215	Messrs. Radha Damodar Rice Mill, Calcutta.
216	Messrs. Kumar Brothres, Calcutta.
217	Mr. K. K. Mundra, Advocate, Calcutta.
218	Messrs. Hindusthan Ship Stores, Calcutta.
219	Mr. Madan Kumar Chaturvedi, Calcutta.
220	Gunny Traders' Association, Calcutta.
221	Byabasa Unnayan Samity, Posta, Calcutta.
222	Gunny Brokers' Union, Calcutta.
223	Malda Merchants' Association, Malda.
224	Messrs. Gamiwaniwala Trading Corporation, Calcutta
225	Shri Jitendra Mulji, Calcutta.
226	Messrs. Gautam Supply Corporation, Calcutta.
227	Messrs. S. K. Guha & Co., Calcutta.
228	Messrs. Ganges Waterproof Works (P) Ltd., Calcutta.
229	Messrs. Kedar Nath Gupta & Co., Calcutta.
230	Messrs. Jankidas Mangeram, Calcutta.
231	Messrs. Jute & Laminating Works, Calcutta.
232	Messrs. Textile Products & Proofing Co., Calcutta.
233	Messrs. Indotex Corporation, Calcutta.
234	Messrs. G. Tex Corporation, Calcutta.
235	Messrs. Bijoy & Co., Calcutta.
236	Messrs. Gorishankar Trading Co., Calcutta.
237	Messrs. Kishorilal Govindram, Calcutta.
238	Shri Bijanananda Ghosh, Commercial Tax Officer, Calcutta.
239	Messrs. Kharda Co., Ltd., Calcutta.
240	Eastern India Regional Council of Cost & Works Accountants, West Bengal, Calcutta.
241	Indian Chamber of Commerce, Calcutta.
242	Shri S. C. Sarkar, Commercial Tax Officer, Calcutta.
243	Paschim Banga Nimnatama (Class-IV) Sarkari Karmachari Samity, Calcutta.
244	Shri S. K. Das, Commercial Tax Officer, Calcutta.

Serial Number	Suggestion/Memorandum from
245	Commercial Taxes Bar Association, Calcutta.
246	Shri A. K. Das, F.C.A., Calcutta.
247	Shri B. R. Ganguly, Commercial Tax Officer, Calcutta.
248	The Bengal Chamber of Commerce & Industries, Calcutta.
249	Mr. P. K. Bose, Advocate, Calcutta.
250	Senior Commercial Tax Officers' Association, Calcutta.
251	Messrs. National Alliance of Young Entrepreneurs, Calcutta.
252	Federation of Associations of Small Industries of India, Calcutta.
253	Shri N. Bagchi, Commercial Tax Officer, Calcutta.
254	West Bengal Ministerial Officers Association, Calcutta.
255	Commercial Taxes Inspector's Association, Calcutta.
256	Nimnatama (4th Grade) Sarkari Karmachari Samity, Calcutta.
257	West Bengal State Commercial Tax Service Association, Calcutta.
258	West Bengal Directorate Employees' Association, Calcutta.
259	Association of Assistant Commissioner, Commercial Taxes, Calcutta.
260	Commercial Taxes Practitioners' Association, Calcutta.
261	Merchants' Chamber of Commerce.
262	Institute of Chartered Accountants of India, Calcutta.
263	Bengal National Chamber of Commerce and Industry, Calcutta.
264	The Indian Cycle Traders' Association, Calcutta.
265	Shri G. L. Mehta, Calcutta.
266	Accountant-General, West Bengal, Calcutta.
267	Tata Isco Dealers' Association of Eastern India, Calcutta.

APPENDIX B

List of Persons/Organisations Interviewed by the Committee

1. Shri K. Chaturvedi, Advocate, Calcutta.
2. Shri M. L. Nahar, Advocate, on behalf of the "Sales Tax Advice," Calcutta.
3. Shri H. K. Ghosh, Advocate
4. Shri D. Gupta, Advocate
5. Shri A. K. Das, Chartered Accountant, Calcutta.
6. Shri S. K. Basu
7. Shri T. S. Balaram
8. Shri P. Dev
9. Shri S. Subramaniam
10. Shri P. Das Gupta
11. Shri M. K. Shroff
12. Shri M. R. Kulanousia
13. Shri H. K. Rai
14. Shri K. L. Dhandhanja
15. Shri K. C. Mukherjee
16. Shri R. P. Sur Roy
17. Shri B. M. Saraf
18. Shri E. S. Mundra
19. Dr. A. Sen
20. Shri R. P. Mandal
21. Shri G. B. Sinha
22. Shri S. N. Ghosh
23. Dr. I. P. Podder
24. Shri D. Ghosh

} Representing Democratic
Lawyers' Association, West
Bengal, Calcutta.

} Representing Bengal Chamber
of Commerce, Calcutta.

} Representing Gunny Trades
Association, Calcutta.

} Representing Bharat Cham-
ber of Commerce, Cal-
cutta.

} Representing Eastern India
Regional Council of the
Institute of Cost and Works
Accounts of India, Calcutta.

} Representing Indian Chamber
of Commerce, Calcutta.



सत्यमेव जयते

- | | | |
|----------------------------------|---|--|
| 25. Shri S. N. Dokania | } | Representing Commercial Taxes Bar Association, Calcutta. |
| 26. Shri S. Biswas | | |
| 27. Shri J. M. Mukherjee | | |
| 28. Shri P. Ghosh Roy | } | Representing Commercial Taxes Inspectors Association, Calcutta. |
| 29. Shri P. Mazumder | | |
| 30. Shri T. Biswas | | |
| 31. Shri B. Choudhury | | |
| 32. Shri P. K. Mukherjee | } | Representing the Association of Assistant Commissioner, Commercial Taxes, West Bengal, Calcutta. |
| 33. Shri S. N. Choudhury | | |
| 34. Shri N. Bagchi | } | Representing Senior Commercial Tax Officers' Association, Calcutta. |
| 35. Shri K. K. Saha | | |
| 36. Shri D. Chakraborty | | |
| 37. Shri S. Mukhopadhyaya | | |
| 38. Shri R. N. Ganguly | } | Representing West Bengal State Commercial Tax Service Association, Calcutta. |
| 39. Shri C. R. Chakraborty | | |
| 40. Shri P. K. Mondal | | |
| 41. Shri N. Sen | | |
| 42. Shri A. Maitra | | |
| 43. Shri Ashok Bose | | |
| 44. Shri Kajal Kanti Chakraborty | } | Representing West Bengal Directorate Employees' Association, Calcutta. |
| 45. Shri Balaram Sarkar | | |
| | | Representing Paschimanga Nimnatama (Class-IV) Sarkari Karmachari Samity, Calcutta. |



सत्यमेव जयते

46. Shri Bijoy Paul
 47. Shri Ashoke Nag
 48. Shri Utpal Kumar Ghosh

} Representing West Bengal
 Ministerial Officers' Asso-
 ciation, Calcutta.

49. Shri S. N. Koley, W.B.H.J.S.

.. President, West Bengal Com-
 mercial Taxes Tribunal
 Calcutta.

50. Shri D. Chatterjee, I.A.S. ..

.. Commissioner, Commercial
 Taxes, West Bengal, Calcutta.

51. Shri S. N. Choudhury ..

.. Assistant Commissioner, Com-
 mercial Taxes, Central Sec-
 tion, Calcutta.

52. Shri N. Basu ..

.. Additional Commissioner, Com-
 mercial Taxes and ex-Officio,
 Special Officer, Bureau of
 Investigation, Calcutta.



सत्यमेव जयते

APPENDIX C

(Vide Para 2.23)

List of commodities proposed to be de-notified (illustrative)

Serial No.	Name of the commodity	Reasons for denotification
1.	Storage batteries of all varieties and descriptions other than those specified in item (14) in Notification No. 3495-F.T. dated 26-8-77.	<p>(a) Unorganised manufactureres are many and far outweigh the number of well-established manufactures. Control over the unorganised manufactureres is not possible.</p> <p>(b) The unorganised manufacturers do not usually sell their product directly in other States and their products account for a substantial portion of the total quantity marketed.</p>
2.	Radios and Transistor Radios ..	Ditto.
3.	"Alta, Nailpolish" etc., included in the item Cosmetics.	<p>(c) The sellers are required to maintain statutory records under the Indian Telegraph Act, 1885. Those records are regularly inspected by the appropriate authority. The selling dealers have, therefore, a greater obligation of tax compliance.</p> <p>Numerous local manufacturers exist. Control over those unorganised manufacturers is not possible.</p>
4.	Bricks, Roofing tiles and lime ..	Numerous small manufacturers and importers exist. Control over them is not possible.
5.	Incense sticks locally known as Dhup-kathi, Dhupbati or Agarbati including semifinished sticks thereof.	Numerous unorganised manufacturers exist. The trade channel is also not organised. Hence effective control over the manufacturers is not possible.



Serial No.	Name of the commodity	Reasons for denotification
6.	Spare parts, accessories and component parts of motor vehicles, etc. excluding tyres and tubes and flaps thereof.	Numerous unorganised manufacturers exist. The item notified is not easily identifiable—many of the parts are interchangeable with Tractor Parts and industrial engines.
7.	Upholstered Wooden furniture	} Numerous unorganised manufacturers exist. Control over the originating points not possible.
8.	Furniture made of Iron and Steel and of Aluminium.	
9.	Iron and Steel Safe and Almirahs	
10.	Footwears of all descriptions	.. Local unorganised manufacturers are numerous and far-outweigh the number of well-established manufacturers. Control over the unorganised manufacturers is not possible. The price-linked rates should also be abolished.



SECRET

APPENDIX D

(Vide Para 3.04)

GOVERNMENT OF WEST BENGAL**Office of the Commissioner, Commercial Taxes**

14, Beliaghata Road, Calcutta-15

Memo. No. 14838(47)CT/18P-1/74, dated 7-10-74

From

Shri M. G. Kutty, I.A.S.,
 Commissioner,
 Commercial Taxes, West Bengal,

To

The Assistant Commissioner, ...
 Commercial Taxes/Commercial Tax Officer,
 Circle/Section/Charge.

Subject:—Simplified assessment procedure for smaller dealers registered under Bengal Finance (Sales Tax) Act, 1941.

