



GOVERNMENT OF MAHARASHTRA

REPORT
OF THE
SALES TAX ENQUIRY COMMITTEE
1975-76

1976

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1. INTRODUCTORY

1.1. This Committee was appointed by the Government of Maharashtra in pursuance of its Resolution, Finance Department, bearing No. STA-1075/4/M-1, dated 10th July 1975 (Appendix I). The main part of the said Resolution reads as under :—

“In view of the importance of the problem of avoiding evasion of Sales Tax and in the context of development since the introduction of the Bombay Sales Tax Act, 1959 with effect from 1st January 1960, based on the report of the Sales Tax Enquiry Committee, 1957-58, the Sales Tax Advisory Committee has recommended to the Government immediate appointment of a Committee of Enquiry to report in the matter as also on such other items including reforms made by other States in their sales tax system and to make recommendations to Government as quickly as possible.”

Government accepted the recommendations of the Sales Tax Advisory Committee and decided to constitute the Sales Tax Enquiry Committee at State level with the following personnel :—

- | | | |
|-----------------------------|-----|-------------------|
| 1. Shri M. R. Yardi | ... | Chairman. |
| 2. Dr. V. R. Pandit, M.L.C. | ... | Member. |
| 3. Shri V. K. Tembe, M.L.A. | ... | Member. |
| 4. Prof. D. T. Lakadawala | ... | Member. |
| 5. Shri A. K. Bhimani | ... | Member. |
| 6. Shri V. B. Haribhakti | ... | Member. |
| 7. Shri M. P. Chitale | ... | Member. |
| 8. Shri P. D. Dalal | ... | Member. |
| 9. Shri R. V. Patel | ... | Member. |
| 10. Shri A. V. Deshmane | .. | Member. |
| 11. Shri H. B. Munshi | ... | Member. |
| 12. Shri S. Ramamoorthi | ... | Member. |
| 13. Shri W. G. Joshi | ... | Member. |
| 14. Shri S. D. Kulkarni | ... | Member-Secretary. |

In the said Resolution the terms of reference of the Committee were laid down as under :—

“ (i) To review the present system of sales tax in the State generally in the light of the systems prevailing in comparable States like Gujarat, Tamil Nadu, West Bengal and Karnataka and with particular reference to :

(a) the Scheme of simplified sales tax system prepared by Shri S. D. Kulkarni ;

(b) the need for continuance or otherwise of the concession of set off of sales tax at two stages prior to the sale in the course of export ;

and to make their recommendations on the most suitable system and structure of sales tax with due regard to the revenue requirement of the State ; and

(ii) To examine the system of administration of the Sales Tax Law and to suggest improvements therein so as to simplify procedure for assessment of sales tax, ensuring at the same time, avoidance of evasion of tax.”

The Committee was required to submit its report to Government before 31st December, 1975.

1.2. As it was not possible for the Reserve Bank of India, Bombay to spare the services of Shri A. V. Deshmane to work as a Member of the Committee, the Government in Finance Department vide its resolution No. STA-1075/4/1/Res. 8, dated 9th August 1975, deleted the name of Shri A. V. Deshmane from the list of the Members of the Committee.

1.3. Subsequently Shri S. D. Kulkarni who was appointed as a Member Secretary of the Committee proceeded on leave preparatory to retirement with effect from 24th November 1975. The Government in Finance Department therefore by its resolution No. STA-1075/260-Res-8, dated 22nd November 1975 continued Shri S. D. Kulkarni as a Member of the Committee and appointed Shri M. K. Bhonde, Assistant Commissioner of Sales Tax as Secretary to the Committee.

1.4. The Committee held its deliberations on 2nd and 7th August, 1975 in Bombay and finalised a Questionnaire. Copies of the same were got printed in Marathi and English (Appendix II). By 31st August, 1975 the printed questionnaire was sent to all important Chambers of Commerce, Bar Associations and Government Authorities. Copies of the questionnaire were also sent to the Secretaries of Finance

Departments and Heads of the Sales Tax Departments of all the other States. So also copies were sent to all the Members of the Legislative Assembly, Members of Legislative Council and Members of the Parliament from the State. A separate questionnaire was prepared in respect of organisational set-up and administrative procedure (Appendix III). That was sent to all the Class-I officers of the Sales Tax Department in Maharashtra and also to all officials who had previously worked in the Sales Tax Department of the State at the level of Deputy Commissioner of Sales Tax and Commissioner of Sales Tax. Replies were invited by 30th September, 1975.

1.5. It was however brought to our notice by the various Chambers and Associations that the time given was too short. In view of the requests made by different Associations and Chambers the date was extended to 31st October, 1975. Wide publicity was given to this extension of time at district level also.

1.6. As stated earlier the Reserve Bank of India, Bombay could not spare the services of Shri A. V. Deshmane and, therefore, his name was deleted from the list of the Committee Members. A special organisation and method unit was formed comprising of the officers from the Sales Tax Department. The Committee was fortunate in having guidance to this unit from Shri A. V. Deshmane. A note prepared by the said unit is enclosed in the appendices.

1.7. Similarly Shri S. M. Vidwans, Director of Economics and Statistics was also requested to explain the present method followed by the Bureau for collecting Statistical data with particular reference to commoditywise statistics. He was also kind enough to accompany the Committee on its tours to the States of Kerala and Tamil Nadu for the purpose of studying their organisation for collecting the commoditywise statistics and to suggest proposals for improving the methods of collecting similar statistics in this State. Shri Vidwans has favoured the Committee with his two studies notes, one on a proposal for collection of commoditywise information relating to sales tax and the other on a proposal for creation of a statistical cell for collecting and analysing the data relating to sales tax. Both these notes accompany this report as appendices.

1.8. The Committee had also the benefit of discussing the above two notes with Prof. V. M. Dandekar, Director, Gokhale Institute of Economics and Politics, Pune. Prof. Dandekar was good enough to elucidate the areas in which commoditywise statistics can be usefully collected for better control of evasion of tax. He also made some other useful suggestions in this respect.

1.9. During the time the replies to the Questionnaire were awaited, we undertook tours to different States. The Committee visited Ahmedabad, Trivandrum, Madras, Bangalore, Calcutta and Lucknow to study the systems of sales tax operating in these States.

1.10. During these visits we had useful discussions with the heads of the sales tax departments and the Secretaries, Finance Department in all these States. The officials there were also good enough to arrange meetings with important Chambers of Commerce and Bar Associations. We wish to put on record our heart-felt thanks for the hospitality and courtesies which were extended to us during our stay in all these States. We had the advantage of discussing the various systems, organisational patterns and the problems connected therewith. Since the check post system was a unique feature in most of these States, we could avail of the opportunity to study the working of the check posts from a close angle.

1.11. Since the date for receipt of replies was required to be extended upto 31st October, 1975 and since the Organisation and Method Unit formed was to take some more time to suggest simplification of procedures, the Government was moved to extend the date for submission of the report by the Committee by three months. This was agreed to by the Government *vide* Government Memorandum, Finance Department, dated 23rd December 1975. This date was also further required to be extended as it was not possible for some of the members to participate in the deliberation in the month of March due to the Assembly Session and the Central Budget. The Government was again approached for further extension of the date by one month. The Government has under its resolution in Finance Department No. STA-1075/260/RES-8, dated 15th March 1976 was pleased to extend the date upto 30th April, 1976.

1.12. We received replies to the questionnaire from 220 individuals, Associations, Chambers of Commerce and Organisations. The list of the organisations etc. who favoured the Committee with their replies is enclosed with an asterisk mark shown against those who were heard by the Committee (Appendix IV). Interviews were started from 25th November, 1975 and completed by February 1976.

Acknowledgements

1.13. First and foremost, we should like to express our deep appreciation for the help which all the Associations, Chambers, Organisations and individuals extended to us by replying to the Questionnaire. But for their valuable help and co-operation, our task would have been very difficulty. Many of the above organisations

and individuals also responded to our invitation to meet the committee to elucidate their view points. We would take this opportunity to express our sincere thanks and gratitude to all those who replied and attended in person.

-1.14. Shri A. V. Deshmane, founder President of the O & M Association of India spent a considerable amount of time and effort, outside his heavy office schedule to give valuable guidance to the O & M unit constituted from the officers from the Department. Shri S. M. Vidwans, the State Director of Economics and Statistics notwithstanding the heavy demands on his time which his normal duties imposed on him was kind enough to agree to our request to accompany the Committee in its visits to Trivandrum and Madras to study the commodity statistics system obtaining in the States of Kerala and Tamil Nadu respectively. He has also submitted two notes relating to the collection of statistics needed by the Sales Tax Department which are annexed to this report. Similarly, Shri D. S. Kulkarni, Additional Director of Economics and Statistics rendered valuable assistance and Shri D. V. Bhide, who worked as a Special Officer on deputation to the Committee, helped the Committee in compiling and analysing various statistical information. Prof. Dandekar, Director, Gokhale Institute of Politics and Economics, Pune was kind enough to meet the committee and give his views on the development of a commodity statistics system. The Committee is deeply indebted to them.

1.15. We would like to express our grateful thanks for the valuable assistance and unstinted co-operation given by the officers and staff of the Committee. Shri S. D. Kulkarni, who worked as Member Secretary in the early stages of the Committee's work performed his function competently. Although he ceased to be Member-Secretary from 24th November 1975 on his proceeding on leave preparatory to retirement, he continued to be a member and to participate actively in the deliberations of the Committee. He deserves special appreciation for the interest he has shown in formulating a Scheme for improvement of the Sales Tax system. It is somewhat unusual for an executive officer who has spent his whole career in a Government department to think independently, beyond his normal routine, of a new approach to the various problems on the basis of the experience gained. The Committee would like to place on record its appreciation of the interest shown by Shri Kulkarni.

1.16. Shri M. K. Bhonde, who worked as Asstt. Secretary until 24th November 1975 and then took over from him as Secretary has worked with a sense of dedication. Shri S. M. Mokashi, Assistant Commissioner whose services were specially made available to the

Committee and Shri Bhonde were of immense help to the Committee in drafting this report. The Committee would like to place on record its appreciation for the work done by both of them. Shri P. S. Talwalkar, Assistant Commissioner of Sales Tax, Shri G. G. Kochrekar, Sales Tax Officer and his staff, of the O & M Unit who have done a good job within the stipulated period deserve our thanks. We also express our thanks to Shri A. S. Sathe, Shri S. G. Karnik and Shri J. H. Mane who helped the Committee in the arrangement of its visits to other States and in the office management and Shri P. C. Thomas and Smt. Ruby J. Pereira for stenographic and typing assistance. The Committee would like to convey its sincere thanks to the Commissioner of Sales Tax and his officers for rendering unstinted cooperation by supplying promptly the information that was needed from time to time by the Committee and by providing the facilities to the Committee for its discussion and interviews.

2. HISTORICAL BACKGROUND

2.1. It is believed by historians of repute that some taxes in the nature of sales tax were levied in many countries of the globe in ancient times including India, China, Egypt, Greece and Rome. Kautilya, the reputed author of the well-known treatise on political economy under the title of "Arthashastra", refers to "Vyaji", a tax on commodities sold. However, it cannot be said positively that this was a tax in the nature of sales tax as it is now understood. In medieval India, the Chalukyas, the rulers of South India in the 8th and 9th centuries A.D., first introduced the sales tax as a development tax. But no attention was paid to this source of revenue thereafter.

2.2. In recent times, sales tax first came to be imposed to meet the heavy burden of expenditure in the first world war. Germany, which found itself in the throes of financial stringency created by the First World War, was the first country to impose it in 1916. Once this new source was tapped, that country found it difficult to give it up and so placed it permanently on its statute book since 1918. Thereafter many European Countries followed suit and the great depression of 1930 led to the States in U.S.A. adopting this new measure of taxation. The aftermath of the Second World War brought in its wake new and unprecedented economic problems of vast magnitude and to meet them, this tax came to be imposed in almost all the countries of the globe. Most of the West European Countries have, now, switched over to "the value added tax."

2.3. If we follow the history of sales taxation in India, it will be noticed that Madras (now Tamil Nadu) was the first State in India to introduce a broad-based sales tax for the first time to meet the loss of excise revenue due to the introduction of prohibition. In view of the simplicity inherent in any multistage levy, the Government of Madras then introduced a multi-point system of sales taxation. The next State to follow suit was West Bengal, which by its Finance Act, 1941, introduced a single stage levy at the last stage of sale. After the Second World War, all the States in India began levying broad-based sales taxes and for this purpose these States had the above two systems before them to follow. The erstwhile Bombay State, when it introduced sales tax for the first time by its 1946 Act, followed the

pattern of the Bengal Finance Act and started to levy sales tax at the last stage of sale.

2.4. The States, where the multi-point system was first introduced, found out that though the system of multi-point was easy to understand and administer, the articles sold from the first stage of sale to the last could not be traced and fraudulent suppression of sales at the middle or the last stage of sales became common for obvious reasons. The other defect of such a system is that the turnover limits for registration have to be fixed at a comparatively low figure and so a large number of small traders are brought within the ambit of taxation under this system. Apart from the cascading effect such a system has on the sales in the course of inter-state trade or commerce or in export, the intermediate links like commission agents between manufacturers and wholesalers or semi-wholesalers tend to be eliminated under this system. While, on the one hand, the tax rates had to be increased to meet the growing revenue needs of the State, on the other, it became necessary to provide relief to manufacturers and commission agents. Further the States found it necessary to levy a single point tax at the first stage on the sale of certain items which were consumed by the affluent sections of the society. All this led to complications in the tax law.

2.5. We visited the States of Gujarat, Karnataka, Tamil Nadu, Kerala, West Bengal and Uttar Pradesh to study the systems of sales taxation operating there. In Southern States, though there is a combination of single point tax on certain specified items and multi-point tax on the remaining, it was also observed that there is a marked tendency to shift more and more goods to the single point levy. It was noticed that the revenue yield from the single point levy now accounts for 75 to 80 per cent of the total revenue, the yield from multi-point levy accounting for the balance. The Mysore Taxation and Resources Enquiry Committee, 1969 and the National Council of Applied Economic Research in its Review of Sales Tax in Andhra Pradesh have observed that this combination of single point levy on certain items with multi-point levy on residuary items was better suited to the states where the urban population is comparatively less and where the goods manufactured are of lesser volume than in States like Maharashtra and West Bengal.

2.6. In West Bengal, even though the principal sales tax law provides for the levy of single point tax at the last stage, another Act was passed in 1954 to regulate the sales of a few imported or processed goods. In this Act, only 23 commodities are included on which a single point tax at the first stage is prescribed. Until recently,

in Uttar Pradesh, the system was a single point levy on specified items coupled with multi-point tax on the rest. However, on the recommendation of the Committee presided over by Prof. D. T. Lakadawala, they have brought all the items under a single point levy.

History of the Bombay Sales Tax Act

2.7. The Government of Bombay, as stated earlier, first enacted the Bombay Sales Tax Act, 1946 during the section 93 (Government of India Act, 1935) regime. Before that enactment, there was already a tax imposed on the sale of tobacco in certain specified urban areas under the Bombay Tobacco (Amendment) Act, 1938. Similarly, under the Bombay Sales Tax Act, 1939, motor-spirit was notified for taxation at 6½ per cent. By the 1946 Act, a single point tax was introduced at the last stage of sale. Sales between the registered dealers were exempt and their sales to unregistered dealers or consumers were taxed at half an anna in a rupee. The object of the said Act was to augment State revenue in order to meet recurring and non-recurring post-war reconstruction expenditure. Initially all dealers whose turnover exceeded Rs. 10,000 were required to be registered. Certain essential articles such as foodgrains, cheap cloth and articles such as matches, sugar, opium and electricity which were already subjected to a separate Central or State tax were exempted.

2.8. The Act was published on 8th March, 1946 and was to have come into operation from 1st July 1946 but as the popular Ministry took over office in April 1946, its operation was postponed. There was much agitation against this new impost. After considering representations received from the public, the State Government postponed the levy to 1st October, 1946 and also raised the exemption limit for registration from Rs. 10,000 to Rs. 30,000. An assurance was also given to revise the Act in a comprehensive manner in the light of public scrutiny to which this Act had been subjected. Accordingly a Committee was appointed under the Chairmanship of late Dr. D. R. Gadgil, the then Director of the Gokhale Institute of Economics and Politics, Poona.

2.9. In its report submitted in January 1947, the Gadgil Committee recommended (i) the introduction of voluntary registration for dealers with a turnover of Rs. 10,000 or more (ii) the lowering of the turnover limits for importers or manufacturers from Rs. 30,000 to Rs. 10,000, and (iii) a change over of the system of tax from single point last stage to multi-point. The Government accepted the first two recommendations and implemented the same from 19th May 1947. With effect from 1st of April, 1948, a special tax at the rate of one

anna in the rupee was levied on certain class of goods specified in Schedule I to the Act. Bullion and specie were subjected to an ordinary rate of half an anna in a rupee which was subsequently reduced to $\frac{1}{4}$ anna in a rupee with effect from 1st November, 1948, considering the lower rate at which it was taxed in the neighbouring States. From 1st April, 1949, a tax was levied for the first time at half the usual rates on goods which were despatched to places outside the limits of Bombay Province but within the Dominion of India.

2.10. The working of the last stage single point system in the State of Bombay revealed that unscrupulous dealers used to get themselves registered only to get the advantage of tax-free purchases and absconded or became untraceable thereafter. Moreover, the administration of the single point tax at the last stage of sale became cumbersome, because it involved the verification of all the declarations issued by intermediate registered dealers for obtaining their goods tax free. The shifting of the burden of tax to the last stage sale posed problems for recovery of taxes from the hands of dealers with comparatively small turnovers. These small dealers were required to maintain elaborate sets of accounts and this naturally caused hardship to them as they were not in a position to maintain the accounts according to the requirements of the assessing officers. It was, therefore, found necessary to restrict the concession of purchasing goods free of tax to a limited number. The Amendment Act, 1951 which came into effect from 1st May 1951 introduced the licensing system. A licence was granted to all the existing registered dealers and a condition was imposed that such a licence could be issued to new registered dealers only after completion of one year after registration. It was further provided that in case the licence, against which goods could be purchased free of tax, was misused or if the licensed dealer was to default in submission of the return or payment of taxes, the said licence could be suspended or cancelled and in that event, he was required to pay tax on his purchases.

2.11. It was, however, found that the system of licensing was also misused by some unscrupulous dealers. Secondly, in view of the coming into effect of the Constitution of India, State Governments were precluded from levying tax on sales effected outside the State or on the sales in the course of import of the goods into or the export of the goods out of territory of India or when such sale or purchase was of essential goods. As this constitutional limitation led to a loss of revenue, it was found necessary to secure additional revenue to meet the expenditure on development schemes included in the first five year plan. A radical change in the basis of sales tax was, therefore,

effected on 1st November, 1952 by the introduction of a system of multi-point taxation. This multi-point system included a special tax at a higher rate on specific goods and a multistage tax on the rest of the commodities. Spokesmen of trade and industry, however, represented against this system and with a view to meet their grievances the State granted further exemptions and concessions in respect of commission agency transactions. Despite these concessions the agitation continued. Moreover, the Government also found that its expectations of a substantial increase in revenue were also not fulfilled. As a result of this, a two point system was introduced.

2.12. Under the two-point system brought into force from 1st April 1954, in addition to the general sales tax, which was levied at a flat rate of 6 pies in the rupee in the hands of the last licensed dealer when the goods passed to the retailer, a sales tax was levied at the first stage on some goods at various rates. The general sales tax paid by the retailers in their purchases was refunded to them by way of set off against the general sales tax liability on their sales. The other facility provided was for the exporters and the manufacturers. The exporters were granted an authorisation against which they were entitled to purchase goods free of tax for the purpose of sales in the course of inter-state trade and commerce or export. The manufacturers were also granted the concession of purchasing the goods without payment of general sales tax against the licence issued to them and a set off was provided of the sales tax paid by them on their purchases of raw materials, oil, fuel lubricants etc.

2.13. On the formation of the bigger bilingual State on 1st November, 1956, the respective sales tax laws which were in operation in the erstwhile Bombay State and the other territories which merged were allowed to remain in force in the respective areas. Naturally the question of replacing these various systems of sales tax by a single uniform system applicable to the entire State engaged the attention of the Government and accordingly the Government appointed the last Enquiry Committee under the Chairmanship of Shri Babubhai Patel in December, 1957.

2.14. The present system of tax under the Bombay Sales Tax Act, 1959 is the result of the recommendations made by that Committee. The Committee proposed a composite system in which 69 articles or groups of goods were suggested for a first stage tax. These goods were selected after giving due weight to such factors as the comparatively smaller number of stages through which these goods passed to the ultimate consumer and the comparatively high level of their business organisation and the ease with which both the purchaser and the product

can be identified. It also suggested a last stage tax on 20 items on the ground that these goods pass through a chain of dealers and that it would be proper to levy this tax at a stage when the goods passed from a licensed dealer to a registered dealer or a consumer. On 14 items including a residuary item which were separately listed, the Committee recommended a two stage tax and a retail tax to be paid by the retailers on the turnover of resales of these goods. For manufacturers, it proposed the concession of purchasing raw materials, processing materials and packing materials excluding specified items free of all taxes. The recommendations were accepted by the Government and the present Act was enacted. With effect from 15th July 1962 the concession given to the manufacturers was made subject to the payment of a flat rate of tax at 1 per cent. This rate was raised to 2 per cent with effect from 1st January 1966 and was again enhanced to 3 per cent with effect from 15th April 1974.

