



# **PUBLIC ACCOUNTS COMMITTEE**

(1988-90)

**FORTY THIRD REPORT**

(EIGHTH ASSEMBLY)

**Report of the Public Accounts Committee on the action taken or proposed to be taken by the Government on the various Recommendations, Suggestions or Remarks made by the Public Accounts Committee contained in their 34th and 36th Report on "Sales Tax" pertaining to the Finance Department Government of Assam.**

Presented to the House on 18th November, 1988

LEGISLATIVE ASSEMBLY SECRETARIAT  
ASSAM, DISPUR  
GUWAHATI-6

REFERENCE

CONTENTS 1960-1961 Library

1. Composition of the Committee	...	...	...	...	i
2. Introduction	—	...	...	...	ii
3. REPORT	...	...	...	...	1—43
4. Annexure I	...	...	...	...	44
5. Annexure II	...	...	...	...	45—47
6. Annexure III	...	...	...	...	48—50
7. Annexure IV	...	...	...	...	51—53
8. Annexure V	..	...	...	...	54—55



REFERENCE

i  
Library

**COMPOSITION OF THE COMMITTEE  
(1988-90).**

**CHAIRMAN :—**

1. Shri A. F. Golam Osmani.

**MEMBERS :—**

- \* 2. Shri Gunin Hazarika.
3. Shri Kamala Kalita.
4. Shri Pradip Hazarika.
- \* 5. Shri Dilip Kumar Saikia Sonowal.
- \* 6. Shri Zoi Nath Sarma.
7. Shri Joy Prakash Tewari.
8. Shri Silvius Condpan.
9. Shri Sheikh Abdul Hamid.
10. Shri Ramendra De.

**SECRETARIAT :—**

1. Shri S. N. Deka, Secretary A.L.A.
2. Shri S. K. Changmai, Liaison Officer
3. Shri A. R. Chetia, Under Secretary.
4. Shri P. Deuri Bharali Superintendent.

---

\* Ceased to be member of the P. A. C. on their appointment as Minister and Minister of State.



## INTRODUCTION

1. I, Shri A. F. Golam Osmani, Chairman of the Committee on Public Accounts, having been authorised to submit the Report on their behalf present this Forty Third Report of the Committee on Public Accounts on the Action taken or Proposed to be taken by Government on the various recommendation's Suggestions or Remarks made by the Public Accounts Committee in their Thirty Fourth and Thirty Sixth Reports on Sale Tax pertaining to Finance Department.

2. The Written Memorandum on action taken or proposed to be taken by Government were considered by the Committee on Public Accounts of the Eighth Assembly (1988-90) in its sittings held on 4th October, 1988 and 15th October, 1988 respectively.

3. The Committee has considered the draft Report and adopted the same in its sitting held on 2nd November 1988

4. The Committee places on records their appreciation to the strenuous works done by the outgoing Committee on Public Accounts in obtaining various records, information and clarifications pertaining to the report. The Committee also wishes to express their thanks to the representatives of the Government in the Finance Department for their kind co-operation in furnishing the relevant information/clarifications to the Committee.

Dispur  
The 2nd November, 1988

A. F. Golam Osmani,  
Chairman,  
Committee on Public Accounts.



STATEMENT SHOWING THE ACTION TAKEN OR PROPOSED TO BE TAKEN BY THE GOVERNMENT ON THE VARIOUS RECOMMENDATIONS, SUGGESTIONS OR REMARKS MADE BY THE PUBLIC ACCOUNTS COMMITTEE IN THEIR THIRTY-FOURTH REPORT ON THE FINANCE DEPARTMENT RELATING TO SALE TAX

Sl. No. & Page of P.A.C. Report	Recommendation	Action taken or proposed to be taken by the Government	Remarks
---------------------------------	----------------	--	---------

1 2	3	4	5
1 Para 1.5 Page 3.	From the evidence tendered before the Committee by the Departmental witnesses, the Committee is convinced that there was initially some difficulties for including excise duty in the turnover of a dealer in view of the verdict given by the Hon'ble Supreme Court. However the Committee is satisfied that the excise Department has charged the Bonded Ware House Rules and the Bonded Ware House can now include the excise duty in the sales price and as a result sales tax can be levied on the Bonded Ware House or on the whole-sale licensee on the entire amount of money consideration including the excise duty and accordingly Finance Department has inserted three new sections in the relevant Act.	No action has been recommended by the Committee.	No comment.



2 Para

1.10

Page

5.

It appears from the evidence tendered by the Departmental witness that the Commissioner of Taxes assessed the tax according to the price of gunny bags as fixed in the Central order.

The Committee could not appreciate how the Commissioner issued instruction in February 1968 that the value of containers of exempted goods where no separate accounts of the Containers were maintained had to be determined at two and half percent of the gross turnover of exempted goods.

The Committee also failed to understand how the Commissioner could assess the total tax on the basis of a Central Order which resulted in under assessment of tax to the extent of Rs. 23,595'00.

The Committee therefore desires that a detailed report for such under assessment should be submitted to the Committee within three months from the date of presentation of this Report and the discrepancy removed.

The dealer concerned is a Sugar Mill in the Co-operative sector and the relevant assessment periods are 30th September 1961 to 30th September 1964 under the Assam Sales Tax Act, 1947. Apart from the Central order fixing the price of gunny bags along with the price of sugar there is another order passed by the Commissioner of Taxes, Assam regarding calculation of the value of containers of exempted goods, vide his letter No. CTS 20/68/14, dated 8th February 1968. (Annexure—1)

In pursuance of an order passed in revision by the Commissioner of Taxes, Assam the assessments of the dealer relating to the periods mentioned above were revised by the assessing authority, determining the value of the gunny bage of sugar @ Rs. 1'00 per bag, in conformity with the instructions of the commissioner of Taxes, Assam contained in his letter dated 8th February 1968 (mentioned above).



The said value of con'ners of exempted goods, where no separate accounts thereof are available, was to be calculated in the case of gunny bags either @2½% of the sale price of the exempted goods or Re. 1.00 per bag, whichever is less.

In the instant case account of the number of bags of sugar was available and since the value of gunny bags calculated @ Rs. 1.00 per bag was found to be less than that calculated @Rs. 2½% of the sale price of sugar, the assessment of the dealer is found to be in order and there is thus, no less of Government revenue.

It may thus be seen that there is actually no discrepancy between the assessments made by the assessing officer and the instructions of the Commissioner of Taxes referred to by Audit. No further action in the matter, therefore, appears to be necessary.



3 Para 2.4 It appears from the evidence  
Page-7 tendered by the Departmental witness that the details required under Form 'F' had already been received by the Finance Department from the concerned Tea Estate and it was found in order. It also appears that only after pointing out the mistake by the Audit, the Superintendent of Taxes obtained the necessary declaration from the dealer, although there is clear provision in the Act to furnish necessary declaration within the specified time. Moreover, there was no indication in the records as stated by the Audit that the dealer had produced any other evidence of despatch of such goods as required under the Act.

The Committee is not satisfied with the reply given by the Departmental Witness and the Committee would like that the Finance Department will issue strict instructions to the Superintendent of Taxes to follow the relevant provision of the Act in making assessment of taxes in future.

In pursuance of the observations made in para 2.5 at page 7 of the Report strict instructions and necessary guidelines have been issued to the Superintendents of Taxes with a view to ensuring correct assessment of tax in future in accordance with the provisions of the Central Sales Act, 1956. The said instructions and guide-lines are contained in Sales Tax Circular No. 109, dated 20th March, 1987 issued by the Commissioner of Taxes, Assam (Annexure—II).

No comment.



4 Para 2.10 Page-9

The Committee observes that Department should see that no tax dues are left due to the negligence of the Tax Officers and the record must show that the assessment is made correctly or not Sales Tax Officers should verify the stock of dealer to satisfy himself to ensure that assessment is made correctly. In this case it is found that there is laxity on the part of the Superintendent of Taxes, Jorhat and no action was taken by the Finance Department against the Officer.

No comment.

The original assessments of the dealer concerned for the return periods ending 30th September 1969, to 31st March 1970, 0th September 1970 and 31st March 1971 under the Assam Finance (Sales Tax) Act., 1956 were revised on the basis of audit observations but the revised assessments were set aside by the Assistant Commissioner of Taxes (Appeals) on the ground that re-opening of the previous assessment is under section 11 of the Act was not justified under the law.