Sir,

I am enclosing the Finance Department (Taxation) Confidential Notification No. 4272-F.T., dated 10-7-74 and 6140-F.T., dated 20-9-74 issued in the above subject. In terms of the Government decision summary assessment may be made in respect of such dealers only, who fulfil the criteria laid down in the above noted Government Notification.

2. In this connection it should be noted that initially the summary assessment procedure will be enforced *only for pending assessments under the Bengal Finance (Sales Tax) Act, 1941* (except those dealers who deal in Schedule II goods) for which relevant *returns have been filed prior to 31st March, 1974*. Consequently a dealer *who is registered under other Acts administered by this Directorate should be assessed on examination of the books of accounts as usual.*

3. Generally a dealer registered under the Bengal Finance (Sales Tax) Act, 1941 is also found to be registered under the Central Sales Tax Act, 1956. *The category of dealer* for which summary assessment is sought to be made is obviously of the *smaller type*. Such dealers often also obtain registration certificate under section 7(2) of the Central Sales Tax Act, 1956 to avail of the benefit of the concessional rate of tax on inter-State purchase. Such dealers may also submit returns under the Central Sales Tax Act, 1956 showing 'nil' turnover. In the returns furnished under the Bengal Finance (Sales Tax) Act, 1941 if the claim under section 5(2)(a)(v) is 'nil' in such type of cases

and if summary assessment is made under the Bengal Finance (Sales Tax) Act, 1941 for the above category of dealers with 'nil' allowance under section 5(2)(a)(v) it follows that summary assessment has to be made as well under the Central Sales Tax Act, 1956 showing 'nil' turnover.

4. It would be seen that at paragraph (d) in the above noted Government notification it has been laid down that in selecting cases for summary assessments under the Bengal Finance (Sales Tax) Act, 1941 due care should be taken for looking into the figures of claims preferred by the dealer under section 5(2)(a)(v) of the State Act and comparing such figures with the turnover shown in the returns under the Central Sales Tax Act, 1956 filed by such dealer. Presently, a registered dealer under the Central Act who makes inter-State sale and furnishes return showing turnover attracting tax under the provision of the Central Act will be assessed as usual and not summarily. Under the circumstances the claim of such dealer preferred under section 8(1)(b) is liable to be scrutinised with documentary evidence prescribed under the law. Hence it would be sufficient if only the turnover shown under the Central Sales Tax Act, 1956 in respect of a given period is compared with the claim shown by the dealer in the returns under the State Act under section 5(2)(a)(v) and if the turnover shown in the return filed under the Central Act is equivalent to or not less than the claim under section 5(2)(a)(v) of the State Act, in such a case it would be justifiable to proceed for making the assessment under the Bengal Finance (Sales Tax) Act, 1941 on summary basis. In fine, even if the turnover either wholly or for the most part relates to inter-State sale to registered dealers, this should not stand in the way of selecting a case for the purpose of summary assessment under the State Act.

In a summary assessment a dealer will not be required to produce declaration forms in support of the claims preferred under sections 5(1)(aa), 5(1)(bb) and 5(2)(a)(ii) of the Act before the assessing authority and, as such, it would not be possible for the Commercial Tax Officer to clip the right-hand corners of the declaration forms. To obviate all possible risk of any misuse in respect of such declaration forms the following guide-line is laid down :—

After an assessment is summarily made a Commercial Tax Officer shall issue a suitable notice to the dealer informing that the assessment for a particular period has been made summarily on the basis of returns furnished. It should also be mentioned in the said notice that the dealer is required to send written intimation to the assessing officer within 15 days from the date of receipt of such notice to the effect that all the declaration forms covering the full claim under sections 5(1)(aa), 5(1)(bb) and 5(2)(a)(ii) of the Act shown in the returns relating to the relevant period of summary assessment have been defaced by cutting the right-hand corner of the declaration forms except those which contain entries of sales pertaining to any unassessed period. The Commercial Tax Officer will ensure that such letters from the dealers are received by his office within a reasonable time limit. In case of a dealer defaults to submit the letter intimating defacement of declaration forms the Commercial Tax Officer should be circumspect in selecting such dealer's assessment in a

summary manner in the next period. He should also make a surprise visit at dealer's place during his routine monthly tour and check up the actual state of affairs. In case where written intimations are received from the dealers confirming clipping of the declaration forms, the Commercial Tax Officer is advised to have the correctness of the dealer's statements checked up in good number of cases. (This may be conveniently done at the time of Central Sales Tax assessment for the relevant period).

5. A separate assessment register (Register No. 58) should be kept in respect of assessment summarily disposed of for facility of keeping separate records of summary cases. In the Government order at para 5 it has been laid down that a review of the procedure will be made after one year and it has also been laid down that summary disposal of a particular dealer shall not continue for more than 3 years at a time and the assessment for 4th year shall be made after detailed scrutiny of records as usual. In para 4 of the Government decision it has been stated that 5 per cent of the summary assessment will be scrutinised regularly by Central Section. For such obvious reasons the maintenance of separate assessment register becomes a necessity.

6. In the case of summary assessment there is no necessity of initiating assessment proceeding by issue of a notice in Form VI. But it should be noted that the summary assessment in respect of any period must be completed well within the prescribed time limit, laid down in section 11(2a). Further it should be borne in mind that as and when a summary assessment is made, necessary entry must be made in the Control Register (i.e., Register 54) so that the said Register may be completed in all respect. In the remarks column of the said Register a note should be made to the effect that the assessment for the relevant period has been made summarily. In column 13 of Register 54 only the date of order of summary assessment should be noted.

7. The Commercial Tax Officers are instructed to show separately in their monthly progress report the number of assessment cases disposed of summarily.

8. The Administrative Assistant Commissioner of the Circle shall periodically, say during a quarter, forward a list of 5 per cent of the cases completed summarily in the Charges under his Circle to the Administrative Assistant Commissioner, Central Section, for regular scrutiny in the lines of the Government order. The Assistant Commissioner, Central Section shall take necessary steps to arrange for scrutiny of the assessment cases and send reports of the result of the scrutiny to the respective Administrative Assistant Commissioner. Steps in accordance with law will have to be taken by the appropriate Commercial Tax Officer on receipt of reports submitted by the Central Section through the appropriate Assistant Commissioner of the Circle.

9. Other instructions noted in the Government orders shall be followed by all officers concerned. Immediate effect should be given to implement the simplified assessment procedure. Administrative Assistant Commissioners and

Charge Commercial Tax Officers may contact Shri K. B. Ghosh, Additional Commissioner, Commercial Taxes, for any further clarification needed in this matter.

Yours faithfully,

M. G. KUTTY,

7-10-74

Commissioner,

Commercial Taxes, West Bengal.

Memo. No. 14838(47)/1CT/18P-1/74

Dated, 7-10-74

Copy forwarded to the Financial Commissioner and Secretary to the Government of West Bengal, Finance (Taxn.) Department, Writers' Buildings, Calcutta-1 for information. This has reference to Finance (Taxation) Department confidential Memo. Nos. 4272-F.T., dated 10-7-74 and 6140-F.T., dated 20-9-74.

M. G. KUTTY,

7-10-74

Commissioner,

Commercial Taxes, West Bengal.



Memo. No. 14838(47)/2CT/18P-1/74

Dated, 7-10-74

Copy forwarded to the Senior Deputy Accountant-General (RA), 4, Brabourne Road, Calcutta-1, for information.

M. G. KUTTY,

7-10-74

Commissioner,

Commercial Taxes, West Bengal.

CONFIDENTIAL

GOVERNMENT OF WEST BENGAL

Finance (Taxation) Department

No. 6140-F.T., dated Cal., the 19th/20th September, 1974

From

The Deputy Secretary,
Government of West Bengal.

To

The Commissioner,
Commercial Taxes, West Bengal.

Subject: Simplified assessment procedure for small dealers under the Bengal Finance (Sales Tax) Act, 1941.

Reference: His letter No. 10622-CT, dated 1st August 1974.

In this Department Memo. No. 4272-F.T., dated 10-7-74, it is laid down that summary assessment procedure may be initiated only under the B.F. (S.T.) Act, 1941, excepting for those dealers who deal in Schedule II goods, that is, special goods and only for pending assessments for which relevant returns have been filed prior to 31-3-74 subject to further condition that even amongst the above category of dealers, summary assessment will be adopted only in certain specified cases.

The matter has been re-examined by Government and on grounds of administrative convenience, it has since been decided that dealers who would be subjected to summary assessment under the B.F. (S.T.) Act, 1941, should also be subjected to summary assessment under the C.S.T. Act, 1956, if the turnover under the latter Act is found to be 'nil'.

It has been further decided that the condition laid down in para 3(d) of the said memo. should stand modified as follows:

“(d) Where in the returns filed under Central Sales Tax Act, the turnover has been shown at a figure equivalent to, or not less than, the claim under section 5(2)(a)(v) of the State Act”.

Yours faithfully,

(Sd) ILLEGIBLE,

19-9-74

Deputy Secretary.

CONFIDENTIAL

GOVERNMENT OF WEST BENGAL

Finance (Taxation) Department

No. 4272-F.T., dated Cal., the 10th July, 1974

From

The Joint Secretary.

To

The Commissioner, Commercial Taxes, West Bengal.

Subject: Simplified assessment procedure for small dealers under Bengal Finance (Sales Tax) Act, 1941.

As there are a large number of pending assessment cases under all the Commercial Tax Acts, it is considered necessary to take some urgent steps to dispose of these cases, keeping in view at the same time the interests of revenue. It has, therefore, been decided to adopt a two-pronged approach—on the one hand by a procedure of summary assessments for smaller assessment cases, and on the other hand by completing up-to-date assessments in the cases of dealers with large turnover.

2. As regards summary assessments in the case of small dealers, the Legal Remembrancer, West Bengal has opined that under section 11(1) of the Bengal Finance (Sales Tax) Act, 1941 and under section 9(1) of the West Bengal Sales Tax Act, 1954, summary assessments accepting the returns can be made. The Legal Remembrancer has further agreed that for resorting to summary assessments in cases of small demands certain procedural adjustments may be made.

3. It is, therefore, decided that summary assessment procedure may be initiated with immediate effect only under the Bengal Finance (Sales Tax) Act, 1941, excepting for those dealers who deal in Schedule II goods, that is, special goods, and only for pending assessments for which relevant returns have been filed prior to 31st March, 1974, subject to the further condition that even amongst the above category of dealers summary assessment will be adopted only in the following cases :

(a) Where the assessee deals exclusively or primarily in exempted goods, irrespective of turnover. (The word 'Primarily' will mean cases where the taxable turnover as per returns does not exceed Rs. 1 lakh for each of the preceding 2 years).