2.15. The Bombay Sales Tax Act, 1959 was made applicable to Gujarat after its separation from the erstwhile Bombay State in 1960 and came up for a review at the hands of a Committee appointed by the Government of Gujarat in 1967 under the Chairmanship of Shri N. M. Odedra. After examining the salient provisions of the Act, the Committee recommended that the important raw materials for industries and luxury goods which can be controlled at the first point should bear single point tax at the first stage with higher incidence at the import or manufacturer stage, and all the agricultural or primary products would be taxed at a single point last stage with a comparatively low incidence. The Committee recommended a system of tax at two points in case of a few commodities which do not pass through controlled channels. The Committee further stated that it is not in favour of continuing the retail sales tax mainly on two grounds, namely, (1) the retail sales tax has not fulfilled the original intention of serving as a check on the escapement of tax and its coverage has been extended for beyond its scope and (2) that it does not fit in with the system and is a positive distortion. It was made clear by the Committee that the goods which are raw materials of manufacture or other inputs of industry including packing materials should be liable to tax at a comparatively lower rate so that products can be competitive. Thus the Committee recommended a system, which is predominantly a single-point system, combined with a double point levy on certain items including a residuary entry, the elimination of the retail sales tax and continuance of the purchase tax where no sales tax accrues. These recommendations with regard to the system of taxation were accepted in principle and adopted by the Gujarat Government by passing the Gujarat Sales Tax Act, 1969.

3. COMMODITY TAXATION IN INDIA

3.1. Benefitting from the experience of other federations regarding overlapping tax powers, the Indian Constitution-makers made a serious attempt at their distinct separation and demarcation. They have largely succeeded in their efforts as far as direct taxes on income and property are concerned, the general principle adopted being that direct taxes on agricultural sector lie within the State domain, whereas the Union of India can levy direct taxes in the non-agricultural sphere. Annual wealth taxes throughout the economy have been held to be within the tax powers of the Union Government. Taxes on professions, trades and employment are within the State authority, but they are limited to a ceiling of Rs. 250, so that they cannot seriously encroach on the Central power to levy the general income-tax. As far as commodity taxation is concerned, their success in avoiding overlapping has been much less conspicuous. Broadly speaking, while customs and Central excise duties pertain to the Centre, sales taxation and octroi can be levied by the States. There is a clear technical distinction among them regarding the stage at which they are to be levied. Customs' duties are to be levied at the point of entry into and exit out of national borders, Central excises at the point of production, sales taxation at one or more points of sale (or purchase) anywhere between production and final consumption of a good, and octroi at the point of entry into local borders. They are, however, often levied on the same commodities. Since except in certain special categories the powers are unrestricted, their cumulative incidence and economic effects are largely unplanned. This was not originally noticed, perhaps because the taxes were confined to a few commodities and the rates imposed were relatively low.

3.2. With wider adoption and heavier rates, the problem has now acquired a new dimension. Ignoring customs' duties and octroi as they affect only some of the commodities, central excises which yielded only Rs. 65 crores in 1950-51 brought Rs. 3184 crores in 1974-75. It was calculated that of the increase in revenue between 1960-61 and 1969-70 45 per cent was due to increase in rates. Excise duties were levied only on 15 items in 1950-51 ; by now 124 items (the last being omnibus residuary) are subject to them and they cover the whole range of factory produced commodities. They constituted only 0.7 per cent of

national income in 1950-51; in 1974-75 5.2 per cent of income was collected in this manner. Sales taxation, which was started hesitatingly after the introduction of Provincial Autonomy in 1937 was seriously resorted to only in the post-war period. It yielded only Rs. 60 crores in 1950-51 — 0.6 per cent of national income. It has since become the most important single source of State revenues in most States supplanting land revenue and excises. It accounted for half their own tax revenues in 1974-75 and yielded Rs. 1454 crores — 2.4 per cent of national income. Whereas direct tax proposals have aroused the largest controversy in recent years, the largest revenues have accrued from commodity tax proposals with the result that commodity taxation which yielded three-fifths of the total tax revenues in 1950-51 fetches four-fifths now. In spite of the great setback in revenues from restrictive excises, commodity taxation has retained its predominance in State tax revenues. With this increased importance of commodity taxation, problems of overlapping have come to the forefront and have attracted considerable controversy. They pertain not only to the effects of Central and State taxation on the national economy but also the inter-State repercussions of State measures.

Constitutional Restrictions

3.3. Before the passing of the Constitution (1950), a single sale could be subjected to tax by more than one State. Some took the ingredient of locale of goods, some selected contract of sale and the others followed the passing of property. Some of the States were also levying tax on inter-State sales e.g. Bombay Sales Tax Act, 1946 levied tax at half the rate of local rate if the goods were removed outside Bombay State.

3.4. With a view to determine the power of the States to levy tax, Constitution-makers enacted Article 286 providing curbs on the State's power to levy sales tax. An absolute ban was imposed on levy of tax on sales or purchases taking place in the course of export or import and on the levy of tax on sales outside the State. A definition as to when a sale could be said to be inside the State was enacted in the Constitution itself. So far as inter-State sales were concerned unless the Parliament by law so provided the States were not competent to impose tax on them.

3.5. Article 286(3) provided that the goods declared by Parliament by law essential to the life of the community could not be taxed unless the assent of the President was obtained by the State. As many as 15 commodities were declared essential by the Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Act, 1952.

They were cereals, pulses, fresh and dried fruits, flower seeds, bulbs, plants, milk and its products, meat, fish, eggs, edible oils and oilseeds, gur, salt, cloth woven on handlooms, coarse and medium cloth manufactured by mills, raw cotton, cotton yarn, cotton seeds, raw jute, hides and skins, fertilizers and manures, agricultural machinery and implements, cattle feeds, coal, coffee, petroleum products, kerosene, motor spirit, iron and steel, books, slates and slate pencils, periodicals, journals.

3.6. This step aroused a great deal of criticism on three counts: (a) Those States which levied tax on any of these commodities before 1952 continued to levy it as the assent of the President for such a law was not required. This placed those States in a perpetually favoured position; (b) As with the growing needs of revenue of the States tax has to be broad based extending its coverage to as large a number of commodities as possible, a long list of essential commodities containing restrictions regarding levy of tax thereon created an impediment; (c) The Union Government was taxing quite a few of these commodities and to prevent the State from taxing them without any compensation or *quid pro quo* seemed arbitrary.

3.7. Though article 301 provided free movement of trade throughout the country, Article 304(a) enabled State Legislatures to impose taxes on sales of goods which came from other States if similar goods produced or manufactured within the State were subjected to tax in a similar way so as not to discriminate between goods manufactured and produced in the State and goods imported from other States. Where the local dealers could not be traced, a seat to the sale was given artificially in the exporting State and a trader of one State was called upon to answer the law of another State. This practice resulted in conditions bordering on confusion.

Taxation Enquiry Commission

3.8. The Taxation Enquiry Commission appointed in April, 1953 went into this question at length and made several recommendations to correct this situation. It took the view that general sales taxation aimed at taxing consumption within the State was primarily a matter of State jurisdiction and the Central Government had no business to intervene except in cases where such taxation impinged administratively on the dealers and fiscally on the consumers of another State. The best way to achieve Central control and regulation in the latter case was through empowering the Central Government to define such transactions and levy a tax on them. As far as inter-State sales were concerned, the Committee felt it proper to leave the collection work to the

exporting State as an agent of the Central Government and also to give it the tax proceeds so that it would have adequate interest in efficient tax collection. The importing State was free to levy the tax at subsequent stage. Since this freedom could not be exercised when the importer was a consumer or an unregistered dealer, the exporting State could charge such inter-State transactions at the same rate as internal transactions and the difference between this rate and that on inter-State transactions was to go to the benefit of the importing State.

3.9. Taxation on raw materials in manufacturing States would be passed on to the consumers of the importing States, and thus had inter-State implications. While it was not thought desirable to restrict powers of States in case of all such materials, in the case of a few goods which entered into inter-State trade on a substantial scale and were of importance to the national economy, the Taxation Enquiry Commission recommended that the Centre should be empowered to impose conditions to regulate the use of State powers. The Commission suggested coal, jute, iron and steel, cotton, hides and skins and oilseeds for immediate inclusion and recommended that any extension of the list should only be made in accordance with the principles laid down and after consulting the Inter-State Taxation Council. The States could levy only a single-point tax on the above mentioned commodities at the last stage (of 3 pies per rupee at that time), and once taxed the commodities could not be taxed again even in another State. These recommendations were implemented through a change in the Constitution and through the subsequent enactment of the Central Sales Tax Act.

Additional Excise Duties

3.10. The next step in co-ordination came in 1957, when the National Development Council decided to substitute additional excise duties in lieu of State sales taxes on sugar, textiles and tobacco. This agreement was embodied through a provision that a State which continued to impose a sales tax on these commodities would not be entitled to a share in additional excise duties which would have to be paid also by their residents. The share has to be on the basis of consumption and is recommended by the Finance Commissions appointed at intervals of not less than five years. In addition, these commodities were also added to the schedule of declared goods so that the State Governments, even if they decided to break away from the agreements, could not levy a high rate of tax on them. The system has been widely welcomed by trade and industry on account of its administrative ease and convenience and avoidance of harassment to small dealers; they have been also demanding its extension to all

commodities subject to Central excises. The Central Government has been in favour of its continuance as it greatly reduced evasion and leakage and led to all-India uniformity. As we shall soon see, the State Governments have however not been happy with it.

Fourth Finance Commission

3.11. As commodity tax rates were stepped up year by year the Central Government was greatly exercised over this development. One of the terms of reference to the Fourth Finance Commission was to examine "the effect of the combined incidence of a State's sales tax and Union excise duties on the production, consumption or export of commodities or products, the duties on which are sharable with the States, and the adjustments, if any, to be made in the State's share of Union excise duties if there is any increase in the States' sale tax on such commodities or products over a limit to be specified by the Commission". This reference had the merit of recognizing the possibility of adverse effects of heavy commodity taxation on the economy, but was heavily loaded against the States, as it only contemplated a ceiling on States' sales taxation without any limitation on Central excise duties. Perhaps, the idea behind this reference was that the States did get a share in Central excise proceeds and that the Central Government was bound in its own tax measures to take into account the wider economic effects. Both these points were naturally not appreciated by the State Governments which thought this reference odd, as of the two, Central excise duties were generally much heavier.

3.12. The Fourth Finance Commission went into this question at length. It found that apart from the wider question of effective incidence even a limited study of money burden of commodity taxation in relation to price bristled with difficulties. The wider problem of assessing the effects of tax burden on production, consumption and exports necessitated detailed costs studies of each excisable item which the Commission was in no position to undertake. Apart from the total burden, the manner of diversification was also important from the viewpoint of efficient organisation of industry. While the need for co-ordination was conceded by all including States, the method contemplated viz. through changes in tax sharing provisions, was thought to be inappropriate. The right method of bringing this about was through an exchange of views between the Union Government and the States, so that if need be, Article 286(3) of the Constitution could be amended and appropriate action taken under section 14 of the Central Sales Tax Act. The Fourth Finance Commission, therefore, recommended that appropriate action would be taken only after ceilings were fixed by mutual agreement.

Fifth Finance Commission

3.13. The Fifth Finance Commission was the scene of another conflict of views on this issue. The Central Government had referred to it the question of extension of additional excise duties. The States were generally opposed to this idea, and eight of them vigorously resisted even the continuance of the existing system. The arguments were of a three-fold nature : (a) In any such arrangement the States lost the right to change the tax rates according to their needs as realised by them. (b) The additional excise duty system, as it had worked so far, meant less revenues to the States than if they were left free to levy a sales tax on these commodities. The sales taxes were *ad valorem* and the excise duties specific, and in times of rising prices *ad valorem* taxes brought increasing revenues. The tax rates on commodities included in additional excise list would have been much higher in line with those on other commodities subject to sales taxation, if they were left to States. (c) The Union Government which had the power to levy both excises and additional excises increased the latter much less than the former. While the first objection is a matter of principle, and no satisfactory compromise seems possible ; additional excise duties must be levied on an all-India basis, in deciding which the States collectively may have a voice, but individual States cannot have a final say. On the second and third points, satisfying conventions are possible, and have in fact been arrived at on a temporary basis. On two of the three commodities subject to additional excise duties, *ad valorem* rates are now levied and the duties have been substantially increased. This may be seen from the fact that the proceeds from additional excise duties suddenly jumped up from Rs. 60-61 crores in 1969-70 to more than Rs. 100 crores in 1972-73, and further to Rs. 181 crores in 1974-75.

3.14. It may be interesting to note that the Fifth Finance Commission, which went into the question of extension of additional excise duties, saw some justification in the States' complaints. It took the view that the additional excise duty system was in the nature of a tax-rental agreement and therefore recommended discussion of continuance of the system at an early meeting of the Centre with the States. In view of expressed dissatisfaction of the States with this system, the Commission saw no scope for its extension in the foreseeable future.

3.15. In pursuance of the recommendations of the Fifth Finance Commission, a meeting of the Central Government and the States was soon held, and a satisfactory consensus regarding the existing system of additional excise duties was arrived at. But this left the issue of extension still hanging. The commodities chosen in 1957 were

largely based on the demand of the mercantile community ; the articles chosen, therefore, were manufactured articles of wide consumption. There was no effort to include any additional intermediate goods or raw materials after the list compiled by the Taxation Enquiry Commission nor any additional consumption goods after 1957. The result was that as remarked “ Unfortunately the method of the working, the commodities chosen, and the general milieu of tax and economic policy have greatly nullified this potential advantage. A uniform commodity tax policy can be used for effective and efficient exploitation of the tax field in cases where high tax rates are called for ; it helps to keep prices of essential commodities at a reasonably low level ; it may assist in keeping prices of certain vital developmental items uniform all over the country ; it can contribute to an integrated market by facilitating the movements of commodities across State borders.” None of these was realised.

Burden of Commodity Taxation

3.16. Some idea has already been given earlier of the rapid increases in the excise duties and sales taxes. A quick measure of this increase lies in the fact that inter-State sales tax which commenced at 1 % is now 4%. For purpose of forming a more precise idea, the rates of Central excise duties and of Maharashtra sales tax on some commodities are given in Table 1.

3.17. In reading this table, a few explanations are essential. The items which are mentioned here are only those which bear *ad valorem* excise duties and show only the tax levied directly on them and not through their inputs. The table takes into account only taxes levied directly on these commodities. While excise duties are levied on commodities at the stage of production ; sales taxes can be levied at one or more stages of sale in the process of distribution, and the base will vary from that of excise according to the stage at which it is levied. Even if paid at the first stage, the base of sale price will at least include excise duties where it is levied on resellers and it will also include the cost of distribution till that stage including freight etc. In Maharashtra a large part of the sales tax is collected at an early stage. More than half of sales tax collections are gathered from the wholesalers who are also manufacturers and exporters, 80 per cent from exporters or/and manufacturers. It is presumed for the sake of calculation that the base of sales tax differs from that of excise duty only by inclusion of the excise duty. The combined burden of sales and excise taxation is calculated on the base adopted for excise duties. If sales tax is charged at a later stage, the burden would be still higher. In terms of wholesale or retail prices the burden would be lower. The

table also assumes that these goods are produced in Maharashtra State only ; however, to the extent that any of them are imported from outside, then they will be subject to Central sales tax and if not imported directly also to local sales tax, making the burden still higher.

3.18. It will be seen that the combined burden of excise and sales taxation is high by any standards. For instance, the burden on refrigerators is more than 100 per cent and on air-conditioning equipment 130 per cent. While these may be defended on the policy of taxing heavily articles of luxury, taxation of 68 per cent on tyres, 62 per cent on rubber products or 39 per cent on fluorescent tubes seems difficult to defend. Much more alarming is the tax burden on intermediate goods on items like cement and plastic material. Because of their uncertain and ramified repercussions, raw material and intermediate goods are generally expected to be exempt from commodity taxation, or subject to low rates of taxation. Their taxation by States will often imply taxation on residents of other States. In India, for many reasons taxation of these goods accounts for a substantial proportion of commodity tax revenues. It is estimated that in 1970-71 they accounted for 35-40 per cent of total excise duties ; while commoditywise sales tax collections are difficult to get, they were estimated to contribute 1/4th of sales tax revenues in some States. Many of the States have a set-off system for manufacturers reducing the tax rates on their inputs, but this does not apply to the Central excises levied on them nor to Central sales taxation. There is a temptation to exploit these commodities for greater revenues in future.

Methods of Co-ordination

3.19. This situation calls for vigorous efforts of co-ordination of Central and State tax policies regarding commodity taxation. The problem can be tackled in three alternative ways : (a) Since the most acute problems arise with reference to certain goods, largely intermediate, these can, in consultation with the States, be included in the goods of special importance and a ceiling may be placed on the single stage tax which the States can levy on them. If the list of goods is large, and the ceiling very low, the States would have to be compensated for the actual and potential revenue loss suffered by them through an additional share in excise duties on a few or all commodities. (b) States may be persuaded to agree to the Centre levying a central surcharge on such commodities, by way of additional excise duties. This would have the advantage of ease of administration because of a single point of collection and reduction in evasion. In deciding its additional excise duty rates the Centre would have to bear in mind the lessons of its past experience in this regard, (c) The

whole range of commodities can be apportioned between the Centre and the States on the basis of their all-India importance and administrative considerations. Some natural lines of division suggest themselves. Commodities which are by their nature not subject to Central excise duties would be left to the States. A precise estimate of tax proceeds from non-excisable goods in different States is difficult to make, but it is estimated on the basis of 1968-69 commoditywise sales tax collections that they contributed 40 per cent of the total sales tax proceeds in Maharashtra. On the other hand, intermediate goods, capital goods and manufactured commodities selected for heavy rates of taxation should be allocated to the Centre. Final consumption goods to be taxed at light rates could be left to the States.

3.20. It may be pointed out that limitation of commodity tax powers by the Centre or the States, leaving effective tax powers on each commodity to one of them, will not by itself lead to more rational commodity tax system. This will have to await further steps by Central or State authorities. At some stage limitation of octroi tax rates, if their entire abolition is not considered feasible, will have to be attempted. The major advantage of the proposed arrangement will be that by making one authority mainly responsible for tax rates for each commodity it will lead to better perspective and thus act as a spur to right action.

4. SALES TAX INFORMATION SYSTEM

Importance of Sales Tax

4.1. Though of a recent origin, sales tax has become the most important and elastic source of revenue in the State budget. In most of the States, sales tax ranks as the largest single source of revenue and now enjoys the pride of place which was formerly held by land revenue as the main stay of the States' finance.

4.2. In Maharashtra the receipts from the sales tax rose from Rs. 35.03 crores in 1961-62 to Rs. 308.72 crores in 1974-75 and are estimated to contribute nearly Rs. 407.94 crores in 1976-77 (Table 2). Besides the growth in absolute terms, the relative importance of sales tax in Government revenue has also been increasing over these years. Contribution of sales tax to total revenue (revenue account) of the Government increased from 29.50 per cent in 1961-62 to 38.46 per cent in 1974-75. During the same period the share of sales tax in the total tax revenue of the State moved from 43.08 per cent to 49.70 per cent. Similarly, the contribution of sales tax to the States' own tax revenue (excluding the share of central taxes) increased from 52.41 per cent to 62.01 per cent (Table 3).

4.3. During this period viz. 1961-62 to 1973-74, sales tax revenue rose at a compound rate at 18.2 per cent per annum. During the same period, the rates of growth for the tax revenue excluding sales tax and non-tax revenue are 14.8 per cent and 12.9 per cent per annum respectively. These percentages clearly bear out the phenomenal increase in sales tax revenue and signify its growing importance in comparison with other sources of revenue.

4.4. It would be relevant here to compare the revenue from sales tax in Maharashtra with that in other States. The relative importance of sales tax varies widely from State to State. In the year 1973-74, the sales tax revenue as a proportion of revenue from State taxes varied between 62 per cent in Gujarat and 26 per cent in Himachal Pradesh. In seven out of twenty States, sales tax provided more than half the revenue from taxes levied by the State Government. In the same year sales tax accounted for 60.46 per cent of the revenue from the State taxes in Maharashtra (Table 4). A similar picture is seen from

a comparison of the share of sales tax in the total tax revenue and the total revenue of the State Governments.

Present position of Sales Tax Statistics

4.5. The need for collecting sales tax and other relevant data on a continuous basis for its efficient administration and timely formulation of policies was felt by the State Government long time back. Recognising the importance of the sales tax statistics, the then Government of Bombay sanctioned a scheme in March, 1955 under which a statistical cell was established in the Directorate (then Bureau) of Economics and Statistics. Under this scheme statistical information for the years 1957-58, 1958-59 and 1960-61 was collected and analysed and the results published in the quarterly Bulletins of the Directorate. For the years 1962-63 and 1964-65 similar statistical information was collected and its results were presented to the Government but the report has not been published.