As a measure of precaution for the future and in pursuance of the Committee's recommendation contained in Para 2.11 of the Report, strict instructions have been issued to the Superintendent of Taxes to verify the books of accounts of the assesses including opening and closing stock accounts properly, eliminating the possibility of any under assessment of tax. The relevant instructions are contained in Sales Tax Circular No. III, dated 21st April 1987.



issued by the Commissioner of Taxes, Assam (Annexure III) It has also been categorically stated in the circular that an assessing officer shall be held personally responsible for any loss of Government revenue arising out of an order erroneously passed by him.

5 Para The Committee recommends that  
2-17 the interest for not depositing the  
Page assessed Tax in due dates should  
11 be imposed if necessary by  
amending relevant laws. The Com-  
mittee would also like to be  
apprised about the latest position  
of the matter.

Interest due in all the 20 cases under the Assam Sales Tax Act, 1947 was levied by the Superintendents of Taxes concerned. In one case smaller amounts of interest that suggested by the Accountant General have been levied for 8 assessment periods in pursuance of an order of the Appellate Authority. In 17 other cases, interests levied were realised in full and 2 more cases in which due interests have been levied are involved in Bakijal Proceedings.

In view of the amendment made by the Government, Committee has accepted the reply.



Similarly, interest due in all the 20 cases under the Assam Finance (Sales Tax) Act, 1956 was levied by the Superintendent of Taxes converted.

In 3 cases out of 20 (i.e. one case only 1 return period is involved). The dealers concerned had challenged the levy of interest by filing writ petition in the Guwahati High Court. The decision on the said writ petitions are still awaited. In 5 other cases, recovery of interest are involved in Bakijai proceedings. The remaining 12 cases the interests levied were realised in full, in 1 of the 20 cases, the present position in respect of 2 return period is being ascertained from the Superintendent concerned.

Four cases were reported by audit for non/short levy of interest under the Assam purchase Tax Act, 1967. Interest have since been levied in all the cases and realised too.



It was submitted earlier that some flaws were detected in the provisions relating to levy of interest in the relevant Sales Tax Acts. With a view to remove the flaw, Section 35A, Section 22A and Section 21 of the Assam Sales Tax Act, 47, Assam Finance (Sales Tax) Act '56 and Assam purchase Tax Act '67 respectively have already been amended.

6 Para It appears from the evidence tendered by the Departmental witness that in spite of clear provision in the relevant Act the Department did not exercise the discretion of imposition of penalty. In none of the 53 cases proceedings were drawn up and not a single case was referred to the Commissioner by the assessing officer before imposing penalty. The Committee feels that there is no convincing ground in contemplating for removal of the provisions of the Act for making reference to the Commissioner for imposing penalty. The maximum penalty leviable in these 53 cases

The necessity and desirability of invoking the provisions for imposition of penalty under the Sales Tax Act's, in cases where concealment of turnover, evasion of tax, non-submission of returns and or deliberate furnishing of inaccurate particulars occurred, had been impressed upon the assessing officers from time to time vide Circulars No.85, 101, 105 issued by the Commissioner of taxes, Assam. In pursuance of the recommendations of the Committee fresh instructions in

In view of the fact that in pursuance of the recommendation of the Committee fresh instruction in this regard have been issued to the Assessing Officers by circular No. 110 dated 7th April 1987, requiring them amongst other things to invoke the penalty provisions invariably. The recommendation is acted upon by the Department, the Committee has therefore, accepted the reply.



worked out by Audit to Rs. 63.21 lakhs. In seventy cases assesses were not present and the cases were decided *ex parte*. The Committee observes that even though there is discretion, in cases where the party did not turn up it must be presumed that it is a case of concealment and therefore penalty should be imposed.

The Committee therefore recommends that there is no necessity of amending the relevant provision of the Acts relating to levy of penalty. The Committee further recommends that in future the assessing authorities should be impressed upon that it was not discretionary on the part of the assessing authorities in cases where concealment of turnover, evasion of tax, deliberate furnishing of inaccurate particulars or non furnishing of return occurred but he was required to seek the orders of the Commissioner for levy of penalty after considering the cases by him.

this regard have been issued to the assessing officers in Circular No. 110 dated 7th April 1987 (Annexure IV) requiring them, amongst other things invoke the penalty provisions invariably.



7 para  
2-25  
page-16

The Committee recommends that the result of second case should be intimated to the Committee as soon as it is finalised.

In the second case, the original assessment was revised by the assessing officer in pursuance of the audit observations. But, the revised assessment of the dealer was set aside by the Appellate authority.

After receipt of recommendations of the Committee, the assessment records of the dealer were examined and it was found that in response to a show cause notice, the dealer informed the assessing officer in writing that the goods in question namely, jute despatched to places out side Assam from Rangia by rail during the quarter ending 30th June 1973 did not belong to him since his name did not appear in the relevant Railway Receipts either as consignee or as consignee. The assessing officer had no proof to the contrary in his possessions.

However, efforts are in progress to identify the actual owners of the goods.

The Committee wonders what useful purpose will be served even if the identity of the parties are found out after 14 Years. The Committee feels that there are procedural deficiencies to meet this type of cases.

The Committee, therefore recommends that the Department should take a definite position in relation to a case of this nature. In future, in such cases the Department should give the final decision and not keep it open with observation like, the efforts are in progress to identify the actual owners of the goods.



2

The Committee therefore recommends that the matter may be enquired into by the Government to find out as to whether there was any laxity in any level in checking the returns for assessing the tax and the assessment was correctly done according to the returns submitted by the assesses and whether there was any scope for taking penal action for submission of incorrect returns etc. The action taken should be intimated to the Committee within three months from the date of presentation of the Report to the House.

3

In pursuance of the recommendations of the Committee the matter has been examined again in order to find out as to whether there was any laxity at any level in checking the returns for assessing the tax and whether the assessments were correctly made. It appears from the records that in the instant case, the dealer submitted six quarterly returns covering three half-yearly assessment period viz. periods ending 31st March 1972, 30th September 1972 and 31st March 1973. In the returns for the half-yearly periods ending 31st March 1972 the dealer had claimed a deduction, probably under a mistaken conception of the law, to which he was not entitled under the amended Act. As already stated in our memorandum, this deduction claimed by the dealer was disallowed by the assessing officer. The assessment for the period ending 31st March 1972 was, therefore, correctly made in accordance with the provisions of the Act and there was no laxity at any level. As a matter of fact.

4

In view of the fact that there was no laxity, the Committee accepted the reply.



the dealer was a State Government undertaking with Head Office in Meghalaya and there was no malafide in its claiming a deduction from the turnover for the period which was disallowed. In the circumstances, no penal action was contemplated or taken against the dealer. With regard to the half-yearly assessment periods ending 30th September 1972 and 31st March 1973 also, the dealer had submitted four quarterly returns claiming a deduction from the turnovers. But later the dealer submitted revised returns, as stated in our Memorandum, declaring that his liability in respect of these two assessment periods was Nil. This was done on the ground that the dealer had been registered in Meghalaya with effect from 1st April 1972 under the Sales Tax Laws of Meghalaya in respect of all the transactions made by the dealer during these periods. No assessment was, therefore, made in respect of these two half-yearly periods in Assam. There was thus no laxity at any level and no penal action was either necessary or contemplated for these assessment periods also.



1 2

3

4

5

In view of the above, no further action in the matter is necessary.

9 Para The Committee would like to know  
2-35 if the assessment was further  
Page- verified and tax due realised.  
18

In pursuance of the recommendations of the Committee the assessment of the dealer for the period ending 30th September, 1973 under the Central Sales Tax Act, 1956 was re-examined. It was found on examination that the dealer furnished six duplicate "F" forms which covered the full value of the goods despatched during the period in the course of stock transfer. As such, no tax was due in the instant case and the exemption order was correctly made.

No comment.

10 Para

2-38 The Committee recommends that the present position of the case may be intimated to the Committee within a course of three months from the date of submission of this Report to the House.

On re-examination of the books of accounts of the dealer it was found that the goods in question viz., Gnojilla Seeds were despatched by him in the course of stock transfer to his agent M/s. Chatalal Shankarlal, Jaipur during the period from 25th December, 1972 to 31st March 1973 and actually sold at Jaipur bet.

No comment.



1 2

3

4

5

ween the period from 15th January, 1973 to 20th February, 1973. Since the goods were sold outside the State, no tax in respect thereof was payable in Assam. Moreover the provision relating to furnishing of declaration in Form "F" in support of stock transfer to other States come into force with effect from 1st April, 1973. As such, no declaration in form "F" was either asked for or necessary in respect of the goods transferred to agent up to the period ending 31st March, 1973. The confusion has arisen in this case in view of the fact that although the goods were despatched prior to 1st April 1973, the sales thereof made outside the State were recorded in the books of accounts of the dealer after 1st April, 1973 on receipt of sales advices from his agent. The order passed by assessing officer allowing exemption in the instant case is in order and there is no loss of revenue.