(b) Where the assessed gross turnover or taxable turnover did not exceed Rs. 36,000 or Rs. 12,000, respectively in each of the preceding 2 years.

(c) Where the returns and the statement of claims have been certified as correct and complete by a Chartered Accountant under his signature and seal, provided that (i) the aggregate of claims on account of sales to registered dealers did not exceed 10 per cent of the gross turnover for each of the preceding 2 years, and (ii) where the gross turnover did not exceed Rs. 5 lakhs for each of the preceding 2 years.

(d) Where in the returns filed under Central Sales Tax Act, the turnover has been shown at a figure equivalent to, or not less than, the claim under section 5(2)(a)(v) of the State Act, provided such turnover, either wholly or for the most part, relates to inter-State sales to unregistered dealers.

(e) In selecting cases for summary assessments, the Commercial Tax Officer will, in addition, have to ensure that in every such case (i) the additional demand raised for previous 2 years is not more than 10 per cent of admitted tax and (ii) the admitted tax as per return under summary assessment is not less than 90 per cent of the assessed tax for the preceding year.

4. It has also been decided that in those cases, where there are investigations pending in the Central Section or in the Charge or in the Bureau of Investigation about any dealer, summary assessments will not be done. In addition, 5 per cent of the summary assessments will be scrutinised regularly by the Central Section and in the event of any evasion of tax being brought to light, deterrent penalty under section 20A of the Bengal Finance (Sales Tax) Act, 1941, will be imposed by the assessing authority and assessments also may be reopened.

5. A review of the success of this procedure would be made after one year. Thereafter, it could also be considered whether extension of the same procedure would be made to future assessments with the same guidelines, subject to the further guideline that in cases of future period assessments, summary disposal for any particular dealer shall not continue for more than 3 years at a time and the assessment for the 4th year shall be made after detailed scrutiny of records as usual. If after one year the summary assessment procedure is applied to future period assessments also, the selection of dealers to be picked out for such summary assessments will be confidentially decided each year with the approval of the Assistant Commissioner by the Commercial Tax Officer.

(Sd) A. K. CHATTERJEE,
Joint Secretary.

APPENDIX E

(Vide Paras 3.12 and 3.17)

(To be enclosed with annual return)

Statement of Information

1. Name of dealer

2. Address

3. (a) R.C. No.

(b) Permanent A/c. No. under Income-Tax Department, if any.

4. Year

5. Details of trading accounts (copies of trading accounts duly certified to be true should be enclosed; if there is more than one trading account, each should be serially numbered)

Sales shown in Trading A/c. No. 1
(enclosed) :Sales shown in Trading A/c. No. 2
(enclosed) :

and so on

Total sales shown in Trading A/cs. : (a)

6. Sales credited to A/cs. other than Trading Account (e.g. Sales Tax A/c., Personal A/c., Stores A/c., Materials A/c., Manufacturing A/c., Capital A/c., Assets A/c., etc.)

Name of Account	L.F. No.	Amount of sales included in the A/c.
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Total	:	(b)
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7. Any other sale not credited as a sale in the books of accounts (with full particulars).

Particulars of sales	Date	Amount
1.		
2.		
and so on		
Total :		(c)

8. Reconciliation with returns

Gross sales [aggregate of (a), (b) and (c)] : (d)

Any amount included in above which is not a sale (with full particulars)

Particulars of transaction/entry included in (d), which does not amount to a sale.	Included in (refer to Trading A/c. and/or L.F.)	Amount
1.		
2.		
and so on		
Total :		(e)

Gross sales shown in return, which should agree with (d) minus (e). (In case of disagreement, indicate reasons in a separate sheet) (f)

9. Any other amount received/receivable which is fully or partly related to delivery of goods, but is not considered a "sale" with full particulars.

Particulars	L.F.	Amount
Total :		

10. Particulars of receipt against works contract not considered sale.

Particulars	L.F.	Amount
Total	:	

11. Service charges received.

Particulars	L.F.	Amount
Total	:	

12. Determination of gross turnover :

Gross Sales as per (f) at item 8 : (g)

Less deduction :

- (i) Freight and delivery charges separately charged in the nature of carriage outwards

* L.F.

- (ii) Cash discount

* L.F.

- (iii) Insurance

* L.F.

- (iv) Sales return

(if not already deducted)

* L.F.

- (v) Any other (please specify)

* L.F.

*If these amounts are not directly available in ledger, please specify (in a separate sheet, if necessary) the basis of computation

Total of deduction from gross sales prices (h)

Gross Turnover (i)

13. We maintain the following books of accounts and vouchers, viz.
Books of original entry:

Subsidiary books of account:

Vouchers (Purchase, Sale and Others):

Job Cards/Stock Cards, etc.:

14. We have no declaration form in support of claims/we have.....
.....declaration in support of claim as per statement
enclosed (in duplicate for dealer having G.T. under Rs. 1,00,000).
15. Our books of A/cs. are audited by/not audited.
16. We maintain accounts in the following banks, viz. (Name of branch,
account No., L.F. No. and all other details to be mentioned).

The above statement, as well as the statements trade in th enclosure to
this statement are true to the best of my knowledge and belief.

Signature :

Name in full :

Status :

Date :



Enclosures necessary :

1. Trading A/c., Manufacturing A/c., P. & L. A/c., Balance Sheet.
2. Statement of declaration forms received, showing serial No. of form, purchasing/selling dealer's name and R. C. No., sale/purchase bill/ C.M. No. and date and amount, (separate statements for declarations of each category). *For dealers with G.T. up to Rs.1,00,000 the statements should be in duplicate.*
3. Statement showing tax-rate-wise break-up of taxable sales indicating names of all commodities included under different tax rates (where no concessional rate of tax is claimed on grounds of sale to registered dealers).

APPENDIX F

(Vide Para 3.12)

Simple Assessment Scheme

Name of the dealer.....

Address.....

R.C. No.....

Period of assessment.....

Date of filing return.....

I. Certificate by dealing assistant

1. Gross turnover declared by dealer is Rs.
2. It is not the first or second year of assessment after registration.
3. Assessment for the preceding year was made by
 - (*a) simple assessment procedure and it has not been selected for scrutiny,
 - (*b) simple assessment procedure followed by scrutiny which has not resulted in detection of fraudulent suppression or other malafide,
 - (*c) ordinary assessment procedure and it has not resulted in detection of fraudulent suppression or other malafide.
4. Assessment for the year preceding the previous year was made by
 - (*a) simple assessment procedure and it has not been selected for scrutiny,
 - (*b) simple assessment procedure followed by scrutiny which has not resulted in detection of fraudulent suppression or other malafide,
 - (*c) ordinary assessment procedure and it has not resulted in detection of fraudulent suppression or other malafide.
5. Books for the year/preceding year were not seized.
6. There is no information of any investigating agency of the Directorate or the Assistant Commissioner that an enquiry is pending against the dealer.
7. *There is no claim based on declaration forms

Or,

*List of declarations in sheet(s) has been physically verified with declaration forms by the Inspector vide his certificate dated.....
on the body of the list.

~~*Strike off the inapplicable alternatives.~~

8 *There is no deficiency

Or,

*There are some deficiencies as pointed out in draft deficiency letter put up.

9. Item(s) of the certificate has/have been struck off as I cannot give the said certificate(s) for reasons stated below:

Reasons

Signature of Dealing Assistant
with date.

II. Certificate by Commercial Tax Officer

Seen Certificates given by dealing assistant, except item.....
the absence of which

*vitiates eligibility of simple assessment and so the case is to be taken up under ordinary assessment procedure

*Does not vitiate eligibility of simple assessment procedure, for reasons stated below

*Put up with ordinary initiation notice

*Put up with pro forma (simple) assessment order after deficiency is made up for which deficiency letter is approved for issue.

Reasons

Signature of Commercial Tax Officer
with date.

Note by dealing assistant

Pro forma assessment order is put up. *Deficiencies have been made up by dealer.

Signature of Dealing Assistant
with date.

Order by Commercial Tax Officer

The case is assessed u/s. by simple assessment procedure, as per separate order below. Issue notice of demand for Rs. with a copy of assessment order/*nil demand notice/*notice of excess payment of Rs. with a copy of assessment order. Note in simple assessment completion Register.

Put up with R.A.D. Card on for further action.

Signature of Commercial Tax Officer
with date.

*Strike off the inapplicable alternatives.

APPENDIX G

(Vide Para 3.12)

Deficiency Letter

Office of the Commercial Tax Officer.....Charge,

Group.....

To

R.C. No.:

Subject: Return of sales/purchase tax for

Sir,

The purported return furnished by you suffers from the defects noted at item below :

Part A

1. Period of return has not been shown/wrongly shown.
2. Verification portion and/or some annexures of the return has/have not been signed/has/have been signed by a person whose signature does not tally with that of any authorised person available in our records.
3. There is alteration in the return which needs authentication by an authorised person.
- 4.

Part B

5. The purported return is not in the prescribed form. The correct form is enclosed.
6. Annexures have not been furnished along with the return. Necessary forms of annexure are enclosed.
7. Copies of manufacturing/trading/profit and loss account/Balance Sheet/Capital Account(s) of proprietor/Partner(s) have not been furnished.

8. List of declarations has not been furnished/has been furnished in singlicate instead of duplicate/has not been grouped according to categories of declaration/contains the following defects viz.....

9. Challan showing full payment of tax admitted in the purported return has not been enclosed.
10. Although the purported return was filed beyond time, penal interest @ % per month for months has not been paid.
- 11.
- 12.

You are requested to remove the aforesaid defect(s), on or before, either by appearing at my office by 12 noon of the said date if the defect is under Part A, or by sending the required document(s) to my office on or before the aforesaid date, in your own interest.

Please note that if you comply with this request, I may consider making your assessment for the period u/s. of the without requiring your presence and production of books of accounts.

Please also note that failure to comply with this request will render you a defaulter in the matter of submission of return, which may attract imposition of penalty and other consequences of law.

Please also note that submission of false return and/or false statements accompanying a return renders a dealer liable to penalty and prosecution with provision for a minimum period of rigorous imprisonment.