4.6. Thus from the year 1957-58, statistical information on a census basis relating to sales tax data has been collected periodically. For this, information was collected in a prescribed form from Sales Tax Officers for all the registered dealers from their quarterly returns giving particulars about their total turnover, taxable turnover and turnover according to different rates of taxes. In these surveys, the dealers were classified according to major commodity groups dealt in by dealer and the information regarding total turnover, inter-State sales and exports, turnover of goods exempted under the State Sales Tax Act, taxable turnover according to broad groups of commodities, turnover according to different rates of taxes and different ranges of turnover was tabulated and presented. Regionwise and districtwise information as well as information according to type of business was also presented. Although the dealers were grouped into broad groups and sub-groups, there was considerable inter-mixing of commodities and the groupwise data collected was not capable of giving any precise or useful information regarding commoditywise turnover or tax data.

4.7. As the importance of such statistical data was progressively realised by the Government, the Bureau of Economics and Statistics was called upon to evolve a scheme of collecting valid and reliable commoditywise statistics with relevant turnover figures. Accordingly in 1964-65, a sample survey was proposed for collecting detailed information to be supplied by the dealers in a prescribed form by way of additional return. But this was opposed by the business community on the ground that it would cast an unduly heavy burden on them (in requiring them to maintain several commoditywise accounts).

Therefore, the method of commoditywise data collection could not be started in the manner proposed. Subsequently a pilot survey was conducted in the B Ward of Bombay City in 1968-69 with a view to testing the suitability of the Schedule, amplifying the instructions prepared for canvassing the Schedule and also studying the feasibility of conducting a full-fledged survey for building up commoditywise estimates of the total as well as the taxable turnovers. After studying its feasibility, a full-fledged survey of commoditywise sales tax for the year 1968-69 was undertaken for the whole State. During this survey, commoditywise information was collected for 265 commodity groups as detailed in the Schedules of the State Sales Tax Act. For the selection of dealers, these were grouped into 80 sub-groups depending upon the major commodities in which they were dealing and the basis for selecting the dealers was their total taxable sales subject to sales tax, general sales tax and central sales tax. From all the 80 sub-groups, the dealers having taxable sales of Rs. 8 lakhs and above were covered on a census basis. A sample of 926 dealers was drawn from the remaining dealers in each of the 80 sub-groups with probability proportional to size (i.e. the taxable sales) and with replacement. In addition to these 926 dealers, a sample of 100 dealers was selected on a random basis from about 20,336 dealers for whom turnover particulars were not available. The reference year for the survey was the year 1968-69. Information regarding detailed commoditywise transactions of sales and purchases for a span of two months (selected by the random method for each dealer) was collected from the records of the dealers by the interviewing them, by 33 investigators who were drawn from the Sales Tax Department. In order to obtain the willing co-operation of the dealers, an assurance was given to them that the data supplied by a dealer would not be made use of in the assessment of the dealer. The results of the survey were made available to the Committee, but for which the Committee's work would have been greatly handicapped. We have indicated the use made by us of the data made available by this survey at the appropriate places in this Report.

4.8. On the recommendation of the Planning Commission and the Central Statistical Organisation, the Directorate of Economics and Statistics has undertaken a survey of distributive trade for the year 1971-72 in this State as a core scheme in the Fourth Plan. Again before undertaking this survey, a pilot survey was undertaken in three districts, namely Nagpur, Pune and Bombay to study the feasibility and operational problems of such a survey at the State level. For this survey also a sample of 5000 dealers has been selected from the entire State on the same pattern as for the commodity data survey with

practically the same complement of staff. However the sample size had to be restricted to about 2700 in Greater Bombay due to non-availability of staff in time. The work under this scheme was started in April 1973, of which the field work is completed and the result will be available later this year. When the results of this survey are available, it will give us information on other important aspects of distributive trade such as investment in fixed and working capital value of input, output and value added, employment, gross and net profit etc. which is not available from the commodity data survey.

4.9. Thus, the latest statistical data on which the Committee had to rely pertained to the year 1968-69 and has already become somewhat outdated. While we had to make do with the projections based on this data, after allowing for changes in the tax rates, we cannot help observing that our task would have been greatly facilitated and better performed, had we at our disposal commoditywise data continuously over a period of the last five years. At the very start of our work, we had realised the need for building up an adequate information system for the formulation of a rational and purposive policy in regard to sales taxation and had requested the Director of Economics and Statistics to give us his proposals for the systematic collection of statistical data on a continuing basis. The Director of Economics and Statistics was kind enough to accompany us during our visits to Trivandrum and Madras in October 1975 in order to study the system of commoditywise data collection in Kerala and Tamilnadu and although he was not able to accompany us to Bangalore, we had made available to him the material regarding the system followed in Karnataka. On the basis of this study and his experience of collection of data in this State, he submitted two notes (included at Appendices V and VI) containing his proposals (1) for the collection of commodity-wise data relating to sales tax and (2) for the creation of a statistical cell for the collection and analysis of the data relating to sales tax. The Committee had also an opportunity to discuss these proposals with Prof. V. M. Dandekar, Director of the Gokhale School of Economics and Politics, Poona and get his views on this subject. We give below our recommendations for the rationalization and improvement of sales tax and trade statistics, based on the proposals made by the Director and discussions with Prof. Dandekar.

4.10. We recommend that the compilation of statistical information which was collected on a sample basis prior to 1968-69 may be conducted once in five years on the basis of quarterly returns to include information on total turnover, taxable turnover and taxes payable by rates of taxes, groups of dealers, types of dealers, geographical areas etc.

This will serve as periodical bench-mark data in respect of all dealers. We further recommend that a sample survey of commoditywise sales tax data should be undertaken every year on a continuing basis. As most of the large dealers do keep accounts according to commodities or groups of commodities, they should be required by a provision in the Act to file a new return suitably designed to give commoditywise data every year. For the other dealers, a sample survey on the lines carried out by the Directorate earlier should be organised for estimating the various types of taxable turnover according to commodities. It has been suggested to us that the sampling of dealers should be made preferably on the basis of their contribution to sales tax revenue and the class of business that they do viz. manufacture, export, import and wholesale business and not on the basis of taxable sales limit (as was done for the year 1968-69). The question whether a representative sample of document holders who pay the bulk of the revenue would serve this purpose should be examined further. The commodities for collection of data should be selected on the basis of their relative contribution to sales tax revenue after discussion with the Commissioner of Sales Tax and in consultation with the Chambers. The various Chambers, who were consulted in the matter, have appreciated the importance of commoditywise statistics and offered the co-operation and assistance of the mercantile community in this work, provided only a few important commodities, which are making a major contribution to the sales tax revenue, are identified and notified for statistical compilation. The survey, to start with, may cover only a few important commodities and the coverage extended thereafter in the light of experience gained.

4.11. The trade sector is one of the important sectors of the economy, as it contributes nearly 11 per cent to the State income. Its contribution to the generation of tax income in the State is also quite significant. In view of this it is necessary to conduct a survey of distributive trade once in two years for which another sample of dealers will have to be selected from the list of registered dealers and special staff will have to be sanctioned for this work.

4.12. The need of a well-staffed statistical cell for the operation of such a comprehensive statistical system needs no emphasis. We have given very careful consideration to the question of location of this cell and have come to the conclusion that the balance of advantage lies in intergrating this cell with the Sales Tax Department, in order firstly to improve the speed of collection of the data and secondly to ensure the department's continuing interest in the operation of the statistical survey and the utilization of its results. In course of time the survey

methodology should be so developed that it can be co-ordinated with the routine work of the sales tax officers after giving them special training for this purpose. In order to ensure the technical validity of the design of the surveys and the statistical analysis of the data collected, it will be essential to fill in the statistical posts by officers deputed from the Directorate and to declare these posts as additions to the corresponding cadres in the Directorate. The statistical cell should be headed by an officer of the Status of a Joint Director from the Directorate who will work directly under the Commissioner of Sales Tax, but will continue to receive technical guidance from the Director of Economics and Statistics. We are recommending the staffing pattern for this cell in para 10.21.

4.13. The statistical system recommended by us is a versatile tool for getting important information regarding the facets of the State's economy in the industrial and trade sector. Besides, providing estimates of commoditywise sales it will help to estimate the taxable turnover for different commodities by types of business, that is to say, from manufacturers to wholesalers or exporters, from importers to wholesalers or retailers, from wholesalers to retailers etc. It should also be possible to build estimates of the flow of commodities and sales tax revenue gathered from different parts of the State. It could also make available data regarding import, export and consumption of different commodities in the State. Along with the survey of distributive trade, this survey would throw light on the extent or otherwise of the development of organised markets and the composition and functions of different agencies in the distributive channels of selected commodities. The Director of Economics and Statistics has indicated in his Annexure II of his note (Appendix V), the variety of ways in which the data collected by these surveys would be useful to Government for the formulation of purposive economic policies.

4.14. In addition to furnishing statistical information of a wide ranging nature, commoditywise survey can produce some control data for the effective administration of sales tax. It can provide an estimate of the amount of tax the administration ought to collect in a particular reference period and, thus, provide a measure of the efficiency of the sales tax department. It is true that the estimates of tax yield obtained from the survey are related to a specific reference period, while according to the practice followed by the sales tax department, the collections are related to the dues outstanding during that period. However they should not pose any problem for comparing the estimated yield with the actual collections, if these figures are available as a series over a period of time. The estimated yield can also provide

valuable information regarding the size of evasion by way of unaccounted transactions in respect of those commodities for which it is possible to obtain data of production, imports and exports or consumption from independent sources. It should be, however, borne in mind that the estimates are subject to sampling errors and hence variations smaller than the tolerance limits based on sampling error should not be regarded as indicative of evasion.

4.15. It goes without saying that the results of statistical surveys are not of much operational value, unless they are available within a reasonable time from the close of the reference period. At present, the delay in the collection, tabulation and analysis of the data is so great that it takes nearly five years for the results of a survey to be published. For example the report for 1960-61 was published in 1965-66, that for 1962-63 in 1969-70 and the report for 1964-65 is completed in 1970-71. The data for 1968-69 have been processed and tabulated recently and this report is expected to take another year for its publication. Even though it is true that the results are available for Government use much before they are published, there is still a considerable time-lag between the reference year and the availability of results. The Director of Economics and Statistics himself is aware of this unsatisfactory state of affairs and has observed as follows: "The information from the respective sales tax officers takes at least 2 to 3 years and the scrutiny, punching and tabulation for such a large number of dealers takes another one and half year to two years. So in view of this operational delays and difficulties, the time-lag in the publication of the report is so large that by the time the report is published it becomes almost of historical value." We recommended that the Commissioner of Sales Tax and the Director of Economics and Statistics should take steps to reduce this period, so that the results of such surveys are made available within a year or a year and half from the close of the reference period. For this purpose the necessary staff for punching, tabulation and analysis and the computer facilities should be made available.

5. THE SYSTEM OF SALES TAX

5.1. We are required by our terms of reference to examine the present system of sales tax in the State and to recommend in the light of the systems in the neighbouring States a suitable system and structure of sales tax with due regard to the revenue requirements of the State. The tax system has obviously not only to satisfy the current revenue needs of the State but also be a flexible instrument capable of meeting the growing needs of State revenue. In a welfare State, the aspirations and demands of the people at large for better living conditions are ever growing. The investments of the State in the social and economic overheads and in the public sector are ever on the increase as a result of which the plan expenditures are showing substantial growth year after year. That Sales Tax as a revenue measure is sufficiently elastic and buoyant to meet the growing development expenditure of the State is clear from the fact that it now accounts for about 64 per cent of the total tax revenue of the State. Subject to these over-riding considerations of revenue, the system of sales tax should conform to the following objectives and principles :—

(a) The coverage should be broadbased so as to involve all sections of the community in the effort to raise resources for the development of the State. The exemption list of tax-free commodities should, therefore, be the minimum possible.

(b) The tax should be equitable and the incidence of taxation should, as far as possible, be progressively distributed.

(c) The system of sales tax should not adversely affect the pre-eminent position this State has achieved as a highly industrial State and a centre of entrepot trade. In devising a suitable scheme of taxation, account has to be taken of its repercussions on trade and industry, trade channels and patterns, manufacturing costs and the competitiveness of our products in the country and overseas markets. More positively, it should foster and stimulate the growth of trade, industry and employment so that the growth in tax revenue takes place from expansion in trade and industry rather than from increases in tax rates.

(d) The system of tax should be such that its legislation is clear, its regulations simple and its administration not dilatory so that the scope for evasion and corrupt practices is minimised. It should involve

the minimum of procedural formalities and paper work and should not require the maintenance of elaborate accounts and records at the stage of small dealers.

5.2. A system of tax, however, cannot be conceived in the abstract. We have to draw upon the experience of the working of the varying systems in this State and other States. The evidence placed before the Committee, which contains the reactions of the trading and industrial community and tax experts to the operation of the present system in the State, will have to be properly weighed. The pattern of trade and industry in this State will have to be borne in mind. It is also essential to study the present system of sales tax in the State and to carry out, if possible, a statistical analysis of the tax yield.

The Present System Analysis of Tax Yield

5.3. Such a study has been made possible by the sample survey of commoditywise sales tax data carried out by the Directorate (then Bureau) of Economics and Statistics for the year 1968-69. The entry-wise estimates of taxable sales and taxes payable when arranged in descending order of their magnitudes show that 47 entries (Table 5) contribute 95.48 % of the total sales tax collection. These entries, however, include eleven out of 35 items which have been classified by the Central Government as luxury goods and these eleven entries account for 14.8 per cent of the total tax yield. They also include the residuary entry 22 of Schedule E which gives the maximum revenue to the extent of 30.34 per cent. The Bureau had collected details of the taxable turnover and the taxes in terms of percentages collected on some identifiable goods included in this entry. On scrutiny it was found that at least 16 items can be identified and segregated, which contribute 22.08 per cent of the total tax receipts. It would thus be seen that 86 items as listed below contribute about 90.71 per cent of the total tax yield :—

	Percentage of tax yield
(1) 35 items as classified as luxury goods by Central Government shown in Table 6.	18.30
(2) 16 items of Schedule E identified and segregated from the residuary entry E-22 shown in the Table 7.	22.08
(3) Remaining 35 items as shown in Table 8	... 50.33
	<hr style="width: 100%; border: 0.5px solid black;"/> 90.71 <hr style="width: 100%; border: 0.5px solid black;"/>

5.4. An analysis of these 86 items show that they comprise of 4 entries from Schedule B, 43 entries from Schedule C, 6 entries from

Schedule D and 33 items from Schedule E, including 16 items taken out from the residuary entry 22 of Schedule E. Out of these 86 entries two entries from Part I of Schedule B and 43 entries of Schedule C are liable to single point tax at the first point of sale. In all seven entries—two entries from Part II of Schedule B, namely cotton and oilseeds and 5 entries from Schedule D, namely edible oil, milk products, spices, dry fruits and jewellery—are liable to single point tax at the last stage of sale. 33 entries from Schedule E are subject to sales tax at the first point of sale and also to general sales tax at the last point of sale. This would go to show that the sale tax collected at the first stage from all the 86 items accounts for 79.26 per cent of the total tax yield. The general sales tax on 33 items accounts for 11.45 per cent of the total tax yield. This shows that a large portion of the tax yield is received from the sales tax levied at the first point or the last point of sale.

Evidence placed before the Committee

5.5. From the replies received to the specific question relating to the system of tax it was found that some of the Associations and Chambers expressed themselves in favour of the continuance of the present system of sales tax with suitable modifications. At the time of oral evidence, they explained that the two point system which is made applicable to the goods in Schedule E has the following advantages. It was stated that in respect of these goods the sources are not specific and identifiable. Further the system would bring in more revenue than what would accrue from a single point levy at first stage due to the addition of profit margin between the two stages. It was suggested that with a view to recoup the loss, the rate to be prescribed for the first point levy of tax would certainly have to be fixed at a much higher level. In their view such a higher rate would result in considerable evasion and the possibility of detecting evasion would become more difficult, once the goods enter a subsequent stage of the trade channel. Their specific suggestion was that Schedule D should be abolished, as the entries therein could as well be transferred to either Schedule C or Schedule E.

5.6. A large number of Chambers and Associations, on the other hand, favoured the system of single point levy of tax at first stage. They drew specific attention to the fact that under this system the number of dealers actually paying the tax would be very small and so it would be convenient for the administration to administer the law and collect revenue efficiently. They further pointed out that the tax liability under a single point system would be concentrated mainly

upon importers and manufacturers who are capable, with the organisations they have, to keep the requisite detailed records and small dealers would be spared the trouble of maintaining elaborate accounts. Some of these Associations further recommended that the levy of a higher tax at the first stage may be accompanied by a low rate of turnover tax at subsequent stages. It was their view that such a low rate of turnover tax would be easily absorbed by the small dealers and at the same time the Government would get good revenue from the turnover tax. It was also pointed out that the department would be able to reach even the small dealers to ascertain their liability on imports, if any, through the device of this turnover tax.

5.7. There was, however, an overwhelming demand for the total abolition of the levy of retail sales tax. It was represented that the imposition of retail sales tax does not serve any useful purpose and at the same time it causes great inconvenience to small dealers. Cases were cited where but for this retail sales tax, these dealers would have had no liability to pay tax. It was represented that the cost involved for these dealers in submission of returns and in appearance for assessment with the help of sales tax practitioners far exceeded the amount of tax payable by them. They, therefore, strongly urged that the retail sales tax be totally abolished so that the petty dealers are saved from this uneconomic burden.

5.8. During our visits to other States also we noticed that there was a marked trend, as stated in para. 2.5, in favour of single point levy at the first stage in respect of as many goods as possible and the revenue yield from this levy was also substantial. Uttar Pradesh has already switched over to the first stage single point system exclusively. The analysis of the statistical data collected by the Directorate of Economics and Statistics for the year 1968-69 clearly brings out that even in this State the bulk of the revenue is attributable to the tax collected at first stage. In the light of these considerations we have now to examine whether (a) the two points system, and (b) the levy of tax at the last stage need to be continued.

5.9. As regards the two point system, a reference to the items covered by the 33 entries of Schedule E would show that the sources of most of these items can be identified without much difficulty and the levy of general sales tax on these goods may not be necessary. The statistical data further shows that in respect of Schedule E goods there is no appreciable difference between the turnovers subject to sales tax at the first stage and the turnovers subject to general sales tax at the wholesale end. Such turnovers at the first stage are found at Rs. 491 crores for the year 1968-69 and the turnovers subject to

general sales tax at Rs. 507 crores only, thus showing hardly an increase of 4 per cent. It will be further seen that in effect the major contribution of tax from these entries is on account of the levy of the sales tax at the first point of sale and in respect of which the rates prescribed are higher than the rate of general sales tax. Most of these items are subject to single point sales tax at first stage in the States which we visited. The claim made by the advocates of the two point system that it plugs the possibility of evasion is not borne out by evidence. On the contrary, evidence available indicates that evasion takes place even in respect of goods which are either subjected to a last stage tax or tax at two stages. The impression gathered by us from our visits to the neighbouring States also was that evasion takes place even in respect of items subject to multipoint tax. In other words none of the systems offers a foolproof device for arresting evasion and there is also no evidence to show that a single point levy at the first stage on the entries in Schedule C has led to large scale evasion.

5.10. As regards the levy of single point tax on the seven items at the last stage, in respect of cotton the whole channel of trade is now changed as far as this State is concerned by virtue of State monopoly in cotton trade. Since there is going to be only one purchaser in respect of this agricultural produce, the first stage of sale of this commodity is not only identifiable but is restricted to only one source. As regards oilseeds, there are only two sources, imports and local purchases. The sources of imports are well defined and identifiable. From the local purchases, the oilseeds reach the oil millers through local channels which are also well identifiable. The other goods which are covered by Part II of Schedule B are hides and skins and jute. The turnovers in these commodities are not so significant in this State as to warrant any specific consideration for deciding the stage of tax on them. Further it has been reported that there has been wide-spread evasion in edible oil and jewellery and precious stones at least for some time and that the evasion was mainly due to the fact that the tax on these goods was levied at the last stage. It has, therefore, been strongly represented that these items should be subject to levy of tax at the first point. It is further seen that dry fruits and spices are imported from outside the State and that in respect of milk products, only a few dealers hold Licences under the Act as a result of which these products are in practice subject to tax at the first stage only. In most of the adjacent States, also all these goods are subject to single point tax at the first stage.

5.11. We are, therefore, of the view that the attendant advantages of a single point levy at the first stage far outweigh the advantages in

other systems. The main advantage of a single point system is that the administration has to deal with a relatively small number of dealers. The single point tax also ensures that no more than a specific amount of tax is added to the price and that there is no significant 'cascade' effect. Another advantage is that the tax is collected from the class of dealers who can afford the organisational set-up to maintain the requisite records and accounts. Again the consumers themselves are not brought face to face with the tax. Since the tax is levied and collected at source, the system minimises the chances of evasion. The system also makes it possible to regulate the levies so as to impose an equitable burden on the indigenously produced goods and those imported.

5.12. However, under this system there is likelihood of increasing the cost of the manufactured goods cumulatively due to taxes levied at the first stage on raw materials, components, accessories, etc. To avoid this, adequate provision for granting set-off of taxes paid on purchases has to be made. Similarly, in order to see that all the manufactured and imported goods are brought under the net of taxation, a wider net has to be cast for bringing in all the manufacturers and importers by prescribing a lower limit for liability. However, these difficulties are primarily procedural and can be overcome by appropriate administrative measures. We, therefore, recommend the system of single point sales tax at the first stage of sale.