11 Para 2,49  
Para 21

The Committee observes that the objections raised by the Audit were not properly attended to by the Department as a result the exact position could not be ascertained. The reasons for non-observance of the provision of the Acts were not found by the Audit recorded in the records. The Committee therefore recommends that the Department should strictly adhere to the provisions of the Acts and reasons for non-observance of the provisions of the Acts in cases should be invariably recorded in future by the concerning officers

In pursuance of the recommendations of the Committee, strict instructions have been issued to the Superintendents of Taxes to invoke sections 38 or 39 of the Assam sales Tax Act, 1917 and corresponding provisions of the other sales Tax laws, for prosecuting the offenders in all deserving cases. The relevant instructions are contained in Sales Tax Circular No 113 dated 15th May, 1987 issued by the Commissioner of Taxes, Assam (Annexure V)

No Comments



**STATEMENT SHOWING THE ACTION TAKEN OR PROPOSED TO BE TAKEN BY THE GOVERNMENT ON THE VARIOUS RECOMMENDATIONS, SUGGESTIONS OR REMARKS MADE BY THE PUBLIC ACCOUNTS COMMITTEE IN THEIR 36TH REPORT ON THE FINANCE DEPARTMENT RELATING TO SALE TAX.**

Sl. Para and No. page of P. A. C. Report.	Recommendation	Action taken or proposed to be taken by the Government	Remarks
1 2	3	4	5
1 para 1-8 at page 3 & 4 and 2 Para 1-9 at page 4	The Committee could not appreciate the grounds adduced by the Departmental Witness in justification of the abnormally high variations and feels that such variations could take place due to the faulty assessment of estimates and actuals particularly for the year 1980-81. Similarly the variations of 56 percent for the years 1979-80, 1980-81 and 1981-82 in respect of taxes on Agricultural income appears to be unreasonably.	It may be observed that budget estimate is a short-term forecast in making which the following factors are taken into consideration:— (i) general trend of movement of revenue in the past (ii) any expansion or otherwise of the tax base because of the following factors (i) extension of the coverage, enhancement of rates, sectoral or general tax relief etc. following from legislative changes (ii) economic expansion or erosion (iii) subject to the above, a speci-	The explanation given by the Department that such high variations in between the actuals and the estimates were due to the abnormal conditions prevailing in the period is accepted. But the Committee would like to examine closely the rate of variation in the subsequent normal periods.  With reference to Para 1-9, the Committee observed that the Department should specifically state the reasons for which they are sometimes unable to predict actual financial position for the year under review.
	The Committee therefore recommends that a thorough review should be made to ascertain the causes of abnormally high variation between the budget estimates and actuals for the purpose		



1

2

3

of taking remedial measures in future. Action taken in this regards should be intimated to the Committee within three months from the date of presentation of this report.

4

5

fic growth rate assumed on the basis of the findings of Finance Commission and discussions with the Planning Commission before finalisation of annual plans.

The estimates of revenue for 1979-80, 1980-81 and 19 1-82 were made on the aforesaid basis. The variation between budget estimates and actuals in respect of Agricultural Income-Tax revenue was very substantial. The budget estimates having been more or less imposed on the State Government by the Planning Commission, we could not do much about them except tell the Planning Commission that the estimates would have to be revised on the basis of experience. However, it may be stated by way of explanation that the variation or fall in revenue was mainly due to a crisis through which the tea industry was passing at the relevant time. As a matter of fact, it is because of this crisis and under pressure from the Central Government that the State had to grant some tax reliefs to the industry in 1982-83. With regard



to variation in Sale-Tax revenue, it may be stated that the variation in 1979-80 was not very high. But the variation in 1980-81 and 1981-82 was substantial. The variation in 1980-81 was due mainly to a blockade on movement of crude oil and petroleum products imposed in the course of the Assam Agitation. On the other hand, the improvement in revenue in 1981-82 was mainly attributable to an increase in the price of crude oil from the middle of 1981 from a little over Rs. 300 to over Rs. 1100 per MT.

The causes of the abnormally high variations are stated above. Sufficient care and precaution is invariably taken to make an accurate estimate of the revenues. That has always been the practice. Unfortunately, however, sometimes for reasons beyond the control of Government the actuals vary substantially from the budget estimates as reflected in the figures above. Attempts will be made in future to ensure that such variations cannot take place and are reduced to the minimum.



3. Para The Committee therefore reco-  
1.15 mends that the pending cases  
at should be disposed of as per the  
page 5 target fixed and it should also  
and be examined whether the respon-  
sibility of the assessing officers  
4. Para to assess other taxes such as  
1.18 amusement tax, entertainment tax  
at may be entrusted to another set  
page-6 of officers to streamline the finan-  
cial administration. Action taken  
in this regards should be minima-  
ted to the Committee within three  
months from the date presenta-  
tion of this report.

The Committee feels that the  
Government should be more vigi-  
lant to see the progress of tax  
assessment. The Committee there-  
fore recommends that Govern-  
ment should reorganise the tax  
assessment Cell of the Department  
and put more emphasis on the  
detection of unavoidable assess-  
ment cases by issuing appropriate  
direction to the assessing officers  
and responsibility should be fixed  
to officer/officers for intentionally  
dropping the tax assessment cases.  
Action taken in this matter should

It may be observed that the  
dispose of entertainment and  
other minor tax cases does not  
occupy a great deal of time of  
the assessing officers. It may,  
therefore, not be very fruitful to  
entrust the assessment of these  
taxes to another set of officers.  
On the other hand, it has been  
taxes to observed, that the total  
number of assessment cases ex-  
cluding Agricultural Income Tax  
is about 2.10 lakhs. A review  
made discloses that on an average  
one Superintendent of Taxes  
disposes of 2400 such cases annu-  
ally. At this rate we need 88 of  
officers for disposing of new cases  
generated in a year. But we also  
have a back log of about 1.25  
lakhs assessment cases pending  
for over one year. In order to  
liquidate the arrears cases within  
a period of two years and also  
dispose of the current cases  
generated in the meantime we  
need to create 8 additional post-  
of Superintendent of Taxes,  
which have since been created.

The Committee observed that  
the reply of the Government  
may be accepted in general.  
But with reference to para  
1.18 the Public Accounts Co-  
mmittee recommended for re-  
structuring of assessment machi-  
nery by issuing appropriate  
directions to concerned officials.  
In the memorandum submitted  
by the Department in relation  
to the relevant recommenda-  
tion it was not clearly stated  
that re-organisation had in fact  
taken place by having a separate  
Cell, as the Deptt. suggested in the  
Commissioner's office headed by  
an officer in the rank of Deputy  
Commissioner of Taxes whose  
sole function would be to monitor  
the performance of the officers  
in matter of assessment of all  
taxes. In this connection it may  
be noted that the 36th Report  
of the Public Account Commi-  
tee was presented to the House  
on 15th October, 1987 and the  
Department was expected to  
taken action within three months.  
This type of delay should be avoid-  
ded in future.



(1) (2)

be intimated to the Committee within three months from the date of presentation of this report.

(3)

(4)

It may be stated that proposal for reorganisation and strengthening of the internal audit machinery of this department has been recently approved by Government. Under this arrangement there will be a separate cell in the Commissioner's office headed by an officer of the rank of Deputy Commissioner of Taxes whose sole function would be to conduct 100% audit of the performance of the officers in the matter of assessment of taxes. This will be in addition to the safe guard of test audit by the Accountant General. Even now on the basis of test audit conducted by the Accountant General attempts are being made to fix responsibility in cases of serious lapse. The steps for fixation of responsibility will be intensified following the setting up of the strengthened and recognised internal audit cell.

(5)



5. Para 1.23 at page-9  
 The Committee was not convinced with the reasons for not realising the tax evaded as detected by the Department for such large amount of money to the tune of 1.18 crores and expressed its anxiety over such evasion of taxes. The Committee therefore recommends that tax detection machinery should be reoriented for maintaining a strict vigilance if necessary by strengthening the tax enforcement squad for the purpose of detection of taxes and to clear up the huge accumulation of pending assessment cases. The Committee further recommends that a thorough enquiry should be made to ascertain the causes leading to the evasion of

It may be observed that Government have already strengthened the Bureau of Investigation for Economic Offences by doubling the strength of taxation officers in the Bureau for the purpose of detection of tax evasion cases. Besides, the number of check-post has been considerably streamlined for preventing evasion of taxes for the purpose of liquidating pending assessments cases almost all available Officers of level of Superintendent of Taxes have been deployed for this work and several new posts of assessing officers has also been created.