Yours faithfully,

Commercial Tax Officer.

APPENDIX H

(Vide Para 3.12)

Order of assessment

under Sec. of Act

Name and address of dealer

R.C. No.:

Year/period of assessment

Due date of filing return:

Date of filing return:

Delay (in months, Part of month being

considered a month):

1. The dealer filed return(s) in time (or has paid interest in accordance with law for the delay in filing return) and has also paid tax as admitted in the return.

2. The verified return(s), prima facie agreeing with the annexures, declare(s) the following particulars:

I. Sales

(a) Gross Turnover of Sales :

(b) Exemptions :

(i) U/s. :

(ii) U/s. :

..... :

Total

(c) Taxable sales

(a) minus (b)

(d) Break-up of taxable sales	Rs.	
Taxable @ 1% U/s.	Rs.	
U/s.	Rs.	
Total taxable @ 1%	Rs.	
Taxable @ 2% U/s.	Rs.	
U/s.	Rs.	
Total taxable @ 2%	Rs.	
& so on		

II. Purchases

Taxable purchase @ 2%		
U/s.	:	
U/s.	:	
Total taxable @ 2%	:	
Taxable purchase @ 4%		
U/s.	:	
U/s.	:	
Total taxable @ 4%	:	
& so on		

3. As I am prima facie satisfied that the return(s) is/are correct and complete, I make the following assessment of taxable turnover and tax on the basis of return filed by the dealer and subsequent corrections made or defects rectified, if any, U/s. of the Act.....

Rate of Tax	Taxable Sale	Rebate U/s.	Taxable Turnover of sale [(2) minus (3)]	Taxable Purchase	Total amount subject to tax [(4) plus (5)]	Tax on total shown at (6)
1	2	3	4	5	6	7
1%						
2%						
4%						
& so on						

Total ..	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
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Particulars of payment :

	Tax	Interest	Less tax paid
Challan No. dt.	Rs.	Rs.	Rs.
Challan No. dt.	Rs.	Rs.	Tax due/ excess paid Rs.
.....			
	Total :	Rs.	Rs.

Interest U/s. for months
 @... % per month on tax assessed above
 Rs.
 Interest paid Rs.
 Interest due/excess paid Rs.

This assessment is made without prejudice to my right (including my successor's right) of scrutiny u/s. of
 ..Act and cancellation of the same and reassessment u/s.
 of the Act.

Signature of the Commercial Tax Officer
 with date.

APPENDIX I

(Vide Para 3.13)

Application of Random Number Tables

Tables of random numbers have been published by several authors. Two specimen Tables of Random Numbers published by Fisher and Yates are kept as annexures to this note. Random numbers can also be generated using mathematical algorithms with the help of computer.

The specimen random numbers are printed in 5 blocks of 5 columns of 2 digits each. Consecutive appropriate number of columns/digits in continuation of a row in a block will provide a random number with specified number of digits. Thus a four digit random number can be obtained by reading 2 consecutive columns, starting from any column within a block. Any block of any page can be prescribed as a starting block for a Commercial Tax Officer's office for a particular year. Different starting blocks can be used for different Commercial Tax Officer's offices and for different years. The length of a random number in terms of number of digits will be the same as the number of digits of the last Dealer Serial No. within the Commercial Tax Officer's office.

Same level of flexibility can be maintained for random numbers generated through computers. In addition, random numbers with a specified number of digits can be generated on computer.

Printed tables of random numbers with specified different numbers of digits are also available.

Having prescribed a particular block as starting block and a particular set of column/digits within the block to form a random number, one starts reading random numbers, R, vertically downward. Under each Commercial Tax Officer's office, there will be a last registration No. say N, which can be different for different Commercial Tax Officer's office. Random numbers greater than N are rejected. The dealers selected will be the dealers whose serial registration Nos. within the particular Commercial Tax Officer's office correspond to the retained random numbers. If a random number does not find a matching serial registration number in the list, that random number is omitted and the next random number is used. The process is stopped when required number of dealers are selected.

Table of Random Numbers

Specimen 1

10 27 53 96 23	71 50 54 36 23	54 31 04 82 98	04 14 12 15 09	26 78 25 47 47
28 41 50 61 88	64 85 27 20 18	83 36 36 05 56	39 71 65 09 62	94 76 62 11 89
34 21 42 57 02	59 19 18 97 48	80 30 03 30 98	05 24 67 70 07	84 97 50 87 46
61 81 77 23 23	82 82 11 54 08	53 28 70 58 96	44 07 39 55 43	42 34 43 39 28
61 15 18 13 54	16 86 20 26 88	90 74 80 55 09	14 53 90 51 17	52 01 63 01 59
91 76 21 64 64	44 91 13 32 97	75 31 62 66 54	84 80 32 75 77	56 08 25 70 29
00 97 79 08 06	37 30 28 59 85	53 56 68 53 40	01 74 39 59 73	30 19 99 85 48
36 46 18 34 94	75 20 80 27 77	78 91 69 16 00	08 43 18 73 68	67 69 61 34 25
88 98 99 60 50	65 95 79 42 94	93 62 40 89 96	43 56 47 71 66	46 76 29 67 02
04 37 59 87 21	05 02 03 25 17	47 97 81 56 51	92 34 86 01 82	55 51 33 33 91
63 62 06 34 41	94 21 78 55 09	72 76 45 11 94	29 95 81 83 83	79 88 01 97 30
78 47 23 53 90	34 41 92 45 71	09 23 70 70 07	12 38 92 79 43	14 85 11 47 23
87 68 62 15 43	53 14 30 59 25	54 47 33 70 15	59 24 48 40 35	50 03 42 99 36
47 60 92 10 77	38 59 58 11 52	66 25 69 07 04	48 68 64 71 06	61 05 70 22 12
56 88 87 59 41	65 28 04 67 53	95 79 88 37 31	50 41 06 94 76	81 83 17 16 33
02 57 45 86 67	73 43 07 64 48	44 26 87 93 29	77 09 61 67 84	06 69 44 77 75
31 54 14 13 17	48 62 11 90 00	68 12 93 64 28	46 24 79 16 76	14 60 25 51 01
28 50 16 48 36	28 97 85 58 99	67 22 52 76 23	24 70 36 54 54	59 28 61 71 96
63 29 62 66 50	02 63 45 52 38	67 63 47 54 75	83 24 78 43 20	92 63 13 47 18
45 65 58 26 51	76 96 59 38 72	86 57 45 71 46	44 67 76 14 55	44 88 01 62 12
39 65 36 63 70	77 45 85 50 51	74 13 39 35 22	30 53 36 02 95	49 34 88 73 61
73 71 98 16 04	29 18 94 51 23	76 51 94 84 86	79 93 96 38 63	08 58 25 58 94
72 20 56 20 11	72 65 71 08 86	79 57 95 13 91	97 48 72 66 48	09 71 17 24 80
75 17 26 99 76	89 37 20 70 01	77 31 61 95 46	26 97 05 78 51	53 33 18 72 87
37 48 60 82 29	81 30 15 39 14	48 38 75 93 29	06 87 37 78 48	45 56 00 84 47

68 08 02 80 72	83 71 46 30 49	89 17 95 88 29	02 39 56 03 46	97 74 06 56 17
14 23 98 61 67	70 52 85 01 50	01 84 02 78 43	10 62 98 19 41	18 83 99 47 99
49 08 96 21 44	25 27 99 41 28	07 41 08 34 66	19 42 74 39 91	41 96 53 78 72
78 37 06 08 43	63 61 62 42 29	39 68 95 10 96	09 24 23 00 62	56 12 80 73 16
37 21 34 17 68	68 96 83 23 56	32 84 60 15 31	44 73 67 34 77	91 15 79 74 58
14 29 09 34 04	87 83 07 55 07	76 58 30 83 64	87 29 25 58 84	86 50 60 00 25
58 43 28 06 36	49 52 83 51 14	47 56 91 29 34	05 87 31 06 95	12 45 57 09 09
10 43 67 29 70	80 62 80 03 42	10 80 21 38 84	90 56 35 03 09	43 12 74 49 14
44 38 88 39 54	86 97 37 44 22	01 95 03 34 76	17 16 29 50 68	38 78 94 49 81
90 69 59 19 54	83 39 52 85 13	07 28 37 07 61	11 16 36 27 03	78 86 72 04 95
41 47 10 25 02	97 05 31 03 84	20 26 36 31 62	68 69 86 95 14	84 95 48 46 45
91 94 14 63 19	75 89 11 17 11	31 56 34 19 09	79 57 92 36 50	14 93 87 81 40
80 06 54 18 66	09 18 94 06 19	98 40 07 17 81	22 45 44 84 14	24 62 20 24 31
67 72 77 63 48	84 08 34 55 58	24 33 45 77 58	80 45 67 93 82	75 70 16 08 24
59 40 24 13 27	79 26 88 86 30	01 31 60 10 39	53 58 47 70 93	85 81 56 39 38
05 90 35 89 95	01 61 16 96 94	50 78 13 69 36	57 68 53 37 31	76 90 85 03 71
44 43 80 69 98	46 68 05 14 82	90 78 50 05 62	77 79 13 57 44	59 60 10 39 66
61 81 31 96 82	00 57 25 60 59	46 72 60 18 77	55 66 12 62 11	08 99 55 64 57
42 88 07 10 05	24 98 65 63 21	47 21 61 88 32	27 80 30 21 60	10 90 35 36 22
77 94 30 05 39	28 10 99 00 27	12 73 73 99 12	49 99 57 94 58	96 88 57 17 91
78 83 19 76 16	94 11 68 84 26	23 54 20 86 85	23 86 66 99 07	36 37 34 92 09
87 76 59 61 81	43 63 64 61 61	65 76 36 95 90	18 48 27 45 68	27 23 65 30 72
91 43 05 96 47	55 78 99 95 24	37 55 85 78 78	01 48 41 19 10	35 19 54 07 73
84 97 77 72 73	09 62 06 65 72	87 12 49 03 60	41 15 20 76 27	50 47 02 29 16
87 41 60 76 83	44 88 96 07 80	83 05 83 38 96	73 70 66 31 90	30 56 10 48 59