5.13. The question remains in respect of the residuary items whose contribution to the total revenue is about 10 per cent. We are recommending in para 5.23 that instead of the concessional rate of tax at the rate of 3 per cent the manufacturers should be asked to pay on their purchases a tax at the rate of 4 per cent equivalent to the concessional rate of tax under the Central Sales Tax Act. It is obvious that all the raw materials, intermediate goods, components and parts required by the multifarious industries in the State cannot be classified precisely and consequently the residuary entry is bound to cover a number of such items required by the manufacturers. Therefore, in our opinion, if this residuary entry is also made subject to a single point tax at the first stage at 4 per cent, then the calculation of set-off would be further simplified and the use of forms 15 would be reduced to the bare minimum. As indicated above, there was a suggestion to levy tax on the residuary items at the last stage. After a careful consideration of this suggestion we found it difficult to agree to this proposal as it would result in requiring the levy and collection of tax from a very large number of dealers.

5.14. The retail turnover tax was suggested by the last Enquiry Committee on the grounds that a comparatively small rate of tax can

be easily absorbed by the dealers in their profit since the retailers would not be required to pay any tax on their sales, that there would be no resistance from the consumers to such a low rate of tax and that such a uniform low rate would simplify the assessment of such small dealers. As already stated almost all the replies to the questionnaire suggested total abolition of retail sales tax. It was represented that the imposition of this tax does not serve any purpose and causes great inconvenience to the small dealers by entailing expenditure which is disproportionately large compared to the tax paid. Even the Gujarat Sales Tax Enquiry Committee, which had occasion to consider this levy, has recommended its total abolition. It is estimated that the revenue yield from this tax for 1975-76 would be in the vicinity of Rs. 1.80 crores out of a total estimated revenue of 247 crores from Bombay Sales Tax. Considering all these facts, we recommend that the retail sales tax be abolished totally.

5.15. Lastly, in order to bring within the ambit of the levy of the single point tax the transactions of purchase of goods which are not resold, we would recommended retention of a provision in the form of existing section 13 of the present Act. We further recommend that a provision similar to present section 14 providing for levy of purchase tax in the case of contravention of recitals of the certificates issued against authorisation, recognition and permit should be continued. In regard to contravention of the recitals of certificates, issued under section 41 a doubt was raised before the Committee that the resultant loss of revenue cannot be recouped in the absence of a provision prescribing the rate of tax. Hence we recommend that a suitable provision be made to plug this possible lacuna.

Tax Liability

5.16. After recommending the system to be adopted in the State, we find it necessary to make certain changes in the definitions especially that of 'business'. It would be seen that in the definition of 'business', as it stands now, under section 2(5A) there is a mere mention of the activities which are covered by it. The Supreme Court in the case of *State of Gujarat vs. Raipur Manufacturing Co. Ltd.* 1967, 19 STC page 1, has held that "to regard an activity as business there must be a course of dealings either actually continued or contemplated to be continued with a profit motive Whether a person carries on business in a particular commodity must depend upon the volume, frequency, continuity and regularity of transactions of purchase and sale in a class of goods and the transactions must ordinarily be entered into with a profit motive." Profit motive is thus considered an essential ingredient of business unless the definition specifically stipulates

otherwise, and the transactions of Government and semi-Government bodies which undertake the supply and distribution of goods without a profit motive are not held liable to sales tax. There is no justification for excluding such transactions from the purview of sales tax. We, therefore, recommend that the definition of 'business' be amended on the lines of the definition of the Tamil Nadu Sales Tax Act, which includes the following clause: "Whether or not such trade, commerce, manufacture, adventure or concern is carried on with the motive to make gain or profit and whether or not any profit accrues from such trade, commerce, manufacture, adventure or concern

5.17. During the course of deliberations, it was pointed out by the administration that they find difficulty in recovering tax on the sales effected through the auctioneers. In cases where the auctioneer buys the goods and resells the same there is no difficulty in levying the tax even under the existing definition of 'dealer'. Similarly if an auctioneer holds out to be a seller without disclosing the name of the principal then in that event the present definition is wide enough to take within its fold such kind of sales for the purpose of levy of tax. So far as the sales made by the Government Departments like Railways, D. G. S. & D., Central Excise, and Customs are concerned the present definition does not rope in the transactions of sales effected through the auctioneers as auctioneers are not held liable to pay the tax because the consent of effecting the sale is given by the vendor viz. the various authorities mentioned herein the auctioneer merely crying for bids. We, however, feel that in view of the amendment suggested in the definition of 'business', the sales effected by departments like Railways, D. G. S. R. & D., Customs, and Central Excise would now be liable to tax which they are not today. With a view to facilitate collection of tax in such cases through the auctioneer we recommend that a provision similar to section 16(2) may be made so as to throw the liability of payment of tax in respect of such turnover on the auctioneer and that such liability should be joint and several as between the principal and auctioneer. We recommend that the liability to pay tax in such cases when the sales are effected by engaging the services of the auctioneer be put on such auctioneers and once such liability is discharged by them the principals will not be called upon to pay tax again.

5.18. We have recommended in para. 5.16 that the definition of 'business' should be put on par with the definition of 'business' in Tamil Nadu Sales Tax Act. This definition has been construed and interpreted by the Supreme Court in case of *State of Tamil Nadu vs. Burmah Shell Co. Ltd.* (1973 — 31 STC. 426). In view of this we believe

that casual sales will attract tax. Even fixed assets in respect of which the Bombay High Court has given a decision in the *Famous Cine Laboratories'* case (1975—36 STC 104) would also be roped in for the purpose of levy of tax.

5.19. A plea was put before us to the effect that the definition of the word 'manufacture' should be modified to cover only the activity which results in bringing out a new commercial product. We find in this connection that by the interpretation given by the Bombay High Court in the case of *Duncan Coffee Manufacturing Co.* (1975—35 STC 493) to this definition the issue is already settled and, therefore, we do not find any need to clarify the said definition.

5.20. Our attention was invited to the definition of "sale price" as existing under the Central Sales Tax wherein the cost of freight for delivery or cost of installation where such cost is separately charged is to be deducted before arriving at "sale price". The definition of 'sale price' in clause 2 (29) of the Bombay Sales Tax Act does not contain such an exclusion and representations were made that it should be brought on par with the definition in Central Sales Tax Act. The various High Courts have construed "cost of freight or delivery" to mean the cost when such cost is separately charged as a distinct item, and which in fact is the actual cost incurred by the vendor for rendering services after the sale. We, therefore, recommend that the definition of "sale price" in the Bombay Sales Tax should be brought on par with that in the Central Sales Tax Act. With a view to curb the fictitious claims of freight deduction it should be provided by law that the claimant dealer will be guilty of an offence attracting penalty double the amount of the fictitious claims and be liable to prosecution also.

5.21. The present turnover limits for registration were prescribed in the year 1960 with the intention of keeping a large number of small dealers out of the net of sales tax. However, with the subsequent increase in the price level the monetary limit for turnover remaining the same, many small dealers were required to get registered. In view of this, there was a universal demand that the present turnover limit be raised upward in view of the considerable rise in prices. Suggestions were received to the effect that the limit for resellers should be raised to Rs. 50,000 and that for importers and manufacturers be raised to Rs. 20,000, with the limits of the sales of taxable goods suitably raised. We find that in the Gujarat Sales Tax Act, the turnover limits for the manufacturer and importer have been raised to Rs. 20,000 and the value of the taxable goods imported or manufactured have been fixed at Rs. 3,000. In the light of the above and the price increases that

have taken place since these limits were fixed we recommend that the turnover limit for the manufacturer and the importer should be raised to Rs. 20,000 in place of Rs. 10,000 and for other dealers from Rs. 30,000 to Rs. 50,000. The value of the taxable goods or the goods imported or manufactured which at present stands at Rs. 2,500 should also be raised to Rs. 3,000.

5.22. Under the Central Sales Tax Act, 1956 unlike the local Act there is no turnover limit required for the dealer to apply for registration. Upon making inter-State sale or purchase of even one rupee, the dealer becomes liable to pay tax and authorities are obliged by law to grant registration enabling him to buy goods in inter-State at a concessional rate on Form C. However when they locally sell goods which were purchased inter-State they pay local tax and the buying dealer cannot claim resale when the vendor is not registered under the local Act. We recommend that a suitable provision be incorporated in the State Sales Tax Act to place the buyers in such cases on par with buyers from dealers registered under the State Sales Tax Act.

Concessions to Manufacturers and Exporters

5.23. At present, on declared goods, which constitute the major raw materials and intermediate goods, needed for manufacture taxes are payable at the rate of 4 per cent. Similarly on inter-State purchases also a manufacturer has to pay 4 per cent tax. In the circumstances we recommend that identifiable raw materials and intermediate goods etc. be subjected to 4 per cent tax and the concessional tax liability on the purchases of a manufacturer be raised to 4 per cent from 3 per cent. This coupled with a flat rate of tax at the rate of 4 per cent on the residuary items, will substantially reduce the number of items in regard to which the set-off is claimable.

5.24. Our attention was further invited to the hardships which the industries having branches outside the State suffer. They pointed out that the goods purchased against the use of recognition are held liable to purchase tax equivalent to the concession enjoyed and further a penalty at least equal to the purchase tax is levied if these goods are utilised in the manufacture of taxable goods despatched to other branches. In order to avoid this heavy liability there is tendency to buy raw materials from other States at concessional rate of 4 per cent Central sales tax, without exposing themselves to any penalty and the restrictive condition of use. On examining this issue, we find that this tendency would result in either shifting of the industries producing ancilliary or intermediate goods to areas in other States situated near the border of Maharashtra State and is also likely to affect adversely

such industries existing within the State. This diversion of industry is bound to affect the economy of the State in several sectors and it is necessary to consider this issue in a broader perspective and to suggest remedial measures. We, therefore, recommend that when the manufacturers use the purchases effected against recognition and send the manufactured goods to places outside the State, they should be called upon to pay an additional tax of 1 per cent on such purchases. The Sales Tax Act and Rules should be modified accordingly.

5.25. Another aspect of the matter which requires consideration is regarding finding out the quantum of purchases misused out of the goods purchased on the recognition certificate as a result of transfers to branches situated outside the State. It was represented that even though the overall purchases in the given period of assessment in the State of Maharashtra are so arranged as not to exceed the percentage of the permissible sales, even then the purchase tax is levied in the light of the judgement of the Bombay High Court in the case of *Commissioner of Sales Tax vs. Berar Oil Industries* (1975 — XXXVI, STC page 473). This causes undue hardship to the dealer. We, therefore, recommend that if a manufacturer proves, taking his overall local purchases made in the year of assessment, that he has used the concessional form only to the extent of permissible sales, then no contravention should be presumed. It is upto the manufacturer to arrange his local purchases in a period of assessment in such manner that he does not exceed the permissible limit.

5.26. At present the exporters are not in a position to adjust the set-off amount while filing return if no tax is payable under the Bombay Sales Tax Act or the tax payable is much less against which the amount could be set off. Representations, therefore, were made before the Committee that a provision within the Bombay Sales Tax Act should be made enabling the exporters to claim the set-off against the tax payable under the Central Sales Tax Act, 1956 on inter-State sales. We feel that the representations are justified and having given due consideration we recommend that the necessary provision should be made in the Bombay Sales Tax Act enabling the exporters to adjust the amount of set-off against the tax payable under the Central Sales Tax Act.

6. THE RATE STRUCTURE

6.1. Under the existing system the taxable goods are divided in four schedules viz. B, C, D and E. Schedules B and D are further subdivided into two parts. These schedules have 143 entries and they are taxed under 21 rates varying from 1 to 45 per cent. Various Chambers and Associations have pointed out that the multiplicity of rates for different goods has made the working of the Act complicated for both the tax payer and the tax administrator. It is eminently desirable to reduce the number of rates and to explore the possibility of grouping the taxable entries under a limited number of rates.

6.2. Sales tax is, by its very nature, is a regressive tax and has a proportionately higher incidence on the common masses than on the affluent classes. It can be made somewhat progressive by exempting the daily necessities of life or subjecting them to very low rate of tax and by levying a higher rate on luxury goods. We, however, do not favour the device adopted in the present law for making the sales tax progressive by linking the rates of tax with the price at which the goods are sold for reasons explained in para. 6.11.

Exemptions

6.3. Section 5 of the Bombay Sales Tax Act, 1959 provides for exemption from payment of tax on the goods specified in column 3 of Schedule A subject to certain conditions or exceptions set out against each of the goods specified therein. A large number of exemptions complicates the administration of sales tax. It is, therefore, essential to restrict the exemption to the articles which are the daily necessities of life and which are consumed by the poorer sections of society. We received a suggestion to bring cereals and pulses within the tax net, but we are unable to recommend it, as these form the staple food of the common man. It is also difficult to administer a tax on articles of perishable nature such as fresh fruit and vegetables in view of their fluctuating prices during the course of the day and in view of the spoilage involved. Again, to the extent possible, sentiment, whether cultural, religious or otherwise should not in any way, be a deciding factor in granting exemptions. Lastly the entries and provisions relating to exemptions, as any other provisions, under the sales tax statute, should be unambiguous. Ambiguity offers scope for evasion.

6.4. In the light of these considerations, we recommend that the following entries of Schedule A should continue to be exempted as forming the bare necessities of the common man and as perishable articles ; subject to the reservations made against the entries :—

- A-5 Bread in loaf or rolls or in slices, toasted or otherwise.
- A-7 Butter-milk, curds and lassi.
- A-9 Cattle-feed including fodder and concentrates excluding cotton seed.
- A-10 Cereals and pulses and flour (excepting maize flour) in any form excepting cooked or semi-cooked form, poha, lahya, churmura and such other parched forms of cereals.
- A-12 Chillies, chilly powder ; turmeric whole or powdered, tamarind whole or separated.
- A-13 Coconut in shell ; and separated kernel of coconut other than copra.
- A-14 Cooked food and non-alcoholic drinks other than those specified in any entry of this or of any other schedule, when sold at a price not exceeding Rs. 5 at one time.
Explanation.—The word ‘cooked food’ for the purpose of this entry shall include ‘farsan’ but shall exclude sweets, sweetmeats, ice cream, kulfi, confectionary, cakes, biscuits or pastries or any combination therewith either in the form of food or drink.
- A-16 Eggs.
- A-19 Firewood, charcoal and badami charcoal.
- A-20 Fish.
- A-23 Flowers excluding artificial flowers.
- A-24(1) Footwear made by hand without using power at any stage, when sold at a price not exceeding Rs. 15 per pair and when sold by a dealer recognised by the Commissioner in this behalf.
- A-24(2) Orthopaedic footwear.
- A-25 Fresh fruits.
- A-26 Fresh vegetables and potatoes, sweet potatoes and elephant’s foot (Yam).
- A-36 Milk, whole, separated or reconstituted but excluding condensed milk and milk powder.
- A-39 Plantain leaves, patrawal and dron.

A-43 Salt.

A-45 Slates of all kinds and slate pencils, chalk sticks and crayons ; foot-rules, exercise and drawing books, lead pencils and orreries and their parts.

A-50 Water except when sold in sealed container.

The condition attached to the entries 10, 12 and 20 should be removed in the light of entry No. 25-A of Schedule to the Notification under Section 41 of the Bombay Sales Tax Act, 1959.

6.5. We had sought views on the continuance of exemption enjoyed by the products of village industries as defined in the Khadi and Village Industries Commission Act, 1956 and the Bombay Khadi and Village Industries Act. Very few replies have been received and these suggest that the grant of cash benefits is preferable to the grant of exemption from payment of sales tax. However, we feel that the grant of cash benefits would be a cumbersome process as it would necessitate a procedure for receiving applications for grants, inspection of records and determination and distribution of grants on special criteria. We, therefore, recommend the continuance of the exemption to the following entries for promoting Khadi and Village Industry:—

A-11 Charkha and other implements and components and spare parts thereof, used in the production of hand-spun yarn as may be specified by the State Government by notification in the Official Gazette.

A-30 (i) Handloom and parts thereof.

(ii) The following handloom accessories, namely:—

- (a) Rach
- (b) Fani
- (c) Cotton healds
- (d) Shuttles
- (e) Bobbins
- (f) Pins
- (g) Pickers.

(iii) The following handloom auxiliary machines, namely:—

- (a) Warping frames worked by hand.
- (b) Sectional drum type warping machine worked by hand and V shaped creel used therewith.

(iv) The following attachment to handlooms, namely:—
Wooden dobbies.

A-40 Products of Village Industries as defined in the Khadi and Village Industries Commission Act, 1956, and the Bombay Khadi and Village Industries Act, 1960 and Khadi and readymade garments and other articles prepared from khadi, when sold by a producer or a dealer certified for this purpose by the Commissioner after taking into account the recommendations of the Khadi and Village Industries Commission constituted under the Khadi and Village Industries Commission Act, 1956 or as the case may be of the Maharashtra State Khadi and Village Industries Board constituted under the Bombay Khadi and Village Industries Act, 1960.

Explanation.—For the purposes of entry 25, 'Khadi' means any cloth woven on handloom in India from cotton, silk or woollen yarn hand-spun in India or from the mixture of any two or all such yarns.

A-44 Silk worm eggs and silk worm cocoons.

6.6. In the present Act the sales of cotton fabrics, rayon and artificial silk fabrics, woollen fabrics, sugar and tobacco along with sugarcane, electricity and motor-spirit are exempted. With regard to the articles exempted in view of the levy of additional excise duty under the Additional Duties of Excise (Goods of Special Importance) Act of 1957, suggestions were invited on abolition of additional excise duties and restoration of these commodities to the State Government for the purpose of taxation. The business community on the whole, however, expressed that the present system is working satisfactorily. Though the State Government may have reason to assume that they might have received more revenue from these commodities by way of sales tax than the share to which they are now entitled, we are of the view that the present facility already made available to the business community should not be withdrawn.

6.7. We have received a proposal from the Petroleum oil companies for the merger of the Motor Spirit Taxation Act 1954 with the Bombay Sales Tax Act. They suggested that if the commodities covered by that Act is subjected to tax under the Bombay Sales Tax Act, then they will be saved from the trouble of filing separate returns, statements, payment of taxes and appearance before the authorities for the purpose of assessment. They have further pointed out that with effect from 1st July 1971 the taxes on the commodities covered by the Motor

Spirit Taxation Act are now levied on *ad valorem* basis and that they can be saved from the labour of separate compliance with the requirements of the two enactments without much difficulty. They also stated that if this merger results in a loss of revenue due to set-off provisions which would be admissible to them and to their buyers and due to the extension of concessional rate of 4 per cent tax admissible to Government departments including Defence Department, under the provisions of the Bombay Sales Tax Act, 1959 to these goods, then they were prepared to have the rate of tax on these commodities raised to compensate such loss. We feel that the request of the companies is reasonable and that there should be no difficulty in providing for a levy of tax on these goods covered by the Motor Spirit Taxation Act in the Sales Tax Act itself. We are recommending in para. 6.25 enhanced rates of taxes on these goods. These enhanced rates would, in our opinion, give sufficient revenue to compensate the losses incurred due to extension of concessions of set-off etc., under the Bombay Sales Tax Act.

6.8. The following entries, in our view, deserve to be deleted from Schedule A and transferred to Schedule C with a low rate of tax at 2 per cent:—

- (i) A-1 Agricultural implements worked or operated exclusively by human or animal agency. This entry is difficult to administer, as the purpose is not ascertainable at the time of sale. Most of the articles are such as can be used by building contractors also. Rural artisans, supplying agricultural implements which are locally used by small agriculturists will, in any case, not be liable to tax.
- (ii) A-2 Articles and utensils made of Kansa (bell metal). Under entry 21A (c) of Schedule E, utensils made on non-ferrous metals are subject to 6 per cent tax. There is no reason why the articles made of Kansa should be exempt.
- (iii) A-3 Betel leaves and pan, tambul, vida or pattj prepared from betel leaves.
- (iv) A-6 Bullock carts, and components and parts thereof but not including tyres and tubes for animal driven carts.
- (v) A-8 Cattle, sheep, goats, pigs and poultry. Cattle, sheep, goats and pigs are quite costly and go into the consumption of the affluent class.
- (vi) A-13 Coal gas. This entry should be deleted as the use of coal gas for street lighting is declining.