In the light of the replies given by the Department relating to this Audit para, the Committee observed that after an evasion to the tune of Rs. 1.18 crores was pointed out in C. A. G's Report of the relevant period and taken up by the Public Accounts Committee the Department recovered the amount in question and stated that in fact these evasion cases did not effect any loss to the Government, because they could be located and realised subsequently.

The Department in their replies stated that there was no laxity of the officials this transaction. The Committee fails to understand that for what reason at departmental level the evasion could not be detected before Audit objection but could be cleared up after the P.A. C's report. In the premises the Committee wanted an enquiry and fixation of responsibility which was not done in the instant case.



(1)

tax revenue to the tune of Rs. 1.13 crores and responsibility should be fixed on the officer/officers on whose laxity Government had to lose such colossal amount of tax revenue. Action taken should be intimated to the Committee within three months from the date of presentation of this report.

(2)

It may be observed that on investigation it was found that there was no laxity on the part of any officer of the department leading to the evasion of tax noticed by the Public Accounts Committee. It is submitted that as a matter of fact it is because of the vigilance exercised by the officers of this Directorate that the evasion cases were detected. It may also be observed that revenue involved in the evasion cases was not lost to Government. As a matter of fact, after establishment of the extent of evasion following the receipt of reports about evasion of tax the amount of evasion actually established has been recovered from the assesses.

It may also be stated that following further steps have been taken for preventing evasion of taxes.

1. Collection of information about purchases of goods by dealers has been streamlined through legislative and administrative changes.

(4)

Public Accounts Committee feels that such things could occur due to the laxity of officials at their levels. Had the Department been vigilant, the question of evasion to such a huge sum of Rs. 1.18 crores would not have occurred at all.

This being only a case of test-audit, the committee has apprehension that there might be other cases of these types of evasion avoiding detection because there was no audit covering them. In the premises the Committee observes that in future steps be taken so that such recurrence of avoidable evasions do not happen.



2. Improvement of the quality of assessment and other ancillary work by means of proper use of information collected.

3. Closer supervision of the work of the field officers in the matter of survey registration and assessment

6. Para 1.27 at page-11  
 The Committee therefore recommends that thorough review should be made by the Department to ascertain the causes of increased areas and intimate the steps taken to arrest such step arrear in future.

The Committee accepted the replies with the expectation that in subsequent years the corrective applied would have visible results.

Year	Total arrear (Rs. in crores)
1983—84	25.12
1984—85	24.40
1985—86	25.57
1986—87	24.45



It may be observed from the above figures that the mounting trend of arrear taxes has been arrested. The steps taken for curbing the trend of arrears to mount are indicated below :

- (a) Increase in the effectiveness of the departmental Recovery officers.
- (b) Expeditious disposal of appeal and revision cases.
- (c) Liquidation of pending assessment cases.
- (d) Periodical observance of tax clearance fortnights with special emphasis on recovery of arrear taxes and also with a view to impressing upon the assessee the necessity of timely payment of tax.
- (e) Levy of stiff interest for delay in payment of taxes (apart from penalties).



1

2

3

4

5

The main reason for accumulation of arrear taxes in non-payment of tax by the assesses on demand. It very often so happens that people go out of business leaving arrears of taxes to be released. It becomes difficult and sometimes impossible to collect the arrear taxes in such cases. A part of the arrear, normally about 1/3rd of the total arrears is blocked in litigation and another 1/3rd approximately is involved in Bakijai proceedings which take some time to finalise. The remaining 1/3rd is not covered either by litigation or by Bakijai proceedings. In these cases attempts to recover the arrear the assessing officers make taxes by persuasion and other measures that he may take in accordance with law.



7. Para 1.31 at page-13 and

8. Para 1.32 at page-13

The Committee expressed great anxiety for huge arrears of audit objections and inspection notes involving a sum of Rs.468 crores and felt that the arrangement reported to have been made by the Finance Department in setting up Audit Committee for expeditious disposal of these objections should be vigorously pursued.

The Committee therefore recommends that Finance Department should constitute the Audit, Committees consisting of the Departmental Representatives, Representative of the Finance Department and the Representative of the Accountant General having sufficient delegation of powers to drop the objections on the spot. Such Audit Committees should not be come fundus offices after

To start with, the figure of Rs.468 crores does not relate entirely to one Directorate. Position of number of audit objections and inspection notes and the amount involved therein has been furnished by the Accountant General as on 31st March 1986 and it appears that the total amount involved in outstanding Audit Objections and inspection reports up to 1981-82 relating to the Taxation Department involve a sum of Rs.2,58,95,835 only. Since the last report received from the Accountant General there has been further improvement in the position. As a matter of fact, the process of settlement of audit objections and inspection report is a continuous one and attempts are being made to liquidate the arrears of obje-

The reply of the department is accepted with the observation that Public Accounts Committee in its 36th Report recommended that there should be Audit Committees consisting of departmental representatives, representative of Finance Department and representative of the Accountant General to deal with the audit matter shut in their reply though the department has stated that efforts were taken to streamline the machinery so far as the audit objections and meeting them were concerned, nothing has been said about setting up of a machinery as suggested by the Public Accounts Committee on the date of submission of the memorandum in 1988. It is observed that even in reports relating to letter periods audit



clearance of the arrear audit objections but should continue to function as monitoring unit in future.

ctions and inspection notes. With regards to steps taken for liquidation of the arrear audit objection and inspection reports of the Taxation Department it may be stated that apart from speeding up the process of despatch of replies by the district offices the Commissioner of Taxes himself has taken positive steps to settle the outstanding matters with Accountant General by means of periodical personal contact at his level and also at the level of the Finance and Accounts Officer of his directorate with the concern officers of the Accountant General's Office. A system of sustained personal contacts with the concerned officers of the Accountant General for settling outstanding Audit objection and outstanding

matters at the departmental level were discussed and settle in between Accountant General and the concerned head of the department. It is also observed that after the draft Audit objections were forwarded to the department before they are presented to the legislature, audit objection points are not met by the departments in time. Not only that even after the presentation of the Accountant General's report to the Assembly, appropriate action on behalf of the department are not taken within three months as was supposed to be done. As such, the submission of the department in their memorandum now before the Public Accounts Committee to effect that "a system of consistent personal contacts with the Accountant Ge-



reports has thus been set up which has started producing results. These arrangements will be continued even after setting up of monitoring arrangements as recommended by the Public Accounts Committee.

neral for seting outstanding audit objections and outstanding reports has thus been set-up which has started producing result" is not corroborated by the actual state of affairs as observed subsequently.

9. Para 2.1.10 page-16-17

The Committee therefore recommends that organisational structure of the Recover. Branch should be reviewed with immediate effect and steps taken to strengthen the Department should be intimated to the Committee within three months from the date of presentation of this report. The Committee further recommends that the proposed incentive scheme if considered assential to activate the Department should be implemented early. Action taken in this regard should be intimated to the Committee within three

At present there are 4 recovery offices in the State each headed by an officer of the rank of Superintendent of Taxes who is assisted by necessary ministerial staff. The work of the each recovery office is watched through a system of periodical returns required to be submitted by the officers with regard to the number of cases received and instituted, number of cases disposed of amount recovered amount remaining outstanding. After examination of such returns the existing offices have

In view of the steps taken in the matter of recovery, the Public Accounts Committee accepted the replies.



1 2

3

4

months from the date of presentation of this Report.

been further strengthened by providing extra staff where necessary. Besides, Government have recently decided to strengthen the Branch by extending its activities to the entire State. For this purpose 12 additional posts of Recovery officers alongwith necessary ministerial staff have been created. With regard to implementation of the scheme of incentives a proposal for paying a cash regard to the recovery staff at the rate of 1% of the amount recovered is under examination of Government.

The Committee was very much distressed to note that the Department entrusted the responsibility of recovering arrear revenue without fixing any limit or laying down a target for each officer to judge the performance.

With due respect it may be observed that the arrears amount are referred to the Recovery Branch only when the assessing officers find difficult in recovering the same. It is, therefore, in the nature of things that reco-

The Department submitted that they are taking action in the light of the recommendations and there is a scheme for giving more powers to the recovery officers under examination by the Directorate and

10. Para  
& 2.2.6 at  
11 page-19  
and para  
2.2.6 at  
page 19-20



Nor was any attempt being made by the Department to delegate powers to write off petty dues.