Table of Random Numbers

Specimen 2

28 89 65 37 08	13 50 63 04 23	25 47 57 91 13	52 62 24 19 94	91 67 48 57 10
30 29 43 65 42	78 66 28 55 80	47 46 41 90 08	55 98 78 10 70	40 92 05 12 07
95 74 62 60 53	51 57 32 22 27	12 72 72 27 77	44 67 32 23 13	67 95 07 76 30
01 85 54 96 72	66 86 65 64 60	56 59 75 36 75	46 44 33 63 71	54 50 06 44 75
10 91 46 96 86	19 83 52 47 53	65 00 51 93 51	30 80 05 19 29	56 23 27 19 03
05 33 18 08 51	51 78 67 26 17	34 87 96 23 95	80 99 93 39 79	11 28 94 15 52
04 43 13 37 00	79 68 96 26 60	70 39 83 86 58	62 03 55 86 57	77 55 33 62 02
05 36 40 25 24	73 52 93 70 50	48 21 47 74 63	17 27 27 51 26	35 96 29 00 45
84 90 90 65 77	63 99 25 69 02	09 04 (3 35 78	19 79 95 07 21	02 84 48 51 97
28 55 53 09 48	86 28 30 02 35	71 30 32 06 47	93 74 21 86 33	49 80 21 69 74
89 83 40 69 80	97 96 47 59 97	58 33 24 87 36	17 18 16 90 46	75 27 28 52 13
73 20 96 05 68	93 41 69 96 07	97 50 81 79 59	42 37 13 81 83	92 42 85 04 31
10 89 07 76 21	40 24 74 36 42	40 33 04 46 24	35 63 02 31 61	34 59 43 56 96
91 50 27 78 37	06 06 16 26 98	17 78 80 36 85	26 41 77 63 97	71 63 94 94 53
03 45 44 66 88	97 81 26 03 89	39 46 67 21 17	98 10 39 33 15	61 63 00 25 92
89 41 58 91 68	65 99 59 97 84	90 14 79 61 55	56 16 86 87 60	32 15 90 67 43
13 43 00 97 26	16 91 21 32 41	60 22 66 72 17	31 85 33 69 07	68 49 20 43 29
71 71 00 51 72	62 03 89 26 32	35 27 99 18 25	78 12 03 09 70	50 93 19 35 56
19 28 15 00 41	92 27 73 40 38	37 11 05 75 16	98 81 99 37 29	92 20 32 39 67
56 38 30 92 30	45 51 94 69 04	00 84 14 36 37	95 66 39 01 09	21 68 40 95 79
39 27 52 89 11	00 81 06 28 48	12 08 05 75 26	03 35 03 05 97	13 81 20 67 88
73 13 28 58 01	05 06 42 24 07	60 60 29 99 93	72 93 78 04 39	25 76 01 54 03
81 60 84 51 57	12 68 46 53 39	60 69 71 87 89	70 81 10 95 91	83 79 68 20 66
05 62 98 07 85	07 79 26 69 81	67 85 72 37 41	35 79 76 48 28	01 56 87 08 05
62 97 16 29 18	52 16 16 23 86	82 65 60 87 83	32 25 34 03 86	13 84 60 87 65

31 13 63 21 08	16 01 92 58 21	48 79 74 73 72	08 64 80 91 38	07 28 66 61 59
97 38 35 34 19	89 84 05 34 47	88 09 31 54 88	97 96 86 01 69	46 13 95 65 96
32 11 78 33 82	51 99 98 44 39	12 75 10 60 36	80 66 39 94 97	42 36 31 16 59
81 99 13 27 05	08 12 60 39 23	61 73 84 89 18	26 02 04 37 95	96 18 69 06 30
45 74 00 03 05	69 99 47 26 52	48 66 30 00 18	03 30 28 55 59	66 10 71 44 05
11 84 13 69 01	88 91 28 79 50	71 42 14 96 55	98 59 96 91 36	88 77 90 45 59
14 66 12 87 22	59 45 27 08 51	85 64 23 85 41	64 72 08 59 44	67 98 36 65 56
40 25 67 87 82	84 27 17 30 37	48 69 49 02 58	98 02 50 58 11	95 39 06 35 63
44 48 97 49 43	65 45 53 41 07	14 83 46 74 11	76 66 63 60 08	90 54 33 65 84
41 94 54 06 57	48 28 01 83 84	09 11 21 91 73	97 28 44 74 06	22 30 95 69 72
07 12 15 58 84	93 18 31 83 45	54 52 62 29 91	53 58 54 66 05	47 19 63 92 75
64 27 90 43 52	18 26 32 96 83	50 58 45 27 57	14 96 39 64 85	73 87 96 76 23
80 71 86 41 63	45 62 63 40 88	35 69 34 10 94	32 22 52 04 74	69 63 21 83 41
27 06 08 09 92	26 22 59 28 27	38 58 22 14 79	24 32 12 38 42	33 56 90 92 57
54 68 97 20 54	33 26 74 63 30	74 22 19 13 48	30 28 01 92 49	58 61 52 27 03
02 92 65 68 99	05 53 15 26 70	04 69 22 64 07	04 73 25 74 82	78 35 22 21 88
83 52 57 78 62	98 61 70 48 22	68 50 64 55 75	42 70 32 09 60	58 70 61 43 97
82 82 76 31 33	85 13 41 38 10	16 47 61 43 77	83 27 19 70 41	34 78 77 60 25
38 61 54 09 49	04 41 66 09 76	20 50 73 40 95	24 77 95 73 20	47 42 80 61 03
01 01 11 88 38	03 10 16 82 24	39 58 20 12 39	82 77 02 18 88	33 11 49 15 16
21 66 14 38 28	54 08 18 07 04	92 17 63 36 75	33 14 11 11 78	97 30 53 62 38
32 29 30 69 59	68 50 33 31 47	15 64 88 75 27	04 51 41 01 96	86 62 93 66 71
04 59 21 65 47	39 90 89 86 77	46 86 86 88 86	50 09 13 24 91	54 80 67 78 66
38 64 30 07 36	56 50 45 94 25	48 28 48 30 51	60 73 73 03 87	68 47 37 10 84
48 33 50 83 53	59 77 64 59 90	58 92 62 50 18	93 09 45 89 06	13 26 98 86 29

APPENDIX J

(Vide Para 5.58)

Security Bond

Know all men by these presents that I, A. B. of.....
am held and firmly bound unto the Governor of
 West Bengal exercising the executive power of the Government of the
 State of West Bengal (hereinafter referred to as "The Government" which
 expression shall, unless excluded by or repugnant to the context, include
 his successors in office and assigns) in the sum of rupees.....
 to be paid to the Government for which payment, well and truly to be
 made, I bind myself, my heirs, executors, administrators and legal
 representatives by the presents.

WHEREAS the above bounded A. B. has made an application under
 section.....of the West Bengal.....Act, 19..... (W. B.
 Act.....of.....)

AND WHEREAS the said A. B. has in pursuance of clause.....of the
 proviso to sub-section.....of section....of the said Act been called upon
 to execute a bond with two sureties in favour of the Government in the
 abovementioned sum of rupees.....for the due discharge by
 the said A. B. of the liabilities under the said Act and for the purpose of
 securing and indemnifying the Government against all loss, costs or
 expenses which the Government may in any way suffer, sustain or pay, by
 reason of the default or failure, in due discharge of liabilities under the
 said Act, of the said A. B. or of any person or persons acting under him or
 for whom he may be responsible.

Now the condition of the above written bond is such that if the said
 A. B. has always duly discharged the liabilities under the said Act, and if
 the said A. B. his heirs, executors or administrators shall pay or cause to
 be paid unto the Government the amounts due from him under the
 provisions of the said Act within the prescribed time after such amounts
 shall have been demanded from the said A. B. by the Commissioners of
 Commercial Taxes, West Bengal, or by any Officer to whom the powers of
 the Commissioner of Commercial Taxes in this respect have been delegated,
 such demand to be in writing and served upon the said A. B. in the manner
 prescribed under the said Act or rules made thereunder and shall also at all
 times indemnify and save harmless the Government from all and every
 loss, costs or expenses which has been or shall or may at any times or time
 hereafter during the period in which the said A. B. is held liable to pay
 tax under the said Act by reason of any act or insolvency of the said A. B.
 or of any person or persons acting under him or for whom he may be
 responsible then his obligation shall be valid and of no effect, otherwise the
 same shall be and remain in full force,

And it is hereby further agreed that in the event of the death of the A. B. or on the final cessation of the liability of the said A. B. under the Act, or otherwise, this bond shall remain with the Commissioner of Commercial Taxes, or an Officer duly authorised by him in this behalf formonths for recovering any loss, costs or expenses that may have been sustained, incurred or paid by the Government owing to the Act, or default of the said A. B. or any such other person or person(s) as aforesaid and which may not have been discovered until after his death or the cessation of liability of the said A. B. under the said Act;

Provided always that without prejudice to any other rights or remedies for recovering loss or damage as aforesaid it shall be open to the Government to recover the amount payable under this bond as an arrear of land revenue or arrear of sales/purchase tax revenue.

In witness whereof said A. B. has hereunto set his hand this..... day of.....19.....

Signed and delivered by the abovenamed

A. B. in the presence of—

1.

2.



(Signature)

We.....hereby declare ourselves sureties for the abovesaid A. B..... and guarantee that he shall do and perform all that he has above undertaken to do and perform, in case of his making default therein, we hereby bind ourselves jointly and severally to forfeit to the Governor of West Bengal exercising the executive power of the Government of the State of West Bengal (hereinafter referred to as "Government") the sum of rupees.....in which the abovesaid A. B. has bound himself, or such other lesser sum as shall be deemed to be sufficient by the Commissioner of Commercial Taxes or an Officer duly authorised by him in this behalf, to cover any loss or damage which the Governor may sustain by reason of such default.

And we agree that the Government may, without prejudice to any other rights or remedies of the Government, recover the said sum as an arrear of land revenue, or arrear of sales/purchase tax revenue, as if the same were payable by us.

And we also agree that neither of us shall be at liberty to terminate his suretyship except upon giving to the said Commissioner of Commercial Taxes, six calendar months' notice in writing of his intention so to do, and our joint and several liability under this bond shall continue in respect of all acts, defaults and insolvencies on the part of the said A. B. until the expiration of the said period of six months.

Dated this the.....day of.....19.....

Signature of sureties in the presence of—

1.

2.

(Signature)

In the presence of—

1.

2.



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(Signature)

APPENDIX K

(Vide Para 6-36)

Register.....