- (vii) A-18 Fertilizers.
- (viii) A-34 Manures including oil-cakes.
 In our view, these goods can bear a small rate of tax.
 These items are also taxed in neighbouring States.
- (ix) A-22 Flower, fruit and vegetable seeds ; seeds of lucerne and other fodder grass ; seeds of sann hemp ; bulbs, corn, rhizomes, suckers and tubers (other than edible tubers) budgrafts, cuttings, grafts, layer and seedlings ; plants. This entry can bear a small tax, as the final product is proposed to be exempted. Secondly, in respect of many seeds such as Methi, coriander, shopa etc., it is difficult to distinguish whether they are sold as spices or seeds.
- (x) A-27 Bangles (chudas and chudis) of glass, ivory or of plastics. This exemption can be justified only on the ground of sentiment. At present plastic bangles, which have replaced the use of glass bangles, are taxed at the rate of 8 per cent under entry 19A(c) and there is evidence to show that this has led to the shifting of manufacturing units to the neighbouring States. Bangles, whether made of glass, plastics or ivory can bear a 2 per cent rate of tax.
- (xi) A-28 Gur including kakavi or kakab. The trade of gur is well channelled through commission agents and can very well bear a tax of 2 per cent which can be collected without administrative difficulty.
- (xii) A-32A Linguaphone, language records, that is to say gramophone records for teaching languages. These are used only by the affluent sections of society and do not deserve exemption.
- (xiii) A-32 Kumkum including liquid kumkum.
- (xiv) A-33 Mangalsutra with black glass beads. Both these items are exempted from the levy of tax on sentimental grounds. Kumkum is now used in various shades and form part of ladies' cosmetics. The entry on Mangalsutra is also price-linked and the article is purchased only once in a life time.
- (xv) A-35 Meat including flesh of poultry. This has become so costly that it has ceased to be common man's food.

- (xvi) A-45 Mathematical instrument boxes, colour boxes and slide rules. At present mathematical instrument boxes sold at a price not exceeding three rupees each and colour boxes sold at a price not exceeding two rupees each are exempt from sales tax. It was pointed out that these articles are not available within the prescribed prices and the high rate of 12 per cent which is otherwise applicable to these articles when the price limit is exceeded, gives rise to imports from neighbouring States. Considering this effect on local trade, we propose a 2 per cent rate of tax on colour boxes, slide rules and mathematical and scientific instruments irrespective of price.

Power to Grant Exemption or Concession

6.9. In the questionnaire, views were invited as to whether the power of granting exemption should be vested in the executive or whether the exemptions or reduction should be given by legislative amendments only. Opinions were divided on this issue. We feel that it is necessary to retain this power with the executive for grant of prompt relief. It however, appears necessary that the exemptions or concessions granted by the executive should be brought to the notice of the legislature and we suggest that the relevant notifications should be placed on the table of the Legislature.

6.10. We have examined the various Notifications which are issued under the powers vested in the Government under Section 41 of the Bombay Sales Tax Act, 1959 and endorse the following types of exemptions. One such category is the exemptions granted in respect of sales to specified organisations of the United Nations, diplomatic officers etc. Similarly sales of certain items to Defence Department and to Armed Forces through canteen stores departments, sales of foreign liquor through the duty free shops at the Air Port, sales of contraceptives, sales of kerosene etc., form another category of exempted sales. Exemptions granted in respect of sales to electrical undertakings, certain sales by Mazgaon Dock Limited and sales of ice to milk producers co-operative societies etc., for promotion and protection of industries in the State can be continued. In order to avoid taxation at more than one stage, exemptions are granted to sales of raw silk, wool and woollen yarn and sales of petroleum products between the refineries and their subsidiary companies and sales of cotton and oil-seeds through East India Cotton Associations and Oil Seed Exchange Ltd. etc.; these may as well be continued. We are also in favour of granting remission of tax paid in excess of the rate of

inter-State sales tax on purchases made by Central Government departments and establishments located in this State in order to prevent them from going to other States for making their purchases. We find that some of the other exemptions have already served their purpose and can as well be deleted. We further recommend that the grant of exemptions in exercise of these powers should be re-examined and reduced to the minimum.

Price Linked Rates

6.11. The Committee also found that in a good number of entries the exemption and the rates of taxes are linked with the price at which the goods are sold. The purpose of linking the rates of tax with the prices obviously appears to be to tax progressively the costlier goods which are consumed by the affluent sections of society. Such linking of rates does not necessarily achieve the purpose of increasing the revenue, as it gives a tool in the hands of some traders to evade tax by manipulating the quantities subject to higher prices. It also creates difficulties in the administration of tax. We would, therefore, recommend that such linking of rates of taxes for exemption or concession with the price should be minimised.

6.12. The entries where such rates are linked up with the prices and which are not considered earlier are as under :

Entries A-14, A-17, C-70 and C-70A.—At present Entry A-14 provides for exemption of cooked food excluding ice and kulfi and non-alcoholic drinks when they are made by establishments not conducted primarily for sale of sweetmeats, confectionery, cakes, biscuits and pastries. The cooked food supplied could be consumed either inside the premises or anywhere outside. Entry A-17 exempts farsan when sold at a price not exceeding Rs. 5 per kg. Entry C-70 provides a slab system of levy of tax on cooked food when it is sold above Rs. 3. Entry C-70A levies 45 per cent tax on any food or drink served at a place with which a cabaret, floor show or similar entertainment is provided. Under entry 102, dated August 5, 1974 of the notification issued under section 41, the levy is reduced to the rates of entry 70 if the dances are Indian dances, or a mushaira, band or magical performances.

Representations were made regarding farsan that the limit of Rs. 5 per kg. for exemption is outdated and should be raised in view of the increase in prices.

After considerable deliberations, we recommend that cooked food sold at one time upto Rs. 5 should be exempt from levy of tax. Such exemption should also be given to non-alcoholic drinks. Farsan

will be included within the meaning of cooked food. However sweets, sweetmeats, ice-cream, kulfi, confectionery, cakes, biscuits and pastries should be excluded from the meaning of cooked food. The exemption should be available irrespective of place of consumption. In all cases where food is served along with cabaret, tax @ 35 per cent should be imposed. However, this may not include Indian dances etc. We recommend that the rest of the sales by hotels, restaurants etc. should be held liable to 6 per cent tax. In respect of the sales which are covered by clauses (a), (b) and (c) of entry C-70, we do not recommend continuance of price-linked rates, as the applicability of rates can easily be manipulated by increasing the number of persons in the bills.

Entries C-14 and C-44.—Under these two entries, glassware, china-ware and articles made of porcelain and glazed earthenware adopted for domestic use when sold upto Re. 1 are subject to sales tax at 3 per cent and those sold at the rate above Re. 1 at the rate of 10 per cent. Similarly all other glassware and sanitary fittings made primarily from glazed earthenware or porcelain (other than pipes) also are subject to 10 per cent. Instead of this, we would propose that glassware including those covered by entry C-44(2) chinaware or articles made of porcelain and glazed earthenware should be subject to tax at the rate of 6 per cent, while the sanitary goods and fittings made primarily from glazed earthenware or porcelain other than pipes should be subject to 12 per cent.

Entry C-21.—At present the footwear made by hand without using power at any stage and sold at a price not exceeding Rs. 15 per pair are exempt. The other footwear sold upto Rs. 15 per pair are liable to 5 per cent tax, those sold for prices between Rs. 15 and Rs. 30 are liable to tax at 10 per cent. Those priced between Rs. 30 to Rs. 45 are subject to 15 per cent tax, and those costing above Rs. 45 are liable to tax at 20 per cent. Since the rates of taxes on the basis of prices give scope for evasion, it is necessary to fix a common rate of tax for this entry. Considering the rates prevailing in the neighbouring States and the fact that handmade footwear upto Rs. 15 are already exempt it will be proper to levy tax at 8 per cent on these goods.

Entries D-4 and D-4A.—Under these entries, the readymade garments sold at a price exceeding Rs. 20 per garment are liable to 5 per cent tax and hosiery goods are liable to 3 per cent tax. Under entry 68 of Schedule E to the Notification under section 41 of the Act, the effective rate of readymade garments and articles of personal wear is reduced to 2.75 per cent, while the hosiery goods at present

are enjoying effective rate of 1 per cent under entry 67 of the above Notification. Instead of the price limit, we would recommend that all readymade garments and other articles of personal wear including hosiery be subjected to a flat rate of 2 per cent tax, without price differentiation. The manufacturers of readymade garments and hosiery do not get the benefit of set-off like others as cloth is subject to additional excise duties. This factor has been taken into account in recommending the rate of tax at 2 per cent for these articles.

Entries E-16 and E-16A.—Under entry No. E-16, the sales of handloom silk fabrics are subject to two different rates with reference to the rate per metre. We would recommend that as silk cloth is purchased only by well-to-do persons, they should be taxed at a flat rate of 12 per cent along with the goods covered by entry E-16A.

6.13. We have already recommended in para. 6.8 that certain items should be deleted from Schedule A and should be subject to a rate of tax at 2 per cent. With the gold control order the transactions in gold have already reduced substantially. The articles in silver show sharp fluctuations of prices. The articles of silver and gold are very costly and there is no reason why these commodities and the articles made therefrom should not be subjected to a rate of tax higher than $\frac{1}{2}$ per cent. We accordingly propose a levy of 2 per cent on the following items:—

E-1 Bullion and Specie.

E-2 Articles made of gold or of silver or of both of fineness of not less than fifty per cent not containing precious stones, synthetic or artificial precious stones or pearls, whether real, artificial or cultured, of a value exceeding one-tenth of the value of each article.

6.14. The present rate on art silk yarn (Entry C-2) is 3 per cent. Except Madhya Pradesh and Gujarat the adjacent States are levying a tax at 3 per cent. The Gujarat State levies tax at 2 per cent. Since that is the State which can be considered as a competitor in the trade of this commodity, it would be proper to reduce the rate on this commodity to 2 per cent.

6.15. The rate of tax on the inputs of industry such as raw materials, intermediate goods, components, parts, fuel and packing material should continue to be taxed at a concessional rate. Under the present law the manufacturers are being given set-off of the excess tax paid over 3 per cent, which was then equivalent to the inter-State sales tax as it was till 1st July 1975. Since, the rate of inter-State sales tax has now been increased to 4 per cent, it would be reasonable to levy a tax of

4 per cent on the purchase of what are essentially industrial inputs by the manufacturers and give a set-off of taxes to the manufacturers paid in excess of 4 per cent on other inputs on which the tax rate is higher than 4 per cent. Even if the items, the preponderant use of which is for industrial purposes are continued to be taxed at a rate exceeding 4 per cent, in view of their usage the State is not going to receive more than 4 per cent of tax on them. On the contrary, by levying a tax at the rate of 4 per cent on them, by specifying this rate in the schedule itself, the set-off calculations would be simplified and the use of recognition further reduced. We, therefore, recommend that the following items which are essentially of the nature of raw materials should be taxed at the rate of 4 per cent. The figures in brackets show the rates at which they are presently taxed:—

- C-25 Petroleum products, including light diesel oil, (5%)
kerosene and solvent oil but excluding lubricants
and motor spirits as described in entries 102,
125, 126, 127 and 128.
- C-28 Non-ferrous metals (5%)
- C-32 (1) Timber (other than fire-wood) and bamboo, (5%)
whether whole or split, excepting timber
specified in sub-entry (2) below.
- (2) Teak, and superior injailli timber, that is to (7%)
say, (i) Bija, (ii) Khair, (iii) Ain, (iv) Hed,
(v) Kalam, (vi) Shisham, (vii) Kinai, (viii) Tiwas,
(ix) Asana, (x) Bondara, (xi) Dhaman,
(xii) Semal, (xiii) Siris, and (xiv) Anja.
- C-67 Non-potable liquors (15%)

6.16. In the list of luxury goods as classified by the Central Government, the items of perfumes, depilatories and cosmetics are included. The representatives of Perfumers and Flavour Association of India pointed out to us that aromatic chemicals and natural and synthetic oils and their compounds are at present held as covered by entry 19 of Schedule E and are subject to 15 per cent tax, following the Supreme Court's decision in the case of *Commissioner of Sales Tax, Uttar Pradesh vs. M/s. Indian Herbs Research and Supply Co.* (reported in 1970 XXV STC, page 151). They pointed out that in the neighbouring Gujarat State, the rate is reduced to 3 per cent and in Uttar Pradesh these articles attract tax at the rate of 7 per cent. They further

pointed out that these articles are only used as ingredients in a finished product and cannot be used as perfumes. In view of the above submission, we recommend to Government that these items should be separated from the present entry 19 of Schedule E and subjected to 4 per cent tax.

6.17. The following items are taxed at 3 per cent under the present law. In order to reduce the number of rates, we recommend that their tax rate may be increased to 4 per cent. As sales of kerosene through authorised ration shops are exempt, the one per cent rise would not affect the consumer price:—

C-12 Agricultural machinery and implements (other than tractors, oil engines and electric motors and implements specified in entry 1 in Schedule A) and components, parts and accessories thereof.

C-14A Kerosene.

C-71 Medicines (other than those specified in any other entries in this Schedule or in any other Schedule) of the following description:—

Patent or proprietary or pharmacopoeal medicinal formulations or preparations made up ready for use, internally or externally, for the diagnosis, treatment, mitigation or prevention of disease in human being or animals.

D-06 Milk products including butter, ghee, and khoa, but not including butter-milk, curds, lassi, chakka and sweetmeats such as shrikhand, basundi and doodhpak.

Explanation.—In this entry, 'milk product' means a product made exclusively out of milk, without addition or admixture of any other ingredient.

D-06A Vegetable non-essential oils other than hydrogenated vegetable oils (and those to which entry 39 in Schedule C applies).

6.18. The goods which are used by the affluent sections of society and which are in the nature of luxury articles should continue to be subject to as high a rate of tax as possible. However, there is a limit beyond which it is not worthwhile to increase such rates, as the higher the rate, the greater the tendency to evade the tax. We were told during the course of our interviews that when the Municipal Corporation of Pune reduced the rate of octroi duty on non-ferrous utensils, their receipts of octroi in regard to this item shot up. This was also

the experience of the Municipal Corporation of Nagpur, when it reduced the octroi duty on betel nuts. We, therefore, think that a rate higher than 12 per cent can be self-defeating and should be avoided as far as possible unless there are strong non-economic considerations of State policy, such as restricting the consumption of liquor and discouraging the type of entertainment which is provided by cabarets. It was found from the commodity data statistics (1968-69) that the average rate of tax on the items which are classified as luxury goods by the Government of India (Table 6) came to only 11.35 per cent. We, therefore, recommend that there should be a uniform rate of tax of 12 per cent on all these items.

6.19. The following articles which are at present taxed between 6 per cent and 15 per cent may also be taxed at 12 per cent :—

- | | | |
|-------|--|-----------|
| C-40 | (a) Acrylic and plastic emulsion paints. | ... (15%) |
| | (b) All types of lacquers. | |
| C-57 | Lifts whether operated by electricity or hydraulic power. | (10%) |
| C-63A | Computers and components, parts and accessories thereof. | (10%) |
| C-65A | Television sets and components, parts and accessories thereof. | (15%) |
| E-07 | Toilet articles including hair cream, hair tonic and hair oil but excluding soap, tooth powder and tooth paste. | (15%) |
| E-16 | Handloom fabrics of all varieties (excluding pile carpets, braids, borders, laces and trimmings, and those fabrics to which entries 15, 41 and 51 in Schedule A apply and Khadi to which entry 40 in Schedule A applies), sold at a price. | |
| | (a) exceeding six rupees, but not exceeding twelve rupees, per metre. | (6%) |
| | (b) exceeding twelve rupees per metre. | ... (11%) |
| E-16A | Silk fabrics as defined in the first Schedule to the Central Excise and Salt Act, 1944 ; and articles made of such fabrics. | (11%) |

6.20. With the development of science and technology and the improvement in the standards of living in general, things which formerly could have been called as luxury goods can no longer be described as such. These articles which can now be said to contribute

to the comforts of life can bear a rate higher than the rate on necessities and raw materials and can be taxed at two rates, 6 and 8 per cent. Many of the items which belong to this category already bear the rates of 6 and 8 per cent and so it is necessary to rationalise the rates in respect of those items which are now taxed at rates different from the above. After considering rates at which these articles are subject to tax in the adjacent States, we recommend as follows:—

(1) *Entry C-24 : Paper.*—The prevalent rate in Maharashtra State is 5 to 10 per cent. It will be seen that the rate of tax is round about 6 per cent in the neighbouring States except that in Madhya Pradesh where it is 10 per cent. It will, therefore, suffice to levy tax at a flat rate of 6 per cent on these goods.

(2) *Entry E-19A : Plastic goods.*—In this entry as it stands, these articles are sub-divided in 3 parts. Roofing, floor or wall tiles are subject to tax at the rate of 11 per cent, while the laminates are liable to tax at 12 per cent. The other thermosetting plastic goods are subject to tax at 11 per cent while the rest of the articles attract tax at 8 per cent. The floor and wall tiles manufactured out of cement are already considered as luxury articles by the Central Government. It therefore follows that the roofing, floor and wall tiles made of plastic can as well be considered as luxury articles and taxed at 12 per cent. Although the laminates are normally used by the furniture manufacturers, they can be used in hotels, restaurants etc., and so it is necessary to tax them at the rate of 12 per cent. Considering the rates of taxes applicable to other plastic goods in the neighbouring States and the fact that plastic goods are normally purchased by common man it would be enough if these goods excluding plastic bangles are subjected to a tax at 8 per cent only.

(3) *Entry E-20 : Stainless Steel articles.*—The prevalent rate under the Bombay Sales Tax Act is 11 per cent. In Madhya Pradesh the rate is 12 per cent. In Karnataka, Tamil Nadu and Gujarat, the rate applicable is 8 per cent while in Andhra Pradesh and Goa stainless steel articles are subject to 6 per cent. Considering the rates in the adjacent States, it would be proper to levy a tax of 8 per cent on these articles. It is true that stainless steel articles may be looked upon as luxury goods. It is, however, reported to us that there has been substantial evasion in respect of these articles. We believe that if the rate of tax of these articles is reduced to 8 per cent, it would curtail evasion in respect of these goods and yield more revenue than what is being received by levying the tax at a high rate of 11 per cent.

6.21. We further recommend that the following articles should be taxed at the rate shown against them:—

Entry No.	Description	Present	Proposed
		rate	rate
		in percentage	
C-7	Lubricants	5	6
C-14	Glassware, chinaware or articles made of porcelain and glazed earthenware adapted for domestic use, other than those specified in entry 44 in this Schedule (and in entry 5 in Schedule E).	3	6
C-17	Bricks and roofing tiles	5	6
C-19	Coal gas (other than that declared tax-free under entry 13 in Schedule A).	10	6
C-20	Furniture (other than that specified in entry 56 in this Schedule).	10	6
C-26	Razors and razor blades	5	6
C-27	Sewing machines and components, parts and accessories thereof.	5	6
C-28	Soaps	5	6
C-29 (1)	Sunglasses, goggles and other kinds of goggles and frames and components, parts and accessories thereof.	15	6
C-29 (2)	Spectacles, lenses, glasses, rough blank and spectacle frames and components, parts and accessories thereof.	5	6
C-33 (1)	Soda Water	10	6
C-34	Bicycles, tandem cycles and cycle combinations and tyres, tubes, components, parts and accessories thereof.	7	6
D-1-07	Pepper and other Spices	5	6
C-20	Electrical goods, other than those specified in any other entry in this Schedule or in any other Schedule.	10	8
C-33 (2)	Aerated waters (other than soda water) and non-alcoholic beverages (including fruit juices, squashes, syrups and cordials) when sold in sealed, capsuled or corked bottles, jars, tins, drums or other containers.	12	8
C-37	Hydrogenated vegetable oils including vanaspati ..	7	8
C-38	Ice	15	8
C-42	X-ray apparatus and films, plates and other equipment required for use therewith and components, parts and accessories thereof.	7	8
E-04	Cakes, biscuits and pastries	9	8
E-7A	All kinds of stoves, pressure lamps, incandescent lanterns and lamps and cookers and components, parts and accessories thereof, including gas mantles.	9	8
E-15 (2)	Fluorescent tubes of all varieties and their fittings including chokes and starters, and other components, parts and accessories appertaining to such tubes.	14	8

We have suggested the same rate of tax for fluorescent tubes as for bulbs because they are economical in the use of power and should be encouraged. We have also received some evidence that high rate of tax is causing diversion of trade in this commodity.

6.22. We have separated 16 items from the residuary entry 22 of Schedule E, which account for 22.08 per cent of the total tax yield. In respect of these items we found that the following articles are essentially required for use in industry and therefore they could be taxed at the rate of 4 per cent instead of 8 per cent :—

- (i) Machinery, including agricultural machinery but excluding those machineries specified elsewhere and parts, accessories and components thereof.
- (ii) Dyes and chemicals.
- (iii) Bulk drugs.
- (iv) Plywood.

We would, therefore, recommend a tax at a flat rate of 4 per cent on these articles. Since medicines are proposed to be taxed at 4 per cent, the other drugs should be also subject to a tax at 4 per cent. The other goods may continue to bear 8 per cent rate of tax.

6.23. It will be seen that we have kept out of discussion tax rates in respect of liquor and addictive drugs such as opium, bhang, ganja and country liquor. At present, imported foreign liquor and fermented liquors and mild liquors are subject to heavy rate of tax at the rate of 45 per cent and 35 per cent respectively under entry 1 of Part II of Schedule D. Opium, bhang, ganja are subject to 10 per cent tax under entries 66 and 68 of Schedule C. The country liquor and foreign liquor manufactured in India are subject to tax at the rate of 12 per cent. The contribution of ganja, bhang and opium to revenue is negligible and we would suggest that they should be taxed along with the country liquor and Indian made foreign liquor at 12 per cent. Considering the grounds of State policy under which the imported foreign liquor and fermented liquor and mild liquor are subjected to high rates of tax, we would recommend the retention of the present rates.