It was found during the course of examination that out of the total of arrear amount to be recovered only 16 percent of the recovery was effected. The Committee expressed its great concern over the huge arrear of taxes pending for collection for long years and deplores that the Department had not taken up the matter of recovery from the dealers in right directions. The Committee therefore recommends that the Government should formulate a new device to expedite the case of recovery and take effective steps to minimise the pending recovery cases. The Committee also suggests that Government should examine the delegation of powers to be given to tax officer or Recovery Officers to write off petty arrear tax due for better

very by the Recovery Branch is not effected as promptly as one would like in the public interest. However, the department is taking every possible step to ensure that arrears are collected quickly. As a matter of fact, as earlier stated, a target of 40% has been set for recovery of arrear of taxes. In order to speed up recovery of arrear taxes by the Recovery Branch of the Department the scheme of recovery by departmental officers is proposed to be extended to the entire State. A proposal in this regard is under examination by Government, as earlier stated. A proposal for delegation of powers to the departmental officer to write off petty arrear tax dues is also under examination of Government. A scheme for giving more powers to the Recovery officers is also under examination.

referred to the Commissioner of Taxes' letter No. C.F.228/85/76, dated 18th July, 1986. Since then two years have passed and it appears that nothing positive has been done. If the desirability of the proposition is understood and proposed mooted, the Committee fails to understand why it should take such a long time. Steps should be taken for immediate implementation of the proposal if it is not already done and the details of action taken will be intimated to the Committee within three months from the date of submission of the Report.



concentration in the huge recovery cases pending for long years.

12. para  
2.3.13 at  
page 25

The Committee finds that no action was initiated in the above cases to recover the arrear tax dues since December, 1981 as a result of which there was a definite loss to the Revenue of the State. The Committee has also noticed that the working of the Recovery Branch has not run according to the aims and objectives for which it was created. The Committee therefore recommends that the Recovery Branch should examine preparation of its manual spelling out procedures to be followed and for laying down effective system of control over work. The Committee further recommends that to speed up the recovery of arrear dues and launching timely recovery work greater co-ordination between

The Recovery Branch operators under the General law relating to Land Revenue which is the source of its powers a separate Manual for the Recovery Branch was not considered necessary. However, as recommended by the Committee the procedure obtaining in other States and in the General Income Tax Department is being studied and it is hoped that it will be possible to bring in very soon a self contained code for the work relating to this Branch. Besides, in order to strengthen the Branch and with a view to extending its activities to the entire State, Government have created additional posts for the Branch. It is hoped that the Branch will become still more effective as a result of these measures. It may be

No comments.



(1) (2)

the Officers of the unit and the officers of the Recovery Branch should be ensured.

(3)

(4)

stated that at present there is proper co-ordination between the Unit Superintendent of Taxes and the Recovery Officers. It is a fact that due to lack of adequate staff and experience, some anomalies existed in the matter when such Recovery Officers were being set up for the first time. In order to minimise delays in disposal it has been arranged for frequent personal contacts between the staff of these two offices for collection of additional information. The system of acknowledging the receipt of arrear certificates by the Superintendent of Taxes (Recovery) has also been introduced. Besides in order to prevent accumulation of arrears the assessing officers have been instructed to ensure collection of complete information local address, business location and nativity of partners etc., before granting registration under the sales tax laws.

(5)



(1) (2) (3)

In the seven Bakijai cases referred to in para 2.3.1. of the report where the superintendent of Taxes (Recovery), Guwahati could not aduce reasons of striking off, the position is indicated below :

(4)

(5)

Sl. No.	Certificate	Amount Covered	Reasons of striking off
1	851/68-69/11 612/215, dated— 2nd December, 1969.	8,638.84	Business is closed. Defaulter is not traceable. I. T. has been entrusted to obtain information.
2	Nil dated 2nd December, 1969	15,989.94	—do—
3	490/F-1573/71-1/4/1450, dated— 2nd May, 1972.	3,114.61	Under investigation.
4	F-1568/72(2) E-3/44477, dated— 28th February, 1973.	4,263.46	Business closed. S. T. was requested to furnish information. I. T. has been directed to collect information.
5	F. 1586/N-11/FT/C/75, dated— 15th September, 1975.	629.48	Business closed. ST. was requested to furnish information about defaulter. Action is being taken to contact the defaulter for realisation.
6	Sil/F-562/S-10/80/1, dated— 27th May, 1980.	2,118.00	Under investigation.
7	KG/R-15/FT/C-7/63791, dated— 23rd June, 1979.	6,014.00	Business is closed, S. T. was requested to furnish information.



(5)

(4)

In para 2. 3. 6 of report the Committee has referred to three cases of tea estates in which the amounts of tax assessed have not been recovered by the Recovery Branch. The Committee has expressed the view that in these cases the Department could not take proper timely action. It is submitted that in all these cases it has been found that the department had taken timely action. But for various reasons the arrears were not recovered in time. It may be stated that the tax involved in all these cases were due under the Assam Taxation ( On Goods Carried By Road or Inland Waterways ) Act, 1954/1961 a statute which had a very chequered career. It so happens that the Act was at one stage challenged by a large number of assesseees before the Hon'ble Guwahati High Court. The High Court upheld the validity of the Act. But later, on appeal by the assesseees, the Supreme Court declared the Act ultra vires. Thereafter, the statute was re-enacted with the prior sanction of the President of India which had been granted subject to the condition that the statute would remain in

(3)

(2)

(1)



(1) - (2)

(3)

(4)

(5)

force till 31st March, 1962 only. Thereafter, when the State proceeded to realise the due taxes from the assesses numbering a few hundred another spell of litigation before the Guwahati High Court and the Hon'ble Supreme Court commenced.

In the instant three cases while the assessment orders were challenged either before the Hon'ble High Court or before the departmental appellate authorities there was also an order from the State Government on 9th December, 1968 staying realisation of the outstanding taxes under the Act from the tea estates of the Barak Valley because of their difficult financial condition. This order was vacated in April, 1971. Either immediately thereafter or immediately after the disposal of the cases by the higher authorities the assessing officers concerned proceeded to recover the assessed taxes. But the tea estates had in the meantime changed hands. When steps were taken to recover the dues through Bakijai proceedings they could not be enforced against



(5)

(4)

the new owners as the statute did not contain any provision for enforcement of the liability of the transfer to the transferee. On the other hand, the original owners having disappeared from the scene it has not been possible to enforce recovery against them either. Even now enquiries are being made in order to ascertain if the original owners have any properties left to proceed against for recovery of the arrears.

(3)

(2)

(1)

The Committee feels that there should be some means of check on transfer of stock if necessary by amending the law. As the Act is no longer in force it is not possible to amend it now in order to enforce the liability of the transferers against the transferee. However, in order to prevent the loss of revenue in such cases the existing tax laws contain provision for enforcement of the liability of a transferor against the transferee. In the instant three cases, however, the Directorate is still pursuing the matter in order to find out if any property is left as earlier stated.



(1) (2)

(3)

(4)

(5)

If any such property can be located these will be proceeded against for recovery of the arrear dues.

The case referred to in para 2.3.11 of the Report is still pending with the Hon'ble High Court. Consequently, recovery in this case of the balance dues has not been possible.

13 Para 2.4.8.  
2.4.9. and  
to 2.4.11

15 (at page 29  
to 30)

The Committee is however not convinced with the reasons advanced by the Department both in written and in oral in respect of declaration in Form 'C' by dealers and records kept by the office of the Superintendent of Taxes, Guwahati to that effect which resulted under assessment of an amount in the tune of Rs. 94,734/-

It may be stated that in order to preclude the possibility of any difficulties in this regard in future strict instructions have been issued to the officers in Sales Tax Circular No. 112 issued by the Commissioner of Taxes, to keep detailed particulars of inter-State sales supported by declarations in Form 'C'. As instructed in the aforesaid circular these particular must be kept in the respective assessment records for the purpose of verification at the time audit in future.

In view of the replies given by the Department on this para to this effect that necessary instruction has already been issued regarding form 'C' and its recording in Assessment Records for the purpose verification at the time of audit in future it is accepted.



(1) (2)

(3)

The Committee therefore recommends that all assessment orders should be unambiguous and clear. All declarations in Form 'C' should be recorded and made available in assessment orders which should invariably be should to audit in future.

The Committee therefore feels that the Government should examine afresh the issue of the concessions granted to goods sold in Arunachal Pradesh, Mizoram and Meghalaya so that substantial amount of money on exempted goods sold to these States are prevented from leakage.