(For Law Section only)

Register of High Court and Supreme Court Cases

(To be substituted for Register 33, 34 and 35)

Civil Revision/ O.S. matter	Serial Number		Date of receipt of first intimation in Law Section	High Court/ Supreme Court case No.	Cause Title	R.C. No. of Dealer	Law Sec. File No.
	High Court Appeal	Supreme Court case					
1a	1b	1c	2	3	4	5	6

Points at issue [also indicate period (s) of assessment etc.]	Date and purport of interim order	Name of State Lawyer	Date of affirming A.O.	Date of final order	Brief purport of final order	Date of filing appeal, in any	Remarks (indicate the dates of receipt/return of record in/by Law Section.)
7	8	9	10	11	12	13	14



APPENDIX L

(Vide Para 6-36)

Register

(For Law Section only)

Register of Tribunal Cases handled in Law Section

(To be substituted for Register 33, 34 and 35)

Serial Number (a)					Date of receipt of notice from Tribunal	Name of dealer	R.C. No.	Period		
Revision (2nd Appeal)	Reference by Department	Reference by Assessee	Review by Department	Review by Assessee					Stay by Others (b)	
1a	1b	1c	1d	1e	1f	1g	2	3	4	5

Date of hearing (c)	Date of receipt of record from A.C.	Name of D.R. and date of making over record to D.R. (d)	Date of receipt of final order	Brief final order (e)	Cost awarded		Date of filing application for review, reference or apply to High Court (f)	Memo. No. and date of intimation for final result sent to A. C.	Remarks (g)
					against deptt.	against assessee			
a	7	8	9	10	11a	11b	12	13	14

Instructions :

- (a) Separate serial number should be given to cases of separate class.
- (b) Specify nature of case, e.g. restoration, Suo motu review, appeal, revision by Deptt. etc.
- (c) When a case is adjourned without hearing or after part hearing, the date to which it is adjourned should be recorded in this column below the original entry.
- (d) When an adjourned case is allotted to the same D.R., only the date of making over the record to him for fresh hearing should be recorded and when such a case is allotted to a new D.R., his name should be recorded under the original entry together with the date of making over record to him. If a State Counsel is appointed to represent the Deptt., the name of D.R. who will instruct him will appear here and the fact of briefing a Counsel recorded in the remark column.
- (e) Brief result should be recorded in the following manner, viz. (for revision, reference and review cases) allowed in full, allowed in part, rejected, (for stay cases) granted unconditionally, granted conditionally, rejected.
- (f) In case of application to High Court against an order rejecting application for reference, if the date of filing is not known, the name of the Counsel to whom brief has been made over should be recorded with date of making over brief.
- (g) **Law Section file : (9T-file) should also be referred to in Remarks column.**

APPENDIX M

(Vide Para 6A. 32)

Declaration by Transport Operators

1. Vehicle No.....
2. Total number of packages*
.....carried by the vehicle.....
3. Name and address of the Consignor/s and the Consignee /s and particulars /description of the goods**.

Name of the Consignor	Address	Consignment Note No.* .....with date Lorry Challan No.	Number of *packages		Description of goods		Destina- tion	Name of the Consignee	Address
			*weight	of the goods	Quan- tity/ weight	Value			
1	2	3	4	5a	5b	5c	6	7	8

I,son of.....residing at.....
under P.S.on behalf of
 (address) (name of the Transport Co.)

do hereby declare that the particulars given herein are true to the best of my knowledge and belief.

Signature
 Status of the person signing the declaration
 in relation to the Transport Co.
 Signature No.....State of issue.....
 Date of entry at the Checkpost.....Date

*Strike out whichever is not applicable.

**Use separate sheets where necessary.

APPENDIX N

(Vide Para 9-04)

*Register.....

Numerical Register of Dealers under the State/Central Act.

(To be substituted for Register 45, 46 and 47)

Name of Office.....

Serial No.	R. C. No. under the State/Central Act.	Date of registration	Date from which R.C. is valid	Name of the dealer with address	Accounting year	Return period	Section under which registered	R.C. No. under the Central/State Act	Remarks
1	2	3	4	5	6	7	8	9	10

*Separate Register should be maintained for the State Act and the Central Act.

APPENDIX O

(Vide Para 9-04)

Register.....

Alphabetical Register of Dealers

(To be substituted for Register 48)

Name of office.....

Serial No.	Dealer's Name	Dealer's address	Nature of business	R.C. No. with date		Remarks
				State	Central	
1	2	3	4	5a	5b	6

APPENDIX P

(Vide Para 9-04)

Register.....

Topographical Register of Dealers

(To be substituted for Register 49)

Name of office.....		Name of street / locality		No. of premises	Name of dealer	Nature of business	R.C. No. with date		Remarks
District	Ward No./Thana						State	Central	
1	2	3	4	5	6	7a	7b	8	

APPENDIX Q

(Vide Para 9-04)

Register.....

Control Register

(To be substituted for Register 54)

Name of office..... Name of the dealer.....
 Group No..... Address
 R.C. No.
 Date of validity of R.C.
 Accounting year



Serial No.	Period of assessment	Payment of tax, etc.							
		1st quarter		2nd quarter		3rd quarter		4th quarter	
		Date	Amount	Date	Amount	Date	Amount	Date	Amount
1	2	3a	3b	3c	3d	3e	3f	3g	3h

Date of receipt of return	Date of Time-bar U/s.	Notice initiating assessment issued on	Demand notice issued on	Payment completed on	If the demand be under certificate, reference to Register IX	Remarks
4	5a	5b	6	7	8	9
						10



APPENDIX R

(Vide Para 9-04)

*Register.....

Register of Assessment

(To be substituted for Registers 55, 56, 57, 58, 59, 60, 61 and 85)

Serial No.	Assessment initiated on	Name and address of dealer	R.C. No.	Period of assessment	Initial of C.T.O.	Assessment completed on
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Particulars of assessment				Payments made before assessment		
G.T.	T.T.	Tax	Penalty	Tax	Penalty	Interest

*Separate Registers should be maintained for the State Act and the Central Act.

Additional demand raised				Refund allowed, if any				Initial of C.T.O.	Demand notice issued on	Due date of payment
Tax	Penalty	Interest	Tax	Penalty	Interest	R.P.O./ R.A.O./ T.V. No. with date	Ref. to refund Register			



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APPENDIX S

(Vide Para 9-05)

*Register.....

Register of application for New Registration and Amendment/Cancellation of Registration Certificate

(To be substituted for Registers 62, 63, 64, 65 and 66)

Name of office.....

**Serial No.		Date of receipt of application	Name and address of the dealer	Existing R.C. No. with date, if any	Date of order of disposal	Whether application is granted or rejected	Remarks
New Registration	Amendment Cancellation						

*Separate Register should be maintained for the State Act and the Central Act.

**Separate Serial No. should be maintained for separate items, namely, New Registration, Amendment and Cancellation.

APPENDIX U

(Vide Para 9-04)

Register.....

Register of Import of notified goods

(To be substituted for Register 84)

Serial No.	Name and address of the applicant	R.C. No.	Date of application	Description of goods	Name and address of the consignor	Place of despatch	Name and address of the consignee
1		3	4	5	6	7	8



Destination	Quantity/weight, as declared	Value, as declared	R/R or B/L or Air Note No. and date	No. and date of issue of permit	Initial of the C.T.O.	Remarks
9	10	11	12	13	14	15

APPENDIX V

(Vide Para 9-04)

Register.....

Register of Refunds

(To be substituted for Register 86)

Serial No.	Name of the dealer	R. C. No.	If refund arises out of assess- ment, reference to Assessment Registrar	If refund arises out of appeal, date of such order	Amount of refund	Refund order issued on	R. P. O. / R. A. O. / T. V. No. with date	Remarks
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APPENDIX W

(Vide Para 9-04)

Register.....

Register of application for Tax Clearance Certificate

(To be substituted for Register 89)

Serial No.	Date of receipt of application	Name and address of the applicant	R. C. No., if any	Nature of business	Date of order of disposal of the application	Whether the application is allowed or rejected	Date of delivery of certificate, if granted	Remarks
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APPENDIX X
(Vide Para 9-04)

*Register.....
Register of Consignments passing through a Check-post
(To be substituted for Register 94)
INWARD/OUTWARD

Name of Checkpost.....
Period : from.....
to.....

Date	Time	Vehicle No.		Chalan /Manifest /Invoice No. with date	Particulars of goods carried		
		Goods vehicle	Other vehicle		Name	Quantity	Value
1	2	3	4	5	6	7	8

Name and address of		Goods carried		Initial of the Clerk-in-Charge	Countersignature by the Checking authority	Remarks
Consigner	Consignee	From	To			
9	10	11	12	13	14	15

*Separate Register should be maintained for incoming and outgoing vehicles.

APPENDIX Y

(Vide Para 12-03)

Statement of additional Staff requirement

Post	Existing strength				Proposed requirement			Additional require-ment
	Entry Tax	Bureau of Investi-gation	Others	Total	Entry Tax	Others (including investi-gation)	Total	
1	2	3	4	5	6	7	8	9
1. Commissioner	1	1	..	1	1	..
2. Additional Commissioner	1	6	7	..	7	7	..
3. Assistant Commissioner	30	30	..	52	52	22
4. Commercial Tax Officer/Certificate Officer.	18	6	343	367	18	425	443	76
5. Administrative Officer/Personal Assistant.	3	3	..	31	31	28
6. Inspector	12	325	409	72	579	651	242
7. Stenographer	1	8	9	..	407	407	398
8. Office Superintendent/Head Clerk	1	52	53	..	110	110	57
9. Bench Clerk (in the Upper Division rank).	330	330	330

APPENDIX Y—*concl'd.*

Post	Existing strength				Proposed requirement			Additional require- ment
	Entry Tax	Bureau of Investi- gation	Others	Total	Entry Tax	Others (including investi- gation)	Total	
1	2	3	4	5	6	7	8	9
27. Duftary	3	3	..	3	3	..
28. Binder	3	3	3
29. Telephone Operator	1	7	8	..	17	17	9
30. Adding Machine Operator	1	1	..	1	1	..
31. Duplicating Machine Operator	1	1	..	3	3	2
32. Care-taker	1	1	..	1	1	..
33. Assistant Care-taker	4	4	4
34. Farash	21	21	..	33	33	12
35. Mali	1	1	..	1	1	..
36. Visti	2	2	..	2	2	..
37. Sweeper	..	1	30	31	..	39	39	8

38. Cleaner ..	..	..	..	1	1	..	10	10	9
39. Motor Mechanic ..	..	..	..	1	1	..	10	10	9
40. Input/Output Clerk ..	..	..	..	1	1	..	2	2	1
41. Puncher/Verifier ..	..	..	..	4	4	..	8	8	4
42. Copyist/Typist ..	..	..	..	8	8	..	1	1	(-)*
Total ..	212	55	2,595	2,862	212	5,052	52,67	2,414	(-)*9
									2,405

Remarks—

*1. Functions of Nazir have been proposed to be done by Inspectors. Provision therefor has been made in the additional requirement of Inspector.