6.24. Out of the remaining entries the articles covered by Schedule B pose no problem as far as rationalisation of rates is concerned because all of them are to be taxed at 4 per cent. We have, however, omitted the following entries viz. C-1, C-1A, C-6, C-8, C-10, C-11, C-18, C-61 and DI-2 as they hardly contribute any substantial revenue and can be merged with the residuary entry. We propose that the remaining items out of the schedules appended to the Bombay Sales Tax Act, 1959

should be deemed to be covered by the residuary entry in the proposed Schedule C for which we have recommended a flat rate of tax of 4 per cent.

6.25. After considering the effect of the corresponding loss that would result by the merger of the Bombay Sales of Motor Spirit Taxation Act, 1958 and the Bombay Sales Tax Act, 1959, we consider that the loss can be recouped by increasing the present rates at which these articles are now taxed at the rates as proposed below:—

	Existing rate	Proposed rate
(a) High Speed Diesel Oil ...	9 per cent	12 per cent
(b) Aviation Gasoline (Duty paid).	9 per cent	12 per cent
(c) Aviation Gasoline (Bonded)...	23 per cent	25 per cent
(d) Aviation Turbine Fuel (Duty paid).	23 per cent	25 per cent
(e) Any other kind of motor spirit.	11 per cent	12 per cent

At present sales of aviation turbine fuel (bonded) to any International Airline operating from an Airport in the State of Maharashtra although liable to be taxed at 30 per cent are exempt fully under Government Notification, dated 24th April 1974.

6.26. The revised Schedules A, B and C are appended to this Chapter.

SCHEDULE A

Serial No.	Description of goods
1	Books and periodicals including almanacs and panchangs but excluding catalogues, all publications which mainly publicise goods and articles for commercial purposes, racecards, account books, diaries, calendars and books not being exercise books containing space exceeding eight pages for writing.
2	Bread in loaf or rolls or in slices, toasted or otherwise.
3	Butter-milk, curds and lassi.
4	Cattle-feed including fodder and concentrates but excluding cotton seed.
5	Cereals and pulses and flour (excepting maize flour) in any form excepting cooked or semi-cooked form.
6	Charkha and other implements and components and spare parts thereof, used in the production of handspun yarn as may be specified by the State Government by notification in the <i>Official Gazette</i> .
7	Chillies, chilly powder; turmeric, whole or powdered; tamarind, whole or separated.
8	Coconut in shell; and separated kernel of coconut other than copra.

Serial
No.

Description of goods

- 9 Cooked food and non-alcoholic drinks other than those specified in any entry of this or of any other Schedule, when sold at a price not exceeding Rs. 5 at one time.
Explanation.—The word 'cooked food' for the purpose of this entry shall include 'farsan' but shall exclude sweets, sweetmeats, ice-cream, kulfi, confectionery, cakes, biscuits, or pastries or any combination therewith either in the form of food or drink.
- 10 Cotton fabrics as defined in the First Schedule to the Central Excise and Salt Act, 1944.
- 11 Eggs.
- 12 Electricity.
- 13 Films and filmstrips certified by the Central Board of Film Censors to be predominantly educational in nature. Such films and filmstrips as may be recognised as educational by the State Government by notification in the *Official Gazette*.
- 14 Firewood, charcoal and badami charcoal.
- 15 Fish.
- 16 Flowers excluding artificial flowers.
- 17 Footwear made by hand without using power at any stage, when sold at a price not exceeding Rs. 15 per pair and when sold by a dealer recognised by the Commissioner in this behalf.
- 18 Fresh fruits.
- 19 Fresh vegetables and potatoes, sweet potatoes and elephant's foot (Yam).
- 20 Handloom fabrics of all varieties excluding pile carpets, braids, borders, laces and trimmings and khadi to which entry 25 in this Schedule applies and silk fabrics to which entry in Schedule C applies.
- 21 (i) Handloom and parts thereof.
(ii) The following handloom accessories, namely:—
(a) Rach
(b) Fani
(c) Cotton healds
(d) Shuttles
(e) Bobbins
(f) Pins
(g) Pickers.
(iii) The following handloom auxiliary machines, namely:—
(a) Warping frames worked by hand.
(b) Sectional drum type warping machine worked by hand and V shaped creel used therewith.
(iv) The following attachment to handlooms, namely:—
Wooden dobbies.
- 22 Milk, whole, separated or reconstituted but excluding condensed milk and milk powder.
- 23 Orthopaedic footwear.
-

Serial No.	Description of goods
24	Plantain leaves, patrahal and dron.
25	Poha, Lahya, Churmura and such other parched forms of cereals.
26	Products of Village Industries as defined in the Khadi and Village Industries Commission Act, 1956, and the Bombay Khadi and Village Industries Act, 1960 and Khadi and readymade garments and other articles prepared from Khadi, when sold by a producer or a dealer certified for this purpose by the Commissioner after taking into account the recommendations of the Khadi and Village Industries Commission constituted under the Khadi and Village Industries Commission Act, 1956 or as the case may be of the Maharashtra State Khadi and Village Industries Board constituted under the Bombay Khadi and Village Industries Act, 1960. <i>Explanation.</i> —For the purposes of entry 25, ' Khadi ' means any cloth woven on handloom in India from cotton, silk or woollen yarn hand-spun in India or from the mixture of any two or more such yarns.
27	Rayon or artificial silk fabrics as defined in the First Schedule to the Central Excise and Salt Act, 1944.
28	Salt.
29	Silk worm eggs and silk worm cocoons.
30	Slates of all kinds and slate pencils, chalk sticks and crayons, foot-rules, exercise and drawing books, lead pencils and orreries and their parts.
31	Sugar as defined in the First Schedule to the Central Excise and Salt Act, 1944. Khandsari sugar and palmyra sugar produced without the aid of power in the course of production.
32	Sugarcane.
33	Tobacco as defined in the First Schedule to the Central Excise and Salt Act, 1944.
34	Water except when sold in sealed containers.
35	Woollen fabrics, as defined in the First Schedule to the Central Excise and Salt Act, 1944.

SCHEDULE B

Declared goods, the sale or purchase of which is subject to sales tax or purchase tax and the rate of tax

Serial No.	Description of goods	Rate of Sales Tax	Rate of Purchase Tax
1	Coal including coke in all its forms	4 paise in the rupee.	4 paise in the rupee.
2	Cotton that is to say, all kinds of cotton (indigenous or imported) in its unmanufactured state, whether ginned or unginned, baled, pressed or otherwise, but not including cotton-waste.	Do.	Do.
3	Cotton yarn, but not including cotton yarn waste ..	Do.	Do.

Serial No.	Description of goods	Rate of Sales Tax	Rate of Purchase Tax
4	Hides and skins, whether in a raw or dressed state.	4 paise in the rupee.	4 paise in the rupee.
5	Iron and steel that is to say— <ul style="list-style-type: none"> <li data-bbox="265 488 803 566">(i) pig iron and cast iron including ingot moulds, bottom plates, iron scrap, cast iron scrap, runner scrap and iron skull scrap; <li data-bbox="265 571 803 620">(ii) steel semis (ingots, slabs, blooms and billets of all qualities, shapes and sizes); <li data-bbox="265 625 803 674">(iii) skelp bars, tin bars, sheet bars, hoe-bars and sleeper bars; <li data-bbox="265 680 803 757">(iv) steel bars (rounds, rods, squares, lats, octagons and hexagons, plain and ribbed or twisted, in coil form as well as straight lengths); <li data-bbox="265 763 803 840">(v) steel structurals (angles, joints, channels, tees, sheet piling sections, z-sections any other rolled sections); <li data-bbox="265 846 803 971">(vi) sheets, hopps, strips and skelp, both black and galvanised, hot and cold rolled, plain and corrugated, in all qualities, in straight lengths and in coil form, as rolled and in riveted condition; <li data-bbox="265 977 803 1025">(vii) plates both plain and chequered in all qualities; <li data-bbox="265 1031 803 1060">(viii) discs, rings, forgings and steel castings; <li data-bbox="265 1066 803 1114">(ix) tool, alloy and special steels of any of the above categories; <li data-bbox="265 1120 803 1168">(x) steel melting scrap in all forms including steel skull, turnings and borings; <li data-bbox="265 1174 803 1251">(xi) steel tubes, both welded and seamless, of all diameters and lengths, including tube fittings; <li data-bbox="265 1257 803 1306">(xii) tin-plates, both hot dipped and electrolic and tin free plates; <li data-bbox="265 1311 803 1418">(xiii) fish plate bars, bearing plate bars, crossing sleeper bars, fish plates, baring plates, crossing sleepers and pressed steel sleepers, rails— heavy and light crane rails; <li data-bbox="265 1423 803 1452">(xiv) wheels, tyres, axles and wheel sets; <li data-bbox="265 1458 803 1535">(xv) wire rods and wires-rolled, drawn, galvanised, aluminised, tinned or coated such as by copper; <li data-bbox="265 1541 803 1595">(xvi) defectives, rejects, cuttings or end pieces of any of the above categories. 	Do.	Do.

Serial No.	Description of goods	Rate of Sales Tax	Rate of Purchase Tax
6	Jute, that is to say the fibre extracted from plants belonging to the species <i>Corchorus capsularis</i> and <i>Corchorus olitorius</i> and the fibre known as mesta or bimli extracted from plants of species <i>Hibiscus cannabinus</i> and <i>Hibiscus sub-darilfa-Var altissima</i> and the fibre known as Sunn or Sannhemp, extracted from plants of the species <i>Crotalaria juncea</i> whether baled or otherwise.	4 paise in the rupee.	4 paise in the rupee.
7	Oilseeds, that is to say— (i) Groundnut or Peanut (<i>Arayhis hypogaea</i>); (ii) Sesamum or Till (<i>Sesamum orientale</i>); (iii) Cotton seed (<i>Gassypium Spp.</i>); (iv) Soyabean (<i>Glycine seja</i>); (v) Rapeseed and Mustard— (1) Toria (<i>Brassica compestros var toria</i>); (2) Rai (<i>Bassica juncea</i>); (3) Jamba-Taramira (<i>Eruca Satiya</i>); (4) Sarson, yellow and brown (<i>Brassica campestris var sarson</i>); (5) Banarsi Rai or True Mustard (<i>Brassica nigra</i>); (vi) Linseed (<i>Linum usitatissimum</i>); (vii) Castor (<i>Ricinus communis</i>); (viii) Coconut (i.e. Copra excluding tender coconuts) (<i>Cocos nucifera</i>); (ix) Sunflow (<i>Helianthus annus</i>); (x) Nigar seed (<i>Guizotia abyssincia</i>); (xi) Neem, vepa (<i>Azadirachta indica</i>); (xii) Mahua, illupai, Ippe (<i>Madhuca indica</i>); <i>Latifolia</i> , <i>Bassia</i> , <i>Latifolia</i> and <i>Madhuca</i> , <i>Longifolia</i> syn. <i>M. Longigolia</i>); (xiii) Karanja, Pongam, Honga (<i>Pongamia pinnagra</i> syn. <i>P. Glabra</i>); (xiv) Kusum (<i>Schleichera olessa</i> , syn. <i>S. Trijuga</i>); (xv) Punna Undi (<i>Calophyllum inophyllum</i>); (xvi) Kokum (<i>Carcinai indica</i>); (xvii) Sal (<i>Shorea robusta</i>); (xviii) Tung (<i>Aleurites foidii</i> and <i>A. Montana</i>); (xix) Red palm (<i>Elacis guinensis</i>); (xx) Safflower (<i>Carthamus tinctorius</i>).	Do.	Do.

SCHEDULE C

Serial No.	Description of goods	Rate of Sales Tax	Rate of Purchase Tax
1	Agricultural implements worked or operated exclusively by human or animal agency.	2 paise in a rupee.	2 paise in a rupee.
2	Articles and utensils made of Kansa (Bell metal).	Do.	Do.
3	Articles made of gold or of silver or of both of fineness of not less than fifty per cent not containing precious stones, synthetic or artificial precious stones or pearls, whether real, artificial or cultured, of a value exceeding one-tenth of the value of each article.	Do.	Do.
4	Artificial silk yarn	Do.	Do.
5	Bangles (Chudas and Chudis) glass, ivory or of plastics.	Do.	Do.
6	Betal leaves and pan, tambul, vida or patti prepared from bettle leaves.	Do.	Do.
7	Betelnuts	Do.	Do.
8	Bullion and specie	Do.	Do.
9	Bullock carts, and components and parts thereof but not including tyres and tubes for animal driven carts.	Do.	Do.
10	Cattle, sheep, goat, pigs and poultry ..	Do.	Do.
11	Fertilizers	Do.	Do.
12	Flower, fruit and vegetable seeds, seeds of lucerne and other fodder grass; seeds of sann hemp; bulbs, corn, rhizomes, suckers and tubers (other than edible tubers) budgrafts, cuttings, grafts, layer and seedlings; plants.	Do.	Do.
13	Gur including kakavi or kakab	Do.	Do.
14	Kumkum including liquid Kumkum ..	Do.	Do.
15	Linguaphone, language records, that is to say, gramophone records, for teaching languages.	Do.	Do.
16	Mangalsutra with black glass beads	Do.	Do.
17	Manures including oil cakes	Do.	Do.
18	Mathematical instrument boxes, colour boxes and slide rules.	Do.	Do.
19	Meat including flesh of poultry	Do.	Do.
20	Poultry feed	Do.	Do.
21	Readymade garments including hosiery goods and other articles prepared from textile fabrics.	Do.	Do.
22	Safety matches (excluding matches ordinarily used as fire works).	Do.	Do.
23	Aromatic chemicals, natural and synthetic essential oils and their compounds.	4 paise in a rupee.	4 paise in a rupee.

Serial No.	Description of goods	Rate of Sales tax	Rate of Purchase Tax
24	Drugs and medicines, including spirituous medicinal preparations.	4 paise in a rupee.	4 paise in a rupee.
25	Dyes and chemicals	Do.	Do.
26	Milk products including butter, ghee, khoa, chakka, milk-powder, condensed milk but excluding butter milk, curds, lassi and sweetmeats such as shri-khand, basundi and dudhpak. <i>Explanation.</i> —In this entry milk product means a product made exclusively out of milk, without addition or admixture of any other ingredient.	Do.	Do.
27	Non-ferrous metal sheets, rods, bars, slabs, blocks, ingots, circles and scrap.	Do.	Do.
28	Non-potable liquors, that is— (a) rectified spirit (b) denatured spirit (c) methyl alcohol (d) absolute alcohol (e) any other liquor which the State Government may by notification in the <i>Official Gazette</i> declare to be non-potable for the purpose of this entry.	Do.	Do.
29	Petroleum products, including light diesel oil, kerosene and solvent oil but excluding lubricants and motor spirits as described in entries 102, 125, 126, 127 and 128 of this schedule.	Do.	Do.
30	Timber (other than fire wood) and bamboo, whether whole or split; plywood.	Do.	Do.
31	Vegetable non-essential oils other than hydrogenated vegetables oils and those to which entry 118 in this schedule applies.	Do.	Do.
32	Bicycles, tandem cycles and cycle combinations and tyres, tubes, components, parts and accessories thereof.	6 paise in a rupee.	6 paise in a rupee.
33	Bricks and earthen roofing tiles	Do.	Do.
34	Boot Polish	Do.	Do.
35	Cement	Do.	Do.
36	Coal gas	Do.	Do.
37	Coffee, chicori and tea in leaf or powder; instant tea and instant coffee.	Do.	Do.
38	Cooked food and non-alcoholic drinks as described in entry 9 by entry 129 of this schedule sold at a price exceeding Rs. 5 at one time.	Do.	Do.
39	Furniture other than that specified in entry 108 of this schedule.	Do.	Do.

Serial No.	Description of goods	Rate of Sales Tax	Rate of Purchase Tax
40	(i) Glass-ware, chinaware or articles made of percelain and glazed earthenware other than those specified in entry 84 of this schedule.	6 paise in a rupee.	6 paise in a rupee.
	(ii) All kinds of glass sheets, glass rods and glass tubes and silvered mirrors.	Do.	Do.
41	Inks	Do.	Do.
42	Lubricants	Do.	Do.
43	Paper of all other kinds, including sand paper, straw-board, carboard and duplex and triplex boards.	Do.	Do.
44	Pepper and spices	Do.	Do.
45	Razors and razor blades	Do.	Do.
46	Sewing machines and components, parts and accessories thereof.	Do.	Do.
47	Soaps	Do.	Do.
48	Soda Water	Do.	Do.
49	Steel trunks and school bags and cases made of steel or aluminium.	Do.	Do.
50	(1) Sunglasses, goggles and other kinds of goggles and frames and components, parts and accessories thereof.	Do.	Do.
	(2) Spectacles, lenses, glasses, rough blank and spectacle frames and components parts and accessories thereof.	Do.	Do.
51	Syringes of all kinds intended for use by the medical profession.	Do.	Do.
52	Utensils and articles made of non-ferrous metals ..	Do.	Do.
53	Umbrellas and components, parts and accessories thereof.	Do.	Do.
54	Zari thread and embroidery materials of gold, silver or gilded metal including badla and kasab.	Do.	Do.
55	Aerated waters (other than soda water) and non-alcoholic beverages (including fruit juices, squashes, syrups and cordials) when sold in sealed capsuled or corked bottles, jars, tins, drums or other containers.	Do.	Do.
56	All kinds of stoves, pressure lamps and incandescent lanterns and lamps and cookers and components, parts and accessories thereof, including gas mantles.	8 paise in a rupee.	8 paise in a rupee.
57	Asbestos cement, hume and spun pipes and other cement articles (other than those specified elsewhere).	Do.	Do.
58	Books and periodicals excluding those covered by entry 1 of schedule A.	Do.	Do.

Serial No.	Description of goods	Rate of Sales Tax	Rate of Purchase Tax
59	Building materials including lime, sand stone and rubble but excluding those specified elsewhere.	8 paise in a rupee.	8 paise in a rupee.
60	Cakes, biscuits, toffees chocolates and pastries ..	Do.	Do.
61	Coir products including mattresses	Do.	Do.
62	Electrical goods, other than those specified elsewhere.	Do.	Do.
63	Fluorescent tubes of all varieties and their fittings including chokes and starters, and other components parts and accessories appertaining to such tubes.	Do.	Do.
64	Foodstuffs and food provisions of all kinds including dried fruits and dried vegetables; raw, semi-cooked, semi-processed or ready to serve foods; pickles, sauces, jams, marmalades, jellies, preserved fruits and honey when sold in sealed containers of weight not exceeding five kilograms in each container, but excepting whole, separated or reconstituted milk, milk-products, as specified in entry 26 of this schedule edible oil and salt.	Do.	Do.
65	Footwear other than those specified in entry 17 of Schedule A.	Do.	Do.
66	Fountain pens, ball-point pens, stylograph pen and propelling pencils and components, parts and accessories of such pens and pencils.	Do.	Do.
67	Goods made primarily from any kind of plastic excluding those covered by entries 5, 98, 105 and 114 of this schedule.	Do.	Do.
68	Hydrogenated vegetable oils including vanaspati ..	Do.	Do.
69	Ice	Do.	Do.
70	Insecticides including fungicides and weedicides ..	Do.	Do.
71	Metal ores	Do.	Do.
72	Oil engines other than those covered by entry 109 in this schedule.	Do.	Do.
73	Professional, scientific and laboratory instruments for measuring, testing and experimenting except those classified elsewhere.	Do.	Do.
74	Rubber and rubber products	Do.	Do.
75	Stainless steel articles and utensils excluding stainless steel rolls and circles.	Do.	Do.
76	Sweets and sweetmeats including shrikhand, basundi and doodhpak, and ice-cream and kulfi and non-alcoholic drink containing ice-cream.	Do.	Do.
77	Tooth powder and tooth paste	Do.	Do.
78	Tarpaulins, tents, sails and other canvass goods ..	Do.	Do.
79	Toys and sports goods	Do.	Do.
80	Wooden articles other than those covered by entries 30 and 39 of this schedule.	Do.	Do.

Serial No.	Description of goods	Rate of Sales Tax	Rate of Purchase Tax
81	X-Ray apparatus and films, plates and other equipments required for use therewith and components, parts and accessories thereof.	8 paise in a rupee.	8 paise in a rupee.
82	Aeroplanes and components, parts and accessories thereof.	12 paise in a rupee.	12 paise in a rupee.
83	Air-conditioning plant including air-conditioners and air-coolers and components, parts and accessories thereof.	Do.	Do.
84	All types of sanitary goods and fittings ..	Do.	Do.
85	Arms including rifles, revolvers, pistols and ammunition therefor and components, parts and accessories thereof.	Do.	Do.
86	Articles made of ivory other than those specified in entry 5 of this schedule, sandal wood or black wood or inlaid therewith and ornamental metalware not being articles covered by entry 3 of this schedule.	Do.	Do.
87	Binoculars, telescopes, opera glasses and components, parts and accessories thereof.	Do.	Do.
88	Cigarette cases and lighters	Do.	Do.
89	Cinematographic equipment including cameras, projectors and sound recording and reproducing equipment, and lenses, films (other than the films declared tax-free under entry 13 of schedule A and cinema carbons required for use therewith, and components, parts and accessories thereof and films strips other than those declared tax-free under the said entry 13 and cinema slides.	Do.	Do.
90	Clocks, time-pieces and watches and components, parts or accessories thereof.	Do.	Do.
91	Computors and components, parts and accessories thereof.	Do.	Do.
92	Country liquors, as defined in the Maharashtra Country Liquor Rules, 1973, and Ganja, Bhang and Opium.	Do.	Do.
93	Culinary and flavouring essences ..	Do.	Do.
94	Dictaphone and other similar apparatus for recording sound and components parts and accessories thereof.	Do.	Do.
95	Domestic electrical appliances including electric fans and components parts and accessories pertaining to such appliances but excluding electric bulbs.	Do.	Do.
96	Dry fruits	Do.	Do.
97	Fire works	Do.	Do.
98	Floor, wall or roofing tiles other than those covered by entry 33 of this schedule.	Do.	Do.