(4)

Besides, in para 2.4.11 of the report after examining the question of exemption from central sales tax granted by the State Government in respect of inter-State sales to Arunachal Pradesh, Mizoram and Meghalaya, the Committee has expressed the feeling that Government should examine this concession afresh so that a substantial amount of money on exempted goods sale to these States are prevented from leakage. It may be stated that no further action in this regard is necessary as the exemption from central sale tax in respect of inter-State Sales to Arunachal Pradesh and Mizoram was withdrawn with effect from 1st January, 1982 vide Press Note issued under Government Memo No. FTX. 97/78 dated 17th December, 1980

The Committee therefore feels that the Department should ensure the schedules rates from the PW.D. and examine market rate for the goods sold to determine the value of sales for proper assessment of turnover of the dealers to levy accurate sales tax.

16. Para 2.5.8 at page 32

(5)

In respect of Para 2.4.11 as the situation has fundamentally changed with the States of Mizoram and Arunachal Pradesh except Central Sales Tax instead of any other State's sales Tax the reply is accepted.

No comment.



(1) (2)

17. Para 2. 6. 5  
at page 34

(3)

The Committee therefore recommends that Government should strictly adhere to the provisions of law in assessing the turnover of inter State sale of goods leaving no room for under assessment of taxes. The Committee further recommends that responsibility should be fixed on the officer/officers for non-imposition of penalty for non submission of returns by the dealers in the above sale of jute.

(4)

It may be mentioned that sales Tax Circular No. 109 has been issued by the Commissioner of Taxes in his No. CF-(A)6/87/9(A) dated 20th March, 1987 instructing the assessing officers to very strictly enforce the provisions of law and to examine every case on merits after thorough examination of evidence produced before treating any inter State transaction as not liable to central sales tax on the ground of inter-State stock transfer.

In the instant case the Committee has observed that the dealer had failed to apply for registration and submit returns under the Assam Purchase Tax Act, 1967 though he was liable to pay tax under the Act in respect of the periods ending 31st December, 1978 to 30th June, 1981. But no penal action was taken against the dealer inspite of his failure to apply for registration and furnish returns.

(5)

In pursuance of the above recommendation, the Department traced out the concerned officers in fault and fixed responsibility, but it said that no action against them could be taken at this stage as the officers concerned has already retired.

This is the most tragic aspect of the delay made in examining the Comptroller of Auditor General of India's report and passing the matters by the concerned Department of the Government in time. The Committee views that the root cause of this State of affairs is the inability or incompatibility of the Department to flag under assessing of taxes at the time of assessment. The process right from the stage of such under-assessment and fixation of responsibility is present so ternous that even when detected no effective action can be taken by the Government.



(5)

The Public Accounts Committee feels that such a situation can best be avoided if all precautions are taken at the root and timely action taken,

(4)

The Committee has, therefore, recommended that responsibility should be fixed on the officer's for non-imposition to penalty for submission of returns by the dealer in the instant case. An enquiring into the matter has since been made. It has been found from the records that the dealer was registered under the Assam Purchase Tax Act. on 20th October 1973 by the then superintendent of Taxes, Guwahati, since retired and deceased. In respect of return periods ending 31st December, 1978 to 30th June, 1980 the dealer was assessed under the Act, by the authorised Superintendent of Taxes, Guwahati since retired. In respect of return periods ending 30th September 1980 to the 30th June, 1981 dealer was assessed under the Act, by yet authorised Superintendent of Taxes, Guwahati. since retired. As all the officers who had made the registration and assessments have since retired from service no action against them can be taken at this stage for omission to impose penalty on the dealer for his failure to submit returns.

(3)

(2)

(1)



- (2) Para 2.7.9 at page 37 and Para 2.7.10 at page 37

(3) The Committee has failed to appreciate the argument advanced by the Department witness and expressed its great distress as to why the claim of the dealer for exemption in respect of sale of mild steel manufactured out of the bills purchased locally was allowed. The Committee also takes a serious view that the Department has not pursued the case to recover the balance of the tax revenue sincerely and more vigorously which clearly shows the negligence of the Government Department.

The Committee therefore recommends that responsibility should be fixed on the officer/officers on whose laxity the erroneous exemption was granted resulting loss of sales tax revenue. The Committee further hopes that the cases should be pursued effectively and the balance amount of sales tax revenue recovered from the defaulting dealers. The action taken in the case should be intimated to the Committee within three months from the date of presentation of this report.

(4) As regards fixation of responsibility it may be stated that the failure to levy tax in the instant cases was detected by the departmental officers themselves. Besides, even though the revision petition has been rejected and steps are being taken for recovery of tax in respect of the transaction in question, very complicated question of law are involved in both the cases. It is not very free from doubt as to whether the dealer was, in fact, liable to pay tax in respect of this transactions. It is very likely even after the disposal of the revision petition that the matter will not be settled and may be taken-up to the High Court/Supreme Court, for a final decision. It is therefore, felt that no officer at this stage may be held responsible in this matter.

As regards recovery of the balance necessary steps are in progress as earlier stated.

(5) The P.A.C. is not satisfied about the arguments advanced by the Deptt. at the time of hearing, and commented that the Deptt. did not pursue the cases to recover the balances of the tax revenue sincerely and vigorously. The Deptt. in their replies submitted that there were departmental appeals and High Court cases. Though both the Deptt. appeals and High Court cases had terminated in favour of the Deptt. no recovery till date seems to have been done, although the Deptt. has stated that steps for recovery of the same are in progress. About the recommendation of the Committee, for fixing of responsibility, what steps the Deptt. has, since taken is also not clear. It is not sufficient that subsequently the sum in question was recovered, rather the most question is why failure to levy the tax occurred? Accordingly, both from point of fixation of responsibility and consequent penalisation of the officers concerned, as well as the realization of the amount involved, the Deptt. has totally failed on both the courts.



(1) 20 Para  
& 21 2.8.6.  
at Page  
38-39 and  
Para 2.8.  
7. at Page  
39

(3)

The Committee has found that as admitted in the replies submitted to the Committee, 3 dealers were assessed, sale tax at Rs. 7643.00, Rs. 1345.00 and Rs. 3043.00 for the period ending 31st March, 1981 and the realisation of the taxes were still under process. No. action has yet been launched to realise the taxes from the dealer. The Committee is constrained to observe that the insincerity, negligence of the concerned officers have led not only loss of Government revenue in the shape of sale tax but also encouraged the dealers not to pay Sale-tax thereby evading assessment. The Committee expresses its serious concern on the inactiveness of the tax officials in realising the sale tax revenue due in time.

The Committee therefore recommends that immediate action should be taken to recover the arrears tax revenue already assessed from the three dealers and result of the recovery intimated to the Committee within three months from the date of presentation of this report.

(4)

It may be observed that as a matter of facts, action was taken by the concerned officer for recovery of the assessed tax when the dealers failed to pay the tax on demand. In all the three cases Bakijai proceedings were initiate against all the three defaulting dealer at the instance of the assessing officer. The Bakijai proceedings are still in progress. In one case the defaulter died long time ago and steps have been taken for initiating proceeding against the deceased dealers successors. In another case, the defaulter is not traceable and steps are therefore, being taken to trace him out. In the third case proceedings for recovery are in progress along with the proceedings in the other two cases. According to latest reports no recovery has yet been made. However, a watch is being kept for ensuring early finalization of the proceedings.

(5)

In their reply the Deptt. has stated that Bakijai proceedings had been initiated against all the three defaulters and their successors. At the time of consideration of the reply nothing is before the Committee to show that any sum has since been realised. Naturally the concern of the P. A. C. in its 36th Report on the inactiveness of the tax officials in realising the sales tax revenue during time was justified and the present Committee also does not find any reason to hold a different view.



(5)

No comments.

(4)

It may be observed that Government have already issued necessary instructions to all Government Department and undertakings to deduct the tax and to credit the same to Government Accounts as contemplated in the Government notification besides, the officers of the Directorate periodically undertake tax collection drives in the course of which attempts are made to ensure that Government Department and undertakings promptly and duly deduct the sale tax due from the Contractors bills (in respect of supply goods made by the contractors to such Government Departments and Undertakings) and also to ensure that the tax so deducted is credited to Government accounts. These steps taken by Government and the Directorate have yielded good result. However a constant watch is kept in the matter in order to prevent the loss of Government revenue.

(8)

The Committee is not satisfied with the admission of the Government witnesses and stresses that machinery of enforcing the instruction contained in the Government Notification should be tightened and made absolutely effective to avoid loss of Government revenue.

The Committee therefore urges upon the Government to ensure implementation of the provision of above mentioned Government Notification for assessment of Sale Tax and deduction thereof by all Government Department/Public Undertakings to prevent evasion of Sale tax.

(2)

22. para 2.8.9  
at page 40
23. para 2.8.  
10. at  
page 40.