**2. Vide Para 5.64 of the report. The surplus Copyist-Typist may be given alternative appointment in the rank of Grade-Typist with necessary protection past service for all purposes.

3. (a) Provision of 10% leave reserve and 5% training reserve has been made for the cadres of Commercial Tax Officer/Certificate Officer and Inspector.

(b) Provision of 10% leave reserve (but no training reserve) has also been made for the cadres of Stenographer, Record Superintendent/Orderly, Driver, Guards (Darwans and Night Guards), Patrolman, Telephone Operator, Farash and Sweeper.

(c) Provision of 10% leave reserve and 5% training reserve has also been made in the cadre of Lower Division Clerk on the sum total of the strength of staff in the cadres of Office Superintendent/Head Clerk, Bench Clerk, Upper Division Clerk and Lower Division Clerk.

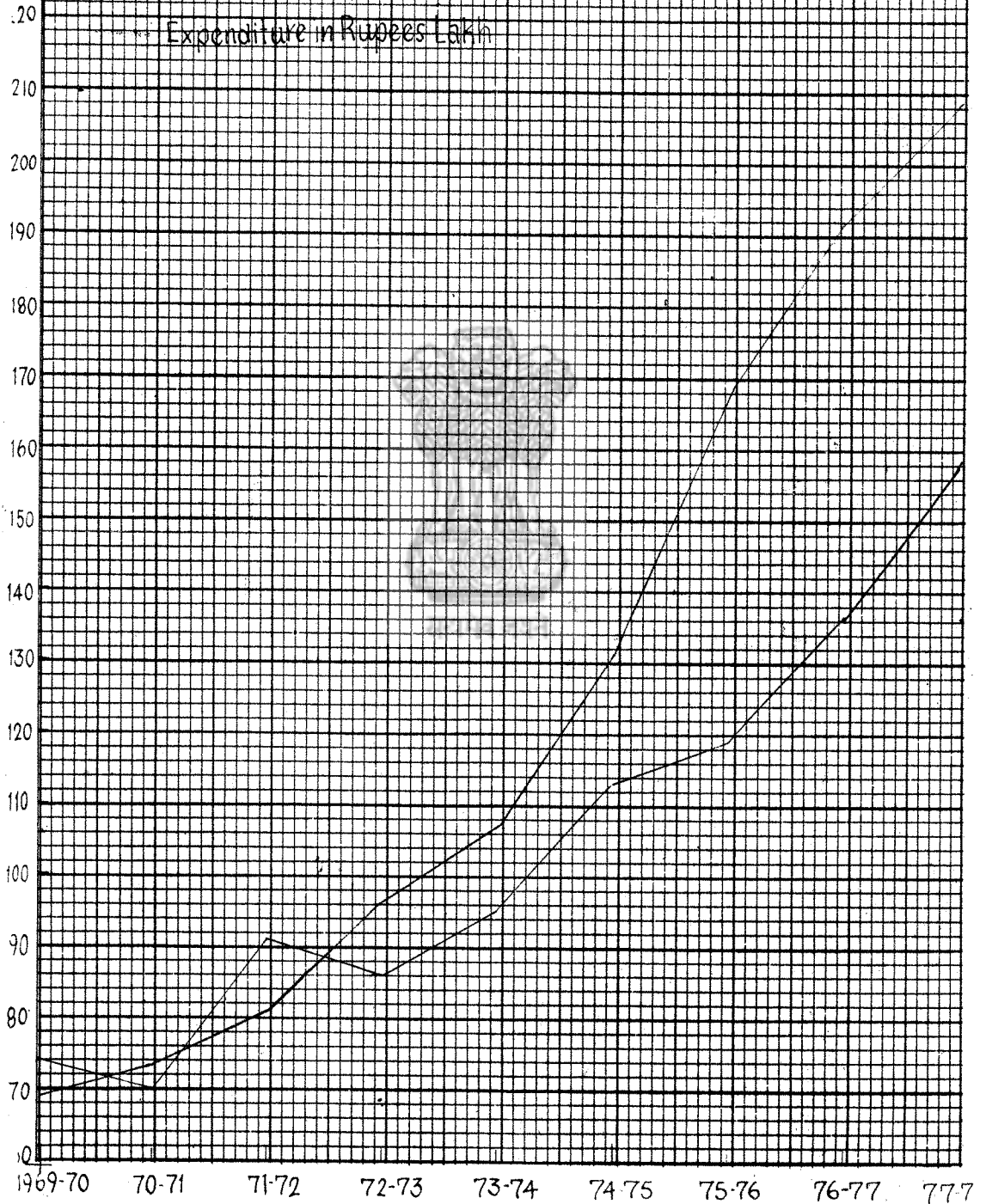
4. The additional requirement shown in the statement does not include the additional requirement, if any, for the establishments of Amusement Tax and TECLA administration and the police wings of Investigation and Certificate Organisations.

5. Where the Central Office and the regional Offices have common cadres in the same or different pay-scale/s, the figures stated against such cadres show the total position.