Serial No.	Description of goods	Rate of Sales Tax	Rate of Purchase Tax
99	Furs and articles made therefrom	12 paise in a rupee.	12 paise in a rupee.
100	Gold and silver filigree	Do.	Do.
101	Gramophones of every discription, components, parts and accessories thereof and gramophone records other than those covered by entry 15 of this schedule.	Do.	Do.
102	High speed diesel oil and any kind of motor spirit not covered by entries 29, 125, 126, 127 and 128 of this schedule.	Do.	Do.
103	Jewellery, not being articles specified in entry 3 in this schedule and precious stones, synthetic or artificial precious stones and pearls—real, artificial or cultured.	Do.	Do.
104	Ladies handbags and vanity bags	Do.	Do.
105	Laminates made from plastics	Do.	Do.
106	Lifts whether operated by electricity or hydraulic power.	Do.	Do.
107	Marble and articles made of marble	Do.	Do.
108	Metal safes, cash boxes and almirahs, all kinds of metal furniture including slotted angles and ready to assemble parts thereof, furniture made from fibre glass reinforced plastic or made primarily from any kind of plastics, upholstered furniture and furniture in the manufacture of which laminated sheets are used.	Do.	Do.
109	Motor vehicles including motor cars, motor taxicabs, motor cycles, motor cycle combinations, motor scooters, motorettes, motor omnibus, motor vans and motor lorries and chassis of motor vehicles but excluding tractors whether on wheels or tracts.	Do.	Do.
	(2) (a) Components and parts of vehicles specified in sub-entry (1).	Do.	Do.
	(b) Other articles, including rubber and other tyres and tubes and batteries adapted for use as parts or accessories of such vehicles, not being such articles as are predominantly also used otherwise than as such parts or accessories.	Do.	Do.
110	Perfumes excluding those covered by entry 23 of this schedule, depilatories and cosmetics; toilet articles including hair cream and hair tonic.	Do.	Do.
111	Photographic and other cameras and enlargers, lenses, paper, films and plates required for use therewith and components, parts and accessories thereof.	Do.	Do.

Serial No.	Description of goods	Rate of Sales Tax	Rate of Purchase Tax
112	Pile carpets	12 paise in a rupee.	12 paise in a rupee.
113	Refrigerators, Deep Freezers and mechanical water coolers and components, parts and accessories thereof.	Do.	Do.
114	Sheets, cushions, pillows, mattresses and other articles made of foam rubber or plastic foam or other synthetic foam or of fibre foam or rubberised coir.	Do.	Do.
115	Silk fabrics as defined in the First Schedule to the Central Excises and Salt Act, 1944, and Handloom Silk Fabrics; and articles made therefrom.	Do.	Do.
116	Sound transmitting equipment including telephones, loudspeakers and electrically operated gramophone record changers and components, parts and accessories of such equipment (but excluding sound amplifying apparatus carried on the person and adapted for use as a hearing aid.).	Do.	Do.
117	Suit cases, attache cases and despatch cases ..	Do.	Do.
118	(a) Synthetic pigments, other than textile dyes ..	Do.	Do.
	(b) All kinds of paints including acrylic and plastics emulsion paints, distempers, cement colours or paints powder paints, stiff paste paints, enamels and liquid paints, whether ready for use or not.	Do.	Do.
	(c) Varnishes, vegetable turpentine, paint removers and stainers of all kinds.	Do.	Do.
	(d) All kinds of vehicles, diluents and thinners, including natural and synthetic drying and semi-drying oils such as double boiled, linseed oil, blown linseed oil, stand oil, sulphurised linseed oil, perila oil, whale oil, and tung oil.	Do.	Do.
	(e) All types of lacquers	Do.	Do.
119	Table cutlery	Do.	Do.
120	Tabulating, calculating, cash registering, indexing, card punching, franking and addressing machines and components, parts and accessories of such machines.	Do.	Do.
121	Television sets and components, parts and accessories thereof.	Do.	Do.
122	(1) Typewriting machines and components, parts and accessories thereof.	Do.	Do.
	(2) Duplicating machines including duplicators and other apparatuses for obtaining duplicate copies, teleprinters and taperecorders including tape for use in connection therewith, and components, parts and accessories of any of them.	Do.	Do.

Serial No.	Description of goods	Rate of Sales Tax	Rate of Purchase Tax
123	Vacuum flasks of all kinds including thermoses, thermic jugs, ice buckets or boxes, urns and other domestic receptacles to keep food or beverages hot or cold and components, parts and accessories thereof.	12 paise in a rupee.	12 paise in a rupee.
124	Wireless reception instruments and apparatuses and radio gramophones and electrical valves, batteries, transmitters, accumulators, amplifiers and loud-speakers required for use therewith and components, parts and accessories of such wireless instruments, apparatuses and radio gramophones.	Do.	Do.
125	Aviation Gasoline (Duty paid)	Do.	Do.
126	Aviation Gasoline (Bonded)	25 paise in the rupee.	25 paise in the rupee.
127	Aviation Turbine Fuel (Duty paid)	Do.	Do.
128	Aviation Turbine Fuel (Bonded)	30 paise in the rupee.	30 paise in the rupee.
129	Any food or drink served for consumption in a hotel or restaurant or any part thereof or in any other place, with which a cabaret, floor show or similar entertainment is provided therein.	Do.	Do.
130	Foreign liquor (that is, duty paid potable foreign liquor manufactured in India, including spirits, wines, fermented liquors and mild liquors).	Do.	Do.
	(a) fermented liquors and mild liquors	Do.	Do.
	(b) any other liquors	12 paise in the rupee.	12 paise in the rupee.
131	Country liquor (that is, all liquor, other than country liquor as defined in the Maharashtra Country Liquor Rules, 1973 and other than foreign liquor manufactured in India), and duty paid potable foreign liquor brought into India, including spirits, wines, fermented liquor and mild liquors.	45 paise in the rupee.	45 paise in the rupee.
132	All goods other than those specified in Schedules A and B and in the preceding entries of this schedule.	4 paise in the rupee.	4 paise in the rupee.

7. ASSESSMENTS AND APPEALS

7.1. Next to the system of taxation, the major suggestions received relate to the administration of assessments and appeals. It is the process of assessment in which the assessee comes in direct contact with the administration. Consequently it is in this field that simplification in procedures, if carried out, would render relief to and ensure satisfaction of the tax payer. This is again the field in which the revenue has greater stakes in determining the correct amount of tax and in securing collection thereof. It is, therefore, very necessary to formulate a proper approach towards assessment procedures whereby the small dealers who contribute insignificantly to the revenue, are relieved of the avoidable procedural inconveniences and at the same time attention is given to the assessments of those selected dealers who contribute the bulk of the revenue. Further, the assessees who have grievance should be provided with adequate and confidence-inspiring machinery for the redressal of their grievances. Thus justice should not only be done but should also appear to be done.

7.2. The present practice is that normally the dealers are called to the Sales Tax Office for verification of correctness of the returns filed and for completing assessments. When the dealer appears before the Sales Tax Officer, the latter, after giving preliminary hearing, sends the case to the Sales Tax Inspector for detailed verification of the claims, set-off etc. The Sales Tax Inspector prepares a report on the points referred to him by the Sales Tax Officer. Then the Sales Tax Officer hears the dealer on the basis of the Sales Tax Inspector's report and also himself conducts certain test checks. Thereafter, the Sales Tax Officer frames an assessment order. Recently certain posts of Pilot Sales Tax Officers have been created and simple cases of mere resellers who are not holding any documents and whose turnover is less than rupees three lakhs, are allotted to these Officers. These cases are verified and assessed by the Pilot Officer without any aid of the Sales Tax Inspector.

7.3. From the replies received, it is seen that there are numerous suggestions made in respect of simplifying assessment procedures. There was a vehement protest against the double verification, first by the Sales Tax Inspector and then by the Sales Tax Officer. It is contended that this system of verification by Sales Tax Inspector

results in duplication of work and avoidable wastage of time and energy both of the assessee and the assessing officer. Besides, this system gives a handle to an unscrupulous Sales Tax Inspector to harass the dealers even though he has no authority under the Act. Another suggestion was made that cases involving large revenue should be verified and assessed by senior officials of the Department. Some Associations further suggested that the Sales Tax Officers should visit premises of the big dealers for completing their assessment instead of calling them to the office, so that they are saved the trouble and expenses in bringing truck loads of account-books, bills, registers etc.

7.4. In our visits to the Southern States we found that assessments are made by the Assessing Officers themselves without the aid of Sales Tax Inspectors in those States. Of course their jurisdictional charges are smaller than the charges of the officers in this State. It was also observed by us that in some States they have segregated cases of big dealers who are paying the bulk of the revenue and these cases are allotted to a few senior officials such as Assistant Commissioners for completing the assessments.

7.5. After considering all the suggestions regarding the services of Sales Tax Inspector used for verification of returns we have come to the conclusion that Sales Tax Inspectors should not, as far as possible, be associated with the work of verification of returns, claims, set-off etc. The nature of work done by the Sales Tax Inspector can very well be done by the officer himself. No doubt, it would take more time of the Officer to complete each case than at present. However this difficulty can be solved by having smaller charges of jurisdiction for the officers. It is found that if any authority is interposed between the dealer and this assessing officer it gives scope for harassment and corruption. Besides, in the new set-up of the law that we are recommending, there would be fewer declarations to be verified and the set-off working would be simplified. Thus, the present reliance on the Sales Tax Inspector would be very much minimised. We, therefore, strongly recommend that services of the Sales Tax Inspectors should not be utilised for verification of simple returns of the small dealers. Their services could be utilised for cross checking, field work and purely arithmetical work in respect of the more important assessments.

7.6. The next issue which requires consideration concerns the size of the charges and the distribution of cases considering their relative importance. From the statistical data collected from the Sales Tax Survey for 1964-65, conducted by the then Bureau of Economics and Statistics, it is observed (Table 9) that 37.55 per cent dealers under the

category of wholesalers, manufacturers and exporters contribute 92.73 per cent of total tax. It would, thus, be seen that if the cases of these dealers are properly scrutinized and verified, it would be possible to ensure proper recovery of the bulk of the revenue. The statistics collected by the Bureau for the year 1968-69 (Table 10) show that 3.69 per cent dealers pay 60.22 per cent of tax. From the statistical data for the year 1964-65, it is observed that the dealers having turnover upto rupees three lakhs contribute only 10.56 per cent of tax. Dealers having turnover above rupees one crore contribute 40.90 per cent of tax. It is therefore possible to classify dealers into three groups: the first group comprising of dealers having turnover below rupees three lakhs, the second group of dealers having turnover between rupees three lakhs and one crore and the third group of dealers having turnover over rupees one crore.

7.7. We propose that the assessment of dealers in the first group having turnover upto rupees three lakhs should be entrusted to Sales Tax Officers, Class II for assessment. We suggest that the second group of cases, i.e. of dealers whose turnover is between rupees three lakhs and one crore should be dealt with by Sales Tax Officers, who in view of the importance of the work entrusted to them should belong to Class I service. We also suggest that cases above rupees one crore should be assessed only by an Assistant Commissioner. While ensuring better quality of assessments of big dealers who contribute considerable revenue, it would also improve the promotion prospects of Sales Tax Officers. We also recommend that the Sales Tax Officers, Class I be provided with one Sales Tax Inspector each and the Assistant Commissioner be provided with two Sales Tax Inspectors each for the purpose of doing clerical work and also for field work connected with the assessments. It will be necessary to augment the staff for which proposals will be made in the chapter on "Organisation and Personnel".

7.8. Another important suggestion received from almost all the Chambers and Trade Associations is to the effect that there should be a time limit for completion of assessments. It was pointed out that assessments of big dealers are pending for many years and they find it very difficult to maintain huge records pertaining to several years required to be produced at the time of assessments. They also pointed out that such a time limit for completing assessments is prescribed not only under the Income Tax Act but also under the Sales Tax Acts of several other States. Such a time limit would reduce the pendency of old cases and would be a great relief to the big dealers whose assessments are pending. We have been told that there is a large pendency of assessments and that too in respect of big dealers. Grievances

voiced before the Committee, therefore, appear to be genuine. It is seen that even under the Income Tax Act a time limit of four years was initially prescribed, which was subsequently reduced to two years. We, therefore, feel that it should not be difficult for this department to attain this efficiency in completing assessments. At the same time it would be a great relief to the dealers, particularly big dealers, from preserving their account books for many years. We, therefore, strongly recommend that a time limit should be prescribed for completing the assessment. This time limit should be three years from the end of the year of assessment year. Of course, some provision will have to be made for bringing uptodate the heavy backlog of cases. We, therefore, recommend that all pending assessments as on 31st March 1977 should be completed by 31st March 1980 and the time limit of three years may be fixed for cases thereafter.

Power for Cancellation of *ex parte* Order

7.9. A specific question was put in the questionnaire eliciting opinion as to whether there should be a provision for cancelling an *ex parte* order as provided under section 146 of the Income Tax Act. Most of the Chambers and Associations have supported this suggestion. They claimed that such a provision would minimise the hardships to dealers. In this connection, it is seen that there is a similar provision under the West Bengal Act empowering every Officer to review his own order, either *suo motu* or on application. Similarly in the Uttar Pradesh Sales Tax Act, the assessing authorities are empowered to review and set aside *ex parte* orders passed by them on application made by the dealers provided they pay the amount of tax admitted by them. We feel that such a provision would be in the interest of the dealers. Of course invocation of this power should be restricted by well defined conditions. The exercise of this power should also be made subject to the payments of tax admitted by the dealer. We, therefore, recommend that a provision on the lines of section 146 of the Income Tax Act, 1961 should be made.

Hardships of Small Dealers

7.10. In the questionnaire, a question was raised as to whether small hoteliers would like to be assessed on the basis of a slab system. All the associations of hotels wholeheartedly supported this suggestion. A few of the Associations attempted to suggest varying rates of tax on different slabs acceptable to them. They, however, could not explain the basis for suggesting the said slab rates. This class of dealers urged before the Committee that the small dealers are not in a position to maintain detailed books of accounts and as such their assessments are made

on the basis of best judgment. In doing so, different officers employ different methods for determining total turnovers, taxable turnovers and purchase turnovers subject to purchase tax. In the absence of accounts books they are not in a position to appeal against such best judgment assessment order even though they are aggrieved. They further contended that filing of quarterly returns and making quarterly payments cause great hardship to them. They, therefore, suggested that small hoteliers should be called upon to file annual returns only and to pay either a lump sum amount by way of composition of tax or to pay tax on some reasonable slab-basis.

7.11. Similarly, the power-loom dealers, heard both at Bombay and at Nagpur, also suggested that the power-loom dealers should be allowed to pay some lump sum fee per loom per year by way of composition of their tax liability, and that they should be exempted from filing the returns and from assessments. Similar requests were also made by other categories of small dealers viz. retail kirana dealers, tobacco dealers etc.

7.12. We have recommended in para. 8.18 filing of annual return with annual payment of tax for small dealers. We further recommend simple method of assessment for the two categories mentioned below by accepting lump sum amount by way of composition of their tax liability:—

(a) This scheme should be made applicable to small hotels, restaurants and eating houses, supplying meals and snacks including farsan and sweetmeats, small bakeries producing hand-made bakery products and farsan shops, provided their yearly turnover does not exceed Rs. 3 lakhs. However it should not be made applicable to shops and establishments primarily selling sweetmeats, whether inside or outside, or to the hotels, restaurants etc., which supply beer and other alcoholic drinks. All such dealers should be exempted from payment of any tax upto turnover limit of Rs. 50,000 in a year. The others should be required to pay a lump sum amount by way of composition of their tax liability as under: Those with turnover between Rs. 50,000 and 1 lakh, Rs. 100 per year; those having their turnover between Rs. 1 lakh and Rs. 2 lakhs should pay in addition to Rs. 100 a sum of Rs. 250 and those whose turnover exceeds Rs. 2 lakhs but does not exceed Rs. 3 lakhs should be required to pay in addition to Rs. 350 an amount of Rs. 500. These dealers will have to file only annual returns. Maintenance and production of books of accounts should not be insisted upon in respect of them. This would result in removing their hardships of filing returns and of engaging counsel to a great extent.

(b) Due to certain excise regulations, it is observed that normally power-loom units consist of not more than 4 looms. These weavers are effecting purchases of yarn and accessories. They are required to pay tax annually only on their purchases, if they are effected from unregistered dealers, as there is no tax on their sales. These dealers are mostly illiterate and cannot maintain books of accounts properly nor do they file returns regularly. It is, therefore, suggested that such small power-loom dealers, possessing 4 or less looms, should be exempted from filing any returns or from producing any books of accounts. They should, however, be asked to get themselves registered and to pay a lump sum amount at the rate of Rs. 50 per-loom per year by way of composition of their tax liability. This would render necessary relief to this category of small dealers and at the same time it would ensure recovery of Government revenue.

7.13. Such a scheme of simplified assessment for other small dealers like retail kirana dealers, tobacco dealers etc. cannot be formulated as some of them may be importers and their tax liability cannot be uniformly ascertained. However, in view of the system of tax we have suggested the liability of such small dealers would be almost insignificant. In order to reduce hardship to them we have already suggested that those small dealers should be allowed to file annual returns and to make annual payment. There is a provision under section 33(2) to assess dealers by accepting his returns without calling them to the office. This power was not invoked in the past, but recently the Commissioner of Sales Tax has issued instructions to the Sales Tax Officers to complete the assessment of small dealers under this provision, subject to certain conditions. However not many assessments could be completed under this scheme and the causes for this should be studied and remedies found.

Appeals

7.14. We have received many representations to the effect that the appellate authorities should not be under the administrative control of the Commissioner of Sales Tax. The overall impression appears to be that the appellate Assistant Commissioners do not apply their independent mind in dealing with appeals and that their judgments are sometimes guided by the instructions, whether explicit or implicit, of their superior officers, often leading to miscarriage of justice.

7.15. In the States of Maharashtra, Gujarat, Karnataka and West Bengal, all the appellate Assistant Commissioners are under the administrative control of the Commissioner of Sales Tax. In the State of Kerala, the appellate Assistant Commissioners are under the control

of Board of Revenue. It is only in the State of Tamil Nadu that the appellate Assistant Commissioners have been placed under the administrative control of the Tribunal. The Committee, therefore, examined the working of the appellate machinery in the State of Maharashtra with that in Tamil Nadu and Kerala for making a statistical comparison of the percentages of first appeals challenged in second appeal. It was found that notwithstanding the fact that the appellate Assistant Commissioners are not under the control of Commissioner of Sales Tax, the percentage of first appeals challenged in second appeal is fairly high in the case of Tamil Nadu (23 per cent for 1972-73) and in Kerala (10 per cent for 1971-72) as compared to Maharashtra (9 per cent in 1972-73). This can be taken to mean that by and large the assesses seem to be satisfied with the appellate decisions.

7.16. On the other hand, it was argued that it was essential for the Commissioner of Sales Tax to exercise administrative control over the appellate Assistant Commissioners to see that the appeals are disposed of early and that cases involving large revenue get priority in disposal. The Commissioner of Sales Tax also assured the Committee that beyond issuing administrative instructions of the above nature, neither he nor his assistants have tried or would try to influence the decisions of the appellate authorities. It was also contended that if the demand of independent control of the appellate function is to be acceded to, then the Commissioner will have to be empowered to prefer a second appeal against the orders passed by the appellate authority and this would in turn result in the filing of innumerable second appeals by Commissioner. Such a situation would result in dragging all these dealers in second appeal before the Tribunal. They would thus be compelled not only to spend on the counsel, but also on travelling to and fro Bombay. As against this the number of the appeal orders revised by the Commissioner of Sales Tax under his *suo motu* powers were only 49 to 50 in each of the three years 1972-73, 1973-74 and 1974-75.