(1)



## ANNEXURE—I

OFFICE OF THE COMMISSIONER OF TAXES, ASSAM  
 No. CTS-20/68/14, Dated Shillong, the 8th Feb, 1968

To

The Assistant Commissioner of Taxes and  
 Superintendent of Taxes (All)

Sub—Calculation of percentage of containers of  
 exempted goods.

In supersession of the instructions contained in this office letter No, ST-2/62/406 dated 10th August 1967 and after careful consideration of the matter with regard to the question of the assessment of sales tax on the containers of exempted goods the Superintendent of Taxes are hereby directed to levy sales tax on such containers as shown below :—

- |   |  |
|---|--|
| 1. Gunny bags (When sold as containers of exempted goods. | At 2 1/2 % of the sale value of the goods or Rs. 1/per bag whichever is less     |
| 2. Tins (When sold as containers of exempted goods).      | At 2 1/2 % of the sales value of the goods or Rs. 2 per piece whichever is less. |

However where accurate accounts of the sales of containers of exempted goods are produced, such accounts should form the basis for assessment.

C. R. KRISHNAMURTHI,  
 Commissioner of Taxes, Assam,  
 SHILLONG



ANNEXURE—II  
 “SALES TAX CIRCULAR No. 109

Dated Guwahati, the 20th March, 1987.

Sub :— Claim for exemption from payment of tax under the C. S. T. Act, 1956 in case of inter State stock transfer.

Subject to the provisions of Section 6 of the Central Sales Tax Act, 1956, every dealer making sales of goods in the course of inter State trade or commerce is liable to pay tax.

Where any dealer claims that he is not liable to pay tax under Section 6 of the Act in respect of any goods on the ground that the movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, as the case may be, and not by reason of sale the burden of proving the same lies on that dealer under the provisions of Section 6A of the Act.

Sub-section (1) of Section 6A provides that in order to discharge his obligation under that section, the dealer may furnish a declaration in the prescribed form, viz. Form “F” alongwith the evidence of despatch of such goods, Sub-section (2) of the same Section provides that if the assessing authority is satisfied after making such enquiry or as he may deem necessary that the particulars furnished in the declaration are true, he may, at the time of before the assessment of the dealer make an order to that effect.

But, instances have come to notice where some assessing officer have not understood the aforesaid provision of the Act properly and passed orders granting exemption to dealers in respect of transactions not eligible for exemption under the Act causing thereby loss of revenue to the State.

With a view to preventing any further loss of revenue on that account and also to enable the assessing officers to deal with all cases of exemption coming under the purview of section 6A of the Central Sales Tax Act 1956 properly, the following guide-lines are issued. In all such cases.

(1) Full particulars of despatch of goods from places in Assam to places outside the State in the course of business should be collected regularly.



(2) All despatches of goods to places outside the State in the course of business should be considered for levy of tax under the provision of section 6 of the Central Sales Tax Act, 1956 unless exemption is claimed by the dealers concerned under section 6A.

(3) As soon as a claim for exemption under section 6A of the Act is received the assessing officer should require the dealer concerned to discharge his obligation under that section by furnishing the declaration in the prescribed form or other documents in lieu thereof, together with the evidence of despatch of the goods. If the dealers claim relates to the transfer of the goods to any other place of his business, the existence of such a place of business in other State should be ascertained by making a reference to the R. C. of the dealer in that State under the Central Sales Tax Act, 1956.

(4) If the dealers claim for exemption under section 6A of the Act relates to the transfer of his goods to his principal or agent, as the case may be, the letter of appointment of agent, letter of acceptance by agent, written agreement between the principal and agent setting forth the terms and conditions, copies of sale note, evidence of remittances of the sale price, commission bills, etc., should invariably be verified.

(5) After the dealer claiming exemption under section 6A of the Act complies with the requirements of the provision of sub-section (1), the assessing officers should proceed to make enquiries as they deem necessary for satisfying themselves that the particulars contained in the declaration furnished by him under that sub-section or the particulars contained in any other document furnished in lieu thereof are true and complete and thereafter they should, at the time of or at any time before the assessment (not after assessment) under the Act, make an order allowing or dis-allowing his claim for exemption.

(6) Before accepting a declaration in Form "F" furnished by a dealer in pursuance of the provision of sub-section (1) of section 6A the assessing officers should satisfy themselves after proper verification, that the same has been furnished within the prescribed time, signed by a competent person, contains all the prescribed particulars in the prescribed form obtained from the prescribed authority and the



evidence of despatch of goods is also available. In short it must not be defective in any respect and must be complete in all respects. The assessing officers should be satisfied further that the declaration in Form "F" submitted for their acceptance conforms to the prescribed Rules, namely, sub-rule (5) of Rule 12 of the Central Sales Tax (Registration & Turnover) Rules, 1957 and Rule 8E of the Central Sales Tax (Assam) Rules, 1957 and they should in no case accept any 'F' Form which does not conform to prescribed Rules.

It is impressed upon all the assessing officers, therefore to adhere to the above guide-lines very rigidly. In the event of any loss of revenue to the State arising out of a faulty order passed by any assessing officer in exercise of the powers conferred upon him under section 6A of the Central Sales Tax Act, 1956, he will be held personally responsible.

Sd/ S. H. Chowdhury,  
Commissioner of Taxes,  
Assam.

Memo No. CF(A) 6/87/9 (A). Dated Guwahati, the 20th  
March, 1987.

Copy to :—

- (1) Joint Commissioners of Taxes, Assam ( All )
- (2) Deputy Commissioners of Taxes, Assam ( All )
- (3) Assistant Commissioners of Taxes ( All )
- (4) Assistant Commissioners of Taxes | For their in-  
( Appeals ) ( All ) | formation.
- (5) Superintendents Taxes ( All ), for their information and strict compliance.
- (6) Superintendent, Sales Tax Branch of Apex office with 10 spare copies for guard file.

Sd/ S. H. Chowdhury,  
Commissioner of Taxes,  
Assam.



## ANNEXURE—III

GOVERNMENT OF ASSAM  
OFFICE OF THE COMMISSIONER OF TAXES  
ASSAM, GUWAHATI.

“SALES TAX CIRCULAR No. 111”

Dated Guwahati, the 21st April, 1987.

Sub:— IMPROVEMENT IN THE QUALITY OF  
ASSESSMENTS UNDER THE SALES TAX  
LAWS OF ASSAM—VERIFICATION OF  
STOCK POSITION.

It is viewed with concern that in spite of instructions issued from this office emphasizing the need to improve the quality of assessments made by the assessing officers in exercise of powers conferred upon them under Section 17, 19 or 19A of the Assam Sales Tax Act, 47 and corresponding provisions of the other Sales Tax Laws, the improvement noticed till now is not at all satisfactory. Every assessing officer must be aware that in order to make an effective assessment he must be armed with materials independently collected and consider such materials and other available evidence in accordance with the provisions of law in a just and fair manner while making assessments. But, in most assessment orders neither the required materials nor the conclusions drawn on the basis thereof are recorded.

(2) In view of the above and in order to ensure a qualitative improvement in the assessment orders, following instructions are issued for the guidance of the assessing officers:—

(i) More stress should be laid on periodical survey of dealers and updating of relevant entries in the survey register by the Inspectors of Taxes. All the entries in the survey register should be checked by the Superintendents of Taxes, personally twice a year by visiting the places of business of dealers. The survey register is to be kept handy for consultation as and when the need arises.



(ii) The Inspectors of Taxes [should be instructed to make local inspection of all registered dealers area-wise, once in every return period and submit their inspection reports accordingly, which should contain basic information like classes of goods dealt in, sources of procurement of goods, system of accounting, availability of purchases and sales vouchers, stock accounts etc. If the Superintendent of Taxes is not satisfied with the local inspections report on any dealer, he may inspect the place of business including goods in stock personally and keep records of the findings for the purpose of assessment in due course.

(iii) At the time of examination of dealers books of accounts before assessment and as far as practicable, the assessing officers should note down the particulars of their opening stock, purchases, sales, closing stock commodity-wise and also the percentage of gross profit. If any doubt arises about the genuineness of the books of accounts of a particular dealer, the assessing officer may collect informations about him from the Central Income Tax Authorities.

(iv) The assessing officers should compare the particulars obtained from the books of accounts of dealers with those otherwise obtained. The assessing officers should not, however, reject the books of accounts of dealer without recording good and sufficient reasons therefore because such assessment orders will not stand the scrutiny of Appellate or Revisional authority.