YEAR-WISE COLLECTION & EXPENDITURE

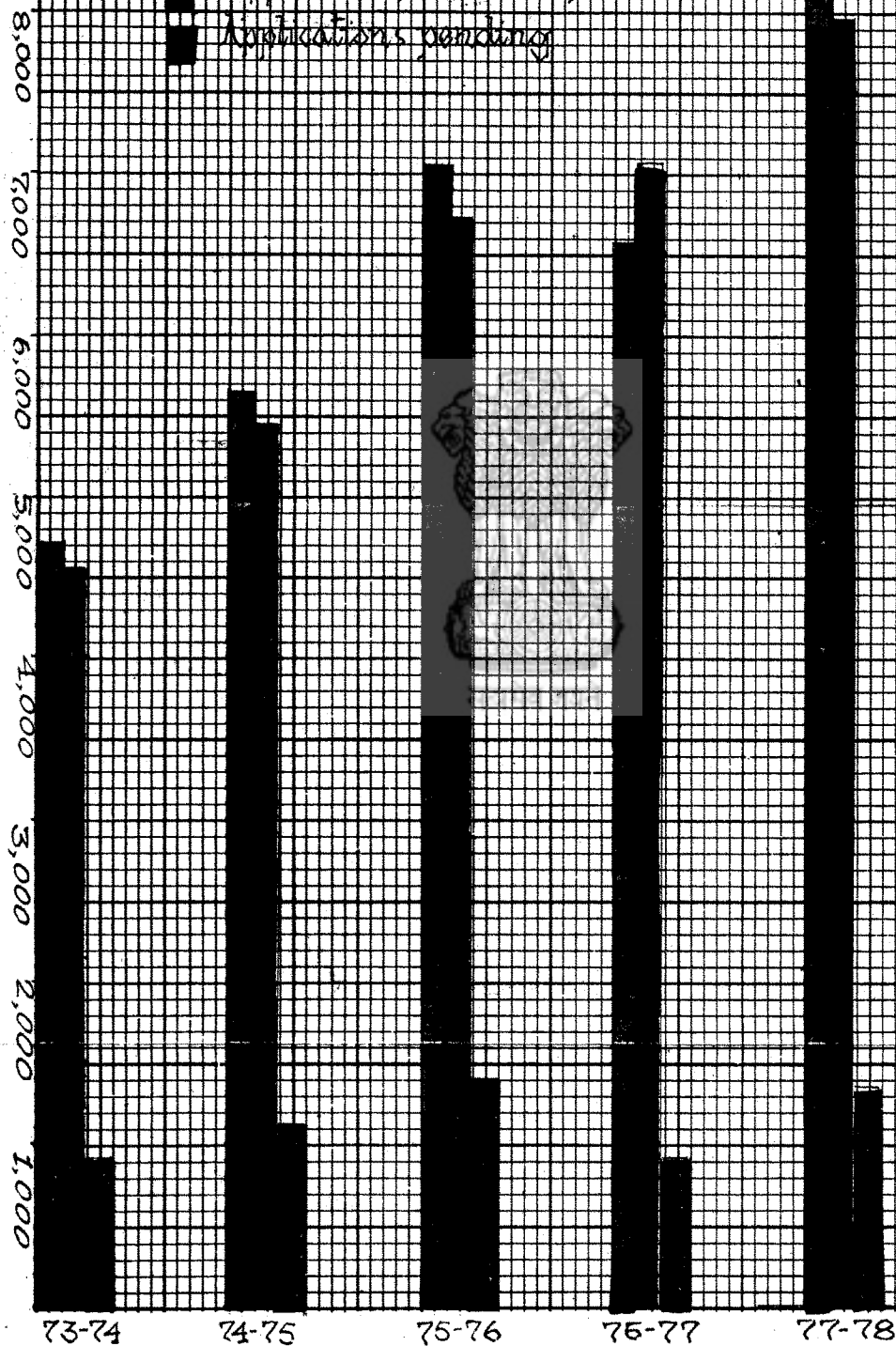
Collection in Rupees Crore

Expenditure in Rupees Lakh



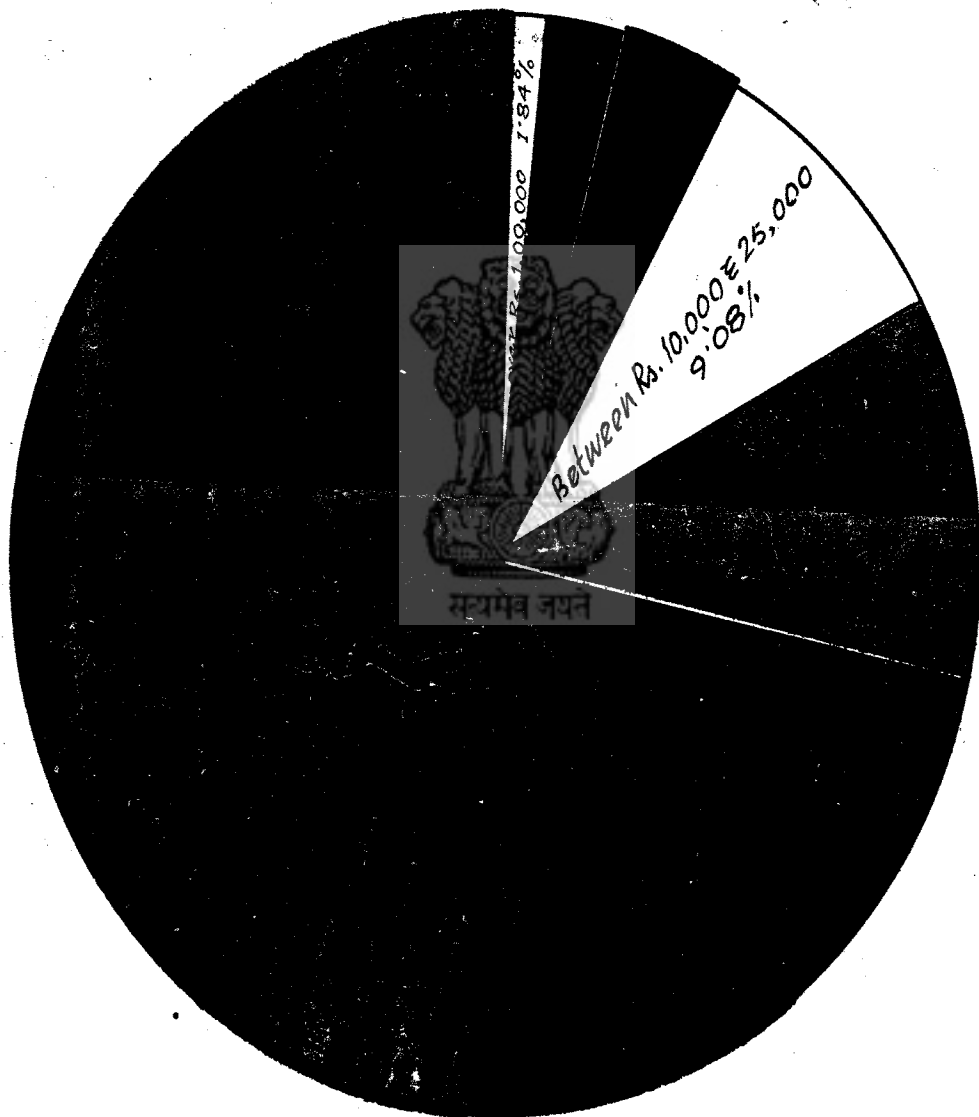
Progress of Registration

- Applications filed
- Applications disposed of
- Applications pending

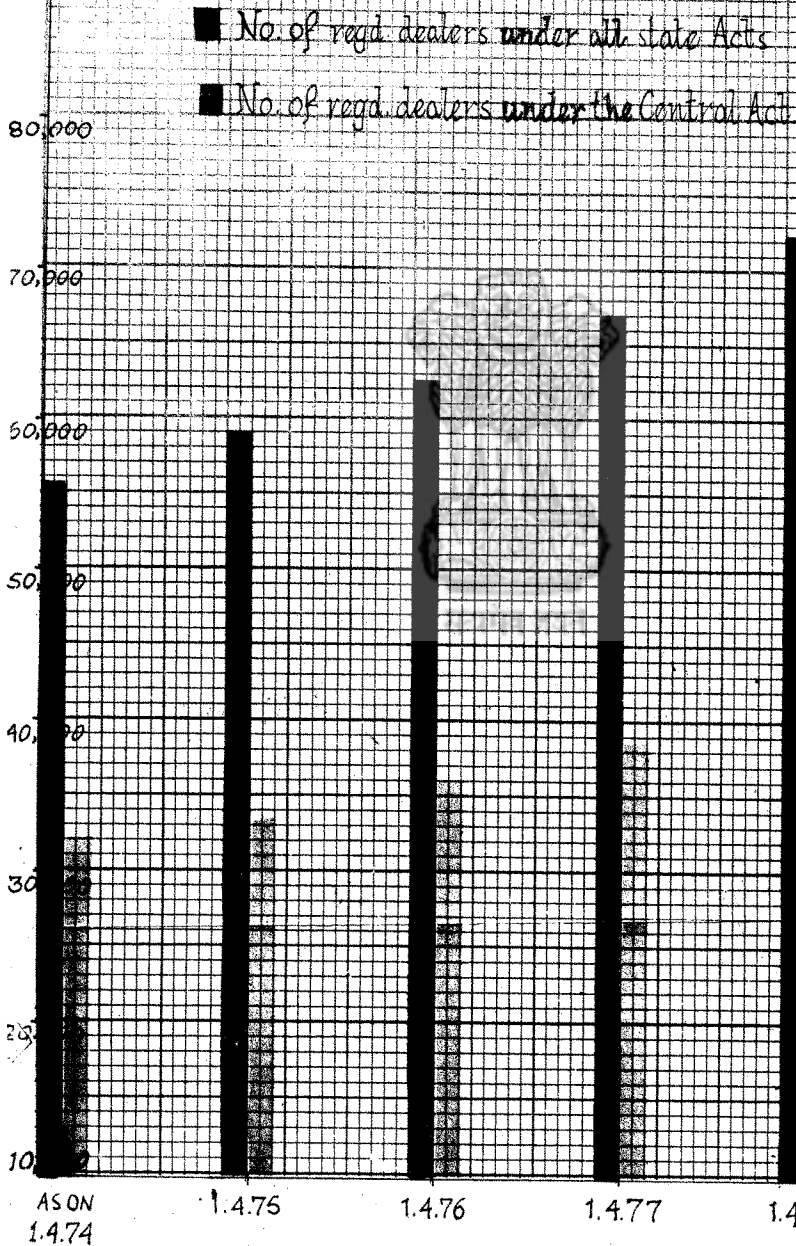


Tax-yield-wise (State Acts)

Break-up of Regd. Dealers (as on 1.4.78)



Registered Dealers State & Central



Number of Registered Dealers

& Assessments

- Number of Regd. dealers
- Number of Assessments made.

20,000

10,000

00,000

30,000

10,000

10,000

.000

10,000

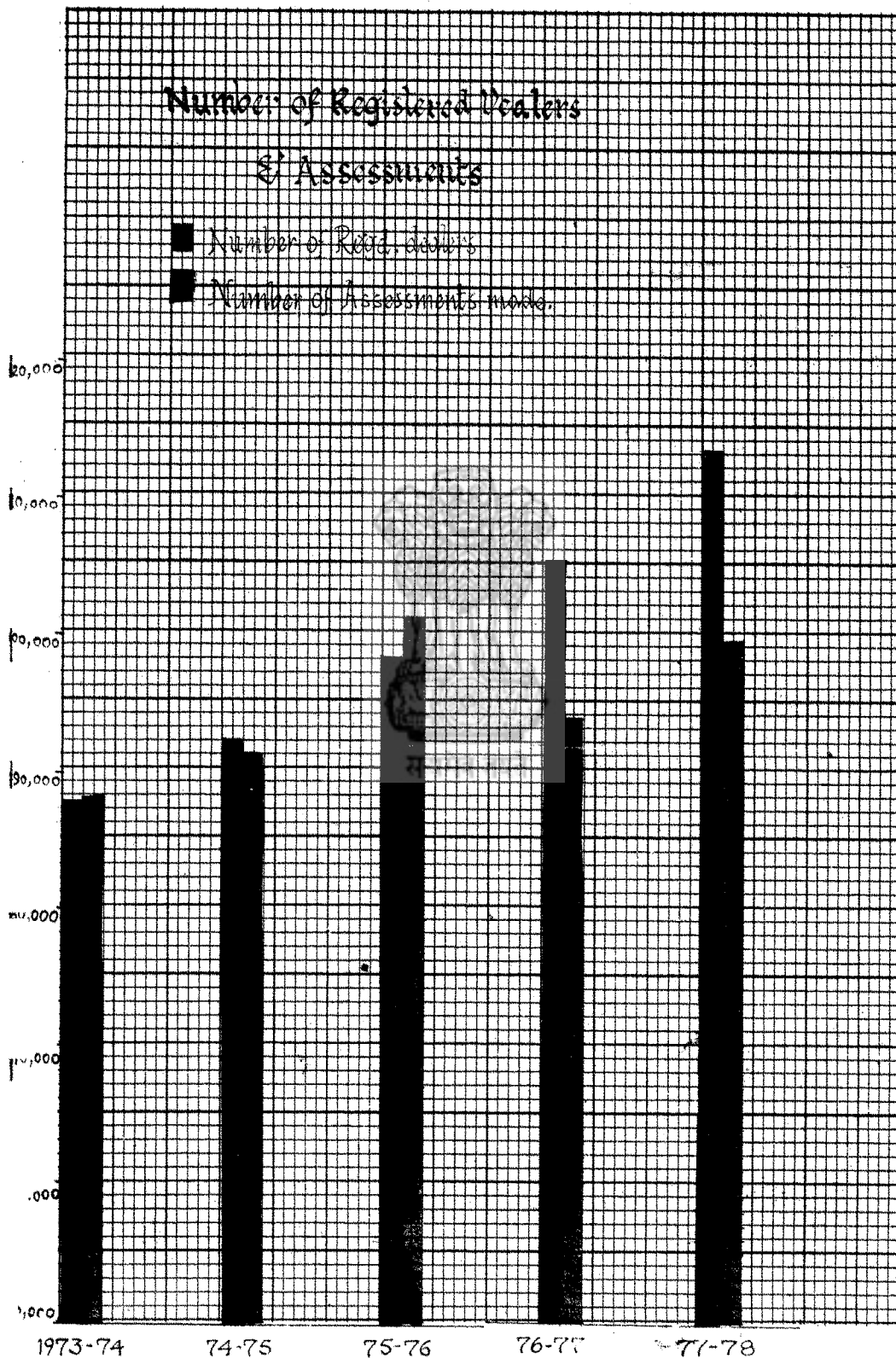
1973-74

74-75

75-76

76-77

77-78



Turnover-Wise (state act)

break-up of Regd. Dealers (as on 1.4.78)