(v) Due importance must be given to verification of stock accounts of dealers (including the physical verification of their stock as and when found necessary). The assessing officers must be aware that some goods are covered by the Central Excise and Salt Act, 1944, some other goods are included in the Assam Excise Act, 1910 and certain other goods come within the ambit of Essential Commodities Act, 1955. It is mandatory on the part of dealers of such goods to maintain daily stock registers and submit returns or statements at fixed intervals to the prescribed authorities. A verification of these register, returns and/or statements will give useful and reliable materials for assessment.

(vi) An assessment to the best of judgment should not be completed by the assessing officers without instituting necessary enquiries and collecting informations about the



dealer concerned. The materials and informations on the basis of which a summary assessment is completed should invariably be recorded in the order itself.

(vii) Deductions claimed on account of sales of exempted goods, locally purchased goods, taxable goods to registered dealers etc. should never be allowed except on production of genuine purchase vouchers and prescribed declarations.

(3) The above instructions should be followed by all the assessing officers carefully and sincerely. In the event of any loss of revenue arising from carelessness or negligence in completing the assessments correctly, the assessing officer concerned shall be held personally responsible.

S. H. CHOWDHURY,  
Commissioner of Taxes, Assam.

Memo No. C. F. (A). 6/87/27—A.

Dated Guwahati, the 21st April, 1987.

Copy to:

1. The Superintendents of Taxes (All) for information and necessary action. They will acquaint themselves with the above instructions thoroughly and follow them rigidly.
2. The Assistant Commissioners of Taxes, Zones (All) for information. They will please ensure that the above instruction are complied with by the Superintendents of Taxes under their control.
3. The Assistant Commissioners of Taxes, Appeals (All) for information.
4. The Deputy Commissioners of Taxes, Assam (All) for information.
5. The Joint Commissioner of Taxes, Assam (All) for information.
6. Superintendent, Sales Tax Branch of the Apex office with the instruction to keep 10 spare copies in the guard file.

Sd./-S. H. CHOWDHURY,  
Commissioner of Taxes, Assam.



**ANNEXURE IV****GOVERNMENT OF ASSAM****OFFICE OF THE COMMISSIONER OF TAXES: ASSAM  
GUWAHATI****Sales Tax Circular No. 110**

“Dated Guwahati, the 7th April, 1987”

**Sub: Penalty.**

Section 21 of the Assam Sales Tax Act, 1947 provides that where any dealer.

- (a) has, without reasonable cause, failed to furnish his return under section 16 within the due date or section 19 within the time allowed, or
- (b) has, without reasonable cause, failed to comply with the terms of a notice under section 17 (2), or
- (c) has concealed the particulars of his turnover or deliberately furnished inaccurate particulars thereof, or
- (d) has evaded in any way the tax payable under the Act,

The Commissioner of Taxes may impose penalty upon such dealer, which shall not exceed one and half times the amount of tax.

Provisions of section 13 of the Assam Finance (Sales Tax) Act, 1956 and section 12 of the Assam Purchase Tax Act, 1967 are similar to the provisions of section 21 of the Assam Sales Tax Act, 1947.

The powers under the aforesaid provisions of the Acts, have been delegated to the Superintendents of Taxes to be exercised within their respective jurisdiction, subject to prior sanction of the Commissioner of Taxes, Assam.



The necessary of invoking the aforesaid provisions of the Acts to impose penalty upon dealers was discussed at length and the procedure for initiating penalty proceedings was outlined in this office Circular No. 101 dated 18th March 1978. The instructions in that regard were repeated in this office Circular No. 195 dated 24th May 1983. In addition, an obligation was imposed upon the Superintendents of taxes to submit quarterly returns indicating therein the cases in which imposition of penalty has been propered. But it is a matter of regret that many officers have not submitted the prescribed quarterly returns till now, while others have submitted nil returns only. From this, the obvious conclusion one arrives at is that the Superintendents of taxes have failed to initiate proceedings for the imposition of penalty under the relevant Act even in cases fit for such action. This lapse on the part of the officer is viewed, therefore as laxity in enforcing fiscal measures.

Non-levy of penalty in select and deserving cases has also come in for sharp criticism by various authorities. It is seen that in reply to a number of audit objections relating to non-levy of penalty under section 21 of the Assam Sales Tax Act '47 and corresponding provisions of other Sales Tax Acts, the Superintendents of Taxes have generally given three main reasons for non-levy of penalty. They are (1) penal interest has been levied in lieu of penalty, (2) imposition of penalty is within the discretion of the assessing authority and (3) penalty is not revenue. After careful examination it is found that the reasons given for non-levy of penalty do not hold good. First, the provisions of the Acts regarding imposition of penalty and levy of interest are not mutually exclusive. Penalty can be imposed in all cases in which interest is leviable. Secondly, even if the powers to impose penalty upon dealers is discretionary, the discretion should be specifically exercised by means of a formal order. Besides, it is not fair, rather pre-judicial to the interest of revenue, to exercise discretion always in favour of dealers.

It is, therefore, hereby ordered that in case of all acts of omission or commission by dealers falling under section 21 of the Assam Sales Tax Act '47 or similar provisions of the other Sales Tax Acts penalty proceedings must be initiated. Proposals for according necessary sanction to impose penalty shall be submitted to the Commissioner of Taxes along with the required information promptly. When



ever it is considered, after hearing the assessee, that penalty may not be imposed, the reasons for arriving at the conclusion must be recorded and intimated to the Commissioner of Taxes for orders.

This order takes effect immediately.

S. H. CHOWDHURY,  
Commissioner of Taxes, Assam, Guwahati.

Memo No. C. F. (A) 6/37/20(A).

Dated Guwahati, the 7th April, 1997.

Copy to:—

(1) The Superintendents of Taxes (All) for information and necessary action. They are advised to go through the above instructions carefully and follow them scrupulously.

(2) The Assistant Commissioners of Taxes, Zone (All) for information. They will ensure compliance of the above instructions by the Superintendents of Taxes under their control.

(3) The Deputy Commissioners of Taxes, Assam (All) for information.

(4) The Deputy Commissioners of Taxes, Assam (All) for information.

(5) The Joint Commissioners of Taxes Assam (All) for information.

(6) Superintendent, Sales Tax Branch of the Apex office, with 10 spare copies for guard file.

Sd./—S. H. CHOWDHURY,  
Committsioner of Taxes, Assam, Guwahati.



## ANNEXURE—V.

GOVERNMENT OF ASSAM  
OFFICE OF THE COMMISSIONER OF TAXES  
ASSAM GUWAHATI

## “Sales Tax Circular No.113”

Dated Guwahati, the 15th May, 1987.

Sub:—Prosecution of dealers under the Sales Tax Laws on charges of evasion of taxes.

Whenever evasion of taxes by a dealer comes to the notice of the Superintendents of Taxes and such evasion is established after giving the dealer an opportunity of being heard, it is the bounden duty of the Superintendent of Taxes to prosecute the dealer concerned under section 38 or 39 of the Assam Sales Tax Act, 1947 or, as the case may be, corresponding provisions of the other sales tax laws. But it is viewed with grave concern that the Superintendents of Taxes very often refrain from taking action to prosecute the dealers. On the other hand reasons for deciding against prosecution are also not recorded by them.

It is, therefore, hereby instructed that henceforth all Superintendents of Taxes shall invariably take action to prosecute dealers evading taxes after establishment of such evasion as aforesaid. If any dealer offers to have the offence compounded and it is decided to accept that offer, the composition money must be commensurate with the nature and gravity of the offence and the amount of tax evaded. In the event of the Superintendent's of Taxes coming to a decision, after hearing the dealer, not to prosecute him, reasons for arriving at the decision must be recorded and communicated to the next superior authority.

The above instructions shall come into force at once. Any deviation therefrom shall be very seriously viewed.

Sd /S.H. CHOWDHURY,  
Commissioner of Taxes, Assam,  
Guwahati.



Dated Guwahati, the 15th May, 1987.

Memo No. CF(A)6/87/43, Copy to:—

1. The Superintedents of Taxer(All) for information and necessary action. They will acquaint themselver with the above instructions thoroughly and follow them rigidly.

2. The Assistant Commissioners of Taxes, Zones(All) for information. They will please ensure that the above instruction are complied with by the Superintedents of Taxes under their control.

3. The Assistant Commissioners of Taxes, Appeals (All) for information.

4. The Deputy Commissioners of Taxes, Assam (All) for information.

5. The Joint Commissioners of Taxes, Assam (All) for information.

6. The Superintendent, Sales Tax Branch of the office with the instruction to keep 10 spare copies in the Guard file.

Sd./S. H. CHOWDHURY,  
Commissioner of Taxes,  
Assam.