7.17. The various Taxation Enquiry Committees, which were set up by the Government of India or the State Governments have also not thought fit to recommend independent control of the appellate authorities with the exception of the Direct Taxes Administrative Enquiry (Tyagi) Committee, 1953-54. The latter recommended that the Appellate Assistant Commissioners of Income Tax should be transferred to the control of the Ministry of Law. The Bombay State Sales Tax Enquiry Committee (1957-58) had examined the issue of independence of appellate authorities under the Bombay Sales Tax Act. After examining the statistical data regarding the number of orders passed

by the assessing officers and the appellate authorities, the Committee concluded that there was no material denial or miscarriage of justice under the existing system. The Committee, however, suggested that the appeal work should be completely separated from the administrative work and as such certain Assistant Commissioners should handle only appeal work so as to carry out separation of administrative jurisdiction from the appellate jurisdiction. This recommendation was acted upon by the Sales Tax Department while allotting exclusively the appeal work to the Assistant Commissioners in Bombay City, Pune and Nagpur. But elsewhere such recommendation could not be carried out because of insufficiency of appeal work. Thus in the mofussil even at present, the appeal work is handled by the administrative Assistant Commissioners. The question of independence of the appellate authority also came up for consideration before the Gujarat Sales Tax Enquiry Committee (1967). It was concluded by the Gujarat Sales Tax Enquiry Committee that the suggestion for the appointment of judicial officers as appellate Assistant Commissioners or the control of the appellate Assistant Commissioners by the District Judge, is not feasible. While arriving at the aforesaid conclusion the committee had considered the report of the Direct Taxation Enquiry Committee and also the set-up in the State of Uttar Pradesh, where the administrative control over the Assistant Commissioners (Judicial) which was previously under the Judge (Revision), was transferred to the Commissioner of Sales Tax.

7.18. The Direct Taxes Enquiry Committee appointed under the Chairmanship of Shri Justice K. N. Wanchoo, retired Chief Justice of the Supreme Court of India in its report of December, 1971 has also dealt with this issue as under:—

“ It has been suggested that the Appellate Assistant Commissioners should be placed outside the administrative control of the Central Board of Direct Taxes for ensuring their independence and fairness to the appellants. The Direct Taxes Administration Enquiry Committee had recommended that the Appellate Assistant Commissioners should be transferred to the control of the Ministry of Law as it felt that justice should not only be done but should also appear to be done. This recommendation was, however, not accepted by the Government and in our view rightly. The Income Tax Act allows two appeals on facts which is not the case even under the Civil and Criminal law. Therefore it is proper that the first stage of appeal is in the nature of administrative review. In any case facts show that the Appellate Assistant Commissioners exercise their functions independently and impartially and the Board does not seem to have interfered in any way with their judicial discretion.”

7.19. Some of the members strongly felt that the correct course will be to separate appellate authorities from the control of the Commissioner of Sales Tax. But considering the pros and cons and after giving serious thought to the whole question and looking to the problems of administration we find that the remedy lies in evolving a system which precludes the Commissioner of Sales Tax from interfering in the exercise of the judicial discretion of the appellate officers. We, therefore, recommend that while the administrative control over the appellate authorities may continue to remain with the Commissioner of Sales Tax, there should be a statutory restriction on the Commissioner with regard to the issue of instructions to the appellate authorities. We would, therefore, suggest that the restrictions should be provided by law, on the lines of the proviso to sub-section (1) of section 119 of the Income Tax Act, 1961, prohibiting the Commissioner of Sales Tax from issuing orders, directions or instructions either orally or in writing which may interfere with the judicial discretion of the appellate officers.

7.20. The evaluation of the judicial work should be the concern of the Sales Tax Tribunal. It is the Sales Tax Tribunal which should offer remarks on the confidential reports of the appellate officers. The Commissioner of Sales Tax will only look after the administrative matters such as issuing instructions for giving priority to appeals involving revenue, the quantum of disposal, staff matters etc. The scanning of the appeal orders for preventing loss of revenue should be dealt personally by the superior officer and not be done by the staff. There should be complete separation between the appeal work and the administrative work. No administrative Assistant Commissioner should hear the appeals. We find that the recommendations made by the previous Committee in this regard are carried out in cities but not in mofussil area. We recommend that irrespective of the cost, the appellate work should never be combined with the administrative work and both officers should be independent and separate.

Revision.

7.21. Section 57 of the present Act empowers the Commissioner to call for and examine the record of any order passed by officers subordinate to him and to pass such orders as he thinks just and proper. The only limitation is that the notice should be served before expiry of three years and an order should be passed before the expiry of five years from the date of communication of the order sought to be revised. Under these powers even appeal orders passed by Appellate Assistant Commissioner can also be revised. Similarly orders passed in second appeal by the Deputy Commissioner can also be revised by

the Commissioner. Normally the orders of assessment are revised when there is loss of revenue exceeding Rs. 100 per year. However, the cases involving over assessments are not revised in favour of the assessee. Various suggestions have been received seeking total deletion of this *suo motu* power vested in Commissioner on one hand and extending the facility of approaching the Commissioner in revision to the dealer on the other hand.

7.22. As we have already recommended that the administrative control over the appellate authorities should remain with the Commissioner of Sales Tax, the present *suo motu* revision by him should continue. However, if this *suo motu* revisional power is exercised by a subordinate officer, there should be no second *suo motu* revision. After careful consideration the Committee has further come to the conclusion that the assessee should also be provided with the facility of approaching the Commissioner directly in revision in hard or exceptional cases, where the assessee was prevented from taking recourse to the normal channels of appeal, on the lines of section 264 of the Income Tax Act, 1961 subject to the following conditions:—

- (i) a dealer can make an application for revision only when the period for the filing of appeal to the appellate Assistant Commissioner or the Tribunal is over, but within one year from the date of communication of the order sought to be revised ;
- (ii) there should be reasonable cause for not preferring an appeal ; and
- (iii) the order given by the Commissioner shall be final and not subject to further appeal or revision.

Assessments and Appeals

7.23. Occasion arise when the question whether a sale is a local sale or an inter-State sale is decided one way by a lower authority and another way by the appellate or revising authority. In such cases, sometimes, the Commissioner is unable to take consequential follow up action, on account of limitation in regard to exercise of his revisional powers. We recommend that a suitable provision be made in the statute empowering the Commissioner to take necessary action within two years from the date of the final appellate or revisional order settling the question whether the sale is a local sale or an inter-State sale.

7.24. It was further pointed out that at present there are two options open to the dealers after the first appeal is over. He can proceed in second appeal either to the Tribunal or to the Deputy Commissioner. If he prefers a second appeal before the Deputy Commissioner the

order passed in second appeal is final and the appellant has no remedy to carry it over to the High Court in reference. Even at present the number of second appeals preferred by the assessee before the Deputy Commissioners is insignificant and the removal of this option will not cause any noticeable hardship. Besides, as we have already recommended that the assessee be given the right to move the Commissioner in revision to grant relief in cases of hardship, we do not consider it necessary to provide an optional facility of filing a second appeal to the Commissioner.

Sales Tax Tribunal

7.25. With regard to the working of the Tribunal suggestions were received to the effect that there should be no departmental officers as Members of the Tribunal. It was represented to us that a departmental officer is apt to be influenced by administrative considerations and will not be able to bring to bear an open mind on the legal issues presented before him. We think that the Tribunal being the highest fact finding body would benefit by the presence of departmental officer in view of their training and experience in sales tax administration. We however, feel that their independence should be ensured by providing that a departmental officer once appointed as a Member should not revert to the Department and that this provision should be incorporated in the Rules relating to the appointment of members of the Tribunal.

7.26. As regards the selection of members of the Tribunal, various suggestions were received. We would recommend that the President should be appointed in consultation with the Chief Justice of the High Court and that the other Members of the Tribunal should be appointed on the recommendation of a Board consisting of a Judge of the High Court, the President of the Tribunal and the Secretary in Law and Judiciary Department.

7.27. Our attention has been drawn to an infirmity in section 61 to the effect that there is no provision for filing reference applications against an order of rectification passed under section 62 by the Tribunal. It was also pointed out that it is necessary to apply provisions regarding extension of period of limitation in respect of reference applications also. We would recommend suitable modifications to remove this lacunae.

7.28. We have been told that the present applications for rectification under section 62 of the present Act are filed before the departmental authorities by dealers on the basis of judgements delivered by the Tribunal not in their own cases, but in some other cases. This not only gives rise to numerous applications before the authorities but also

amounts to giving a right in favour of those who have not cared to keep their legal proceedings alive. In our view it is only the decision of the High Court or that of the Supreme Court which settles the law and decision of the Tribunal should not entitle the assessee a right of rectification unless they have kept the issues alive. In exceptional cases of hardship the Commissioner of Sales Tax may consider a case of an applicant in revision which we have provided elsewhere subject to the conditions stated therein.

7.29. It was brought to our notice that the pendency of reference applications before the Tribunal and the High Court as on 1st February 1976 was as high as 305 and 391 respectively. There are 231 writ applications also pending with the High Court. Since the pendency of the reference applications holds up assessment work it will be necessary that such cases should be dealt with expeditiously. We are told that quite a good number of them are pending for preliminaries that have to be completed before these could be brought on the Board of the High Court. We would therefore recommend all the necessary steps may be taken very early so as to enable the High Court to dispose of this heavy back-log of references and writ-petitions.

8. PROCEDURES

8.1. No tax can ever be made totally palatable but simplicity in procedure can help to make tax payment less disagreeable. Under any taxation measure, procedural aspects like registration, returns, payments, assessments, recovery etc. are inevitable. Procedures are laid down for these various activities to ensure smooth working. However, due to the efflux of time even well intentioned procedures get distorted. In the questionnaire, specific questions were raised eliciting opinions of the Chambers and Trade Associations regarding simplification of procedure. Many of the replies stressed the necessity of simplifying procedures in respect of some of the activities, but have not given precise suggestions for bringing about improvements. Some of these aspects were, however, studied by forming a special Organisation and Method Unit of the Sales Tax Department. This unit had the benefit of guidance of Shri A. V. Deshmane, founder president of the O & M Association of India. The report of this Unit is at Appendix VII.

Registration

8.2. The administration of the tax starts with the registration of dealers liable to tax. Registration is usually intended to bring the dealer within the compliance and discipline of the sales tax law. At present, every dealer liable to pay tax has to furnish an application in the prescribed form. At the time of verification of the application, the dealer is also required to fill in a form of 'Statement of Application'. There is no system of voluntary registration under this Act. Among the suggestions received, it has been stated that the registration certificate should be issued only after obtaining a deposit by way of security. Some have suggested that there should be a registration fee and that the registration certificate should be renewed every year. The more serious grievance of the traders was that the procedure of granting registration certificate in Bombay is very cumbersome and that there are avoidable delays in granting the certificate. It was also hinted that due to the complicated procedure corrupt practices ensue.

8.3. We do not accept the suggestion that there should be a registration fee and that the registration should be renewed annually. The administrative costs and labour involved in the renewal would be tremendous, apart from causing avoidable inconvenience to the traders.

We, therefore, do not recommend any change in respect of this procedure. Similarly we do not consider it desirable to allow the transferee to use the certificate of registration and the documents of the transferer of business. The present procedure requiring him to secure fresh registration certificate and documents should be continued. However, the grievance regarding delay in granting registration certificates deserves consideration. In this connection the finding of the O. & M. Unit is that the existing procedure which aims at establishing bonafides of the dealers by meticulous examination of the place of business, place of residence, genuineness of the transactions reported etc., has hardly resulted in the discovery of any hawala dealer. The O. & M. Unit has suggested that there is scope for simplifying the procedure in respect of registration certificates granted to the public and private limited companies. They have recommended as under:—

(i) In the case of public and private limited companies and registered partnership firms, personal visits for verification should be dispensed with and scrutiny should be confined only to documentary evidence produced before the Officer.

(ii) There should be only one visit of the applicant and one hearing on the same day by the officer when all documentary evidence should be verified. Registration certificate should also be issued and delivered preferably on the same day without requiring the applicant to come again.

(iii) In the case of unregistered firms and proprietors, the applicant should be asked to furnish as many documents as possible including certificate from acceptable sources as indicated in the report. If the documents and other evidence establish the bonafides of the applicant, no visit need be paid to his place of business.

8.4. We feel that these suggestions if implemented would reduce the delays and minimise the hardships of the dealers. Visits to places of business, residence etc., of the applicant can also be dispensed with if the applicant/proprietor/partner is already a partner or proprietor in a well established concern. In the circumstances his bonafides can be easily accepted. Similarly the cases of new registration certificate as a sequel to changes in partnership, shifting of places of business etc., should be dealt with, without detailed scrutiny. We therefore recommend that the procedure of granting registration certificate should be simplified as discussed above. In our view the registering authority should be able to locate the suspicious cases for further probe after grant of a registration certificate, with reference to the applicant and the commodities in which he desires to deal.

8.5. We further find that presently at the time of verification of application for registration, a dealer is required to fill in a form of "Statement of application". We would suggest that the contents of this statement should be incorporated in the application form itself. Secondly, the department should be in a position to hand over to the applicant, at the time of accepting the application form, a list of documents and other evidence he would be required to produce on the next appointment for scrutiny or record. Thirdly, there should be a provision requiring the applicant to supply specimen signature of the proprietor, partner or director etc., who would be signing the declaration and the vouchers issued in respect of sales to other registered dealers on the lines of Rule 13-A, but before grant of such certificate. If a registered dealer wishes to authorise any of his employees for this purpose, then it should be made obligatory upon him to notify the said appointment on the lines of Rule 14.

8.6. At present in the case of a partnership firm the photograph of only one of the partners is kept on record. It is necessary to keep copies of photographs of all the partners on record, if the desired purpose is to be served.

The System of Documents

8.7. Under the present system, a dealer is entitled to obtain at his option any of the following documents provided he fulfils the conditions laid down in the Act and the Rules:—

- (i) Licence.
- (ii) Authorisation.
- (iii) Recognition.
- (iv) Permit.

8.8. In view of the first stage single point tax we are recommending the licence would have no place. The present system, no doubt, involves a lot of paper work in issuance of declarations. This is, however, an optional facility given to exporters, manufacturers and commission agents for effecting purchases either free of tax or at concessional rate of tax. It is after all, open for the manufacturers, exporters etc. not to obtain the documents, if they feel that the benefit of relief in working capital is not commensurate with the paper work involved. We have also found that a large number of manufacturers, exporters and commission agents are already availing of this facility. We, therefore recommend the continuation of the other three documents the authorisation, recognition and the permit. We do not propose any change in the procedural aspects relating to the conditions of grant,

refusal, suspension, and cancellation of these documents or the conditions subject to which the documents are to be made use of.

Authorisation

8.9. At present a dealer who wishes to sell goods inter-State or export can effect purchases without payment of taxes against his authorization. In case he himself is unable to sell the goods in the aforesaid manner, then he is allowed to sell them to another authorised dealer who undertakes to dispose of the goods in the same manner within the prescribed time from the date of purchase from the first authorised dealer. In other words, the concessional use of authorization is permissible at two stages before the actual export or inter-State sale. However, the corresponding provisions of set off in the cases where the authorization is not made use of, do not provide for such a concession at two stages in respect of grant of set off of taxes paid ; and it is the final exporter who alone is entitled to claim set off.

8.10. In the terms of reference, the Committee is required to review the need for continuance or otherwise of this concession. In answer to the question relating to this point, suggestions have been received to the effect that this concession of effecting purchases free of taxes at two stages viz. Forms 14 and 14-A should be restricted to one stage in consonance with provisions of set off. It is explained that the present provisions make it difficult to ascertain whether the goods have in fact been exported or sold inter-State by the second authorised dealer within the prescribed time to be calculated from the date of purchase of the first authorised dealer. On the other hand it was represented before us that the present system of affording concessional purchases at two stages, prior to export exists from 1st April 1954 and gives an edge of competitive superiority to the local dealers over the exporters from other States. At the same time the system does not involve any loss of revenue to the State since the permissible time for export is to be calculated from the date of purchase of the first buyer. We find that the exporters are well conversant with this concession for over the last 20 years and this unique feature has been appreciated by the Committee on Sales Tax appointed by the Government of India in 1963 under the Chairmanship of Shri R. G. Saraiya and in fact been recommended to other States for implementation (para. 11 of Chapter V). We are, therefore, of the view that this salutary provision of granting exemption at two stages before export should continue unchanged.

Recognition

8.11. We have elsewhere recommended the continuance of this document to enable the manufacturers to purchase goods needed by them at a concessional rate of sales tax. At present, the Recognition holders furnish declarations in Form 15 to their vendors and effect purchases at a concessional rate of 3 per cent. We have suggested that this concessional rate be raised to 4 per cent for the reasons stated in para. 5.23. We have also suggested that the tax rate in regard to items identified as predominantly of use as raw materials, intermediate goods etc. in manufacture be subjected to a tax rate of 4 per cent. This will do away with the need to furnish Form 15 declarations in regard to such items since no concessional element will be involved. In regard to other items for which tax rates of more than 4 per cent are recommended by us, we recommend that Recognition holders be enabled, on furnishing of the requisite declarations, to buy their requirements free of sales tax and be made to pay a purchase tax of 4 per cent on such purchases. This, we hope, will ensure that malpractices by way of Hawala transactions in regard to such items are curbed. So far as items that are clearly identified as basic raw materials and intermediate goods needed for manufacture are concerned, we are of the view that an effective system of market intelligence to keep watch over the concerned markets is necessary to nip Hawala practices in the bud. We have made appropriate recommendations elsewhere about this.

Books of Accounts

8.12. The present provisions require maintenance of a true account of the value of the goods purchased or sold. However, these provisions are not adequate to deal with the cases of fictitious dealers who effect no sale or purchase of goods. We, therefore, recommend that the present provisions be amended requiring the dealers to keep a true account of the sales or purchases of goods effected by him in the course of business together with particulars thereof including receipts and payments in respect of such business.

Payment Procedure

8.13. At present payment of tax is required to be made in different offices of the Reserve Bank of India or State Bank of India in Bombay. In the Mofussil, the tax is required to be paid in Government treasury. Every dealer whose yearly turnover exceeds Rs. 10 lakhs in the previous year is required to make monthly payments. Similarly all dealers are required to make monthly payment of tax in respect of the months of January to March or for corresponding months according to different accounting years. Under the Bombay Sales Tax Act,

no officer of the department is permitted to accept payment of tax either by cheque or by cash.

8.14. Representations were made expressing hardships in making payment of the tax either at the Reserve Bank of India or at the State Bank of India. It is stated that the assesseees have to wait in long queues. If the payment is made by cheque they have to revisit the bank to receive the receipted copy of chalan. Again they have to visit the sales tax office to furnish the chalan. For these reasons it was suggested that the dealers should be allowed to pay the tax in any of the nationalised banks. It was pointed out that similar facility of tax payment is available in respect of profession tax. An alternative suggestion was made that there would be a branch of the State Bank of India within the premises of the Vikrikar Bhavan. Some other associations suggested that the Sales Tax Department should be permitted to accept certified cheques from the dealers as is done in the Income Tax Department. We recommend that the mode of payment of tax should be through any nationalised bank as is done in respect of profession tax. It would afford great relief to the dealers and at the same time it would also simplify the work of checking of bank scrolls. The department may explore the possibilities of collecting receipted copies of chalans from the banks themselves, so as to obviate the need for dealers to come to the Sales Tax Officer to submit a copy of the receipted challan.

8.15. Various Chambers and Associations were not happy with the monthly payment of tax in regard to large dealers. They explained their difficulties by suggesting that they have to offer credit facilities according to trade practice and are not able to collect the sale price within a period of one month from the date of sale. Besides, they have to incur considerable expenditure for making monthly payments. In this context a suggestion was made to the Committee for staggering of tax payments by such dealers. We recommend that the rule should be submission of quarterly return and quarterly payment of tax. In the case of small dealers, we have recommended in para. 8.18 annual returns and annual payment of tax to avoid undue hardship to them in making payments of small amounts of tax every quarter.

8.16. A suggestion was received by us for staggering of the payment of tax by those dealers who are now required to make monthly payments so that the payment of taxes is made quarterly. For this purpose it was suggested that the dealers who are governed by this provision should be divided into three groups. These three groups should be assigned different months for payment of taxes and submission of quarterly

returns. Of dealers who follow the financial year as the accounting year, one group may be required to file returns for the quarters ending on June, September, December and March. Another group may file returns for the quarters ending July, October, January, and April. A third group may file returns for the quarters ending August, November, February and May. Similar grouping has to be done in respect of dealers who are following the Indian Calendar viz. Samvat Year. According to the scheme proposed, since one-third of the dealers would be paying their quarterly taxes every month all the year round there would be a regular inflow of sales tax revenue. Although the Government had accepted this scheme in principle, it was not found practicable as it would have caused ways and means problem to Government in the year of its introduction. The said scheme was examined in detail by the Committee. After ascertaining the statistical data collected by the Bureau of Economics and Statistics, it was found feasible to introduce the Scheme by staggering the process over a period of three years. In the first year the Scheme may be applied to the dealers having turnover between Rs. 10 and Rs. 20 lakhs, in the second year this scheme can be extended to dealers having turnover between Rs. 10 and Rs. 50 lakhs and in the third year the benefit can be further extended to dealers having turnover from Rs. 50 lakhs to Rs. 1 crore. It is not considered necessary to apply the scheme to the dealers having turnover over Rs. 1 crore. Under the scheme the postponement of the revenue will not exceed Rs. 2 crores in a year and will not seriously affect the ways and means position of the State. We therefore recommend to the Government to put the Scheme in operation as suggested above.

Returns

8.17. At present registered dealers are required to file returns at different frequencies, monthly, quarterly, and in some cases annually.

Category	Filing of Returns	Payment of Tax
(A) dealers having an annual turnover over Rs. 10 lakhs.	Quarterly	Monthly
(B) dealers having documents for the first 12 months.	Monthly	Monthly
(C) dealer other than those covered by A and B above.	Quarterly	Quarterly

The dealers covered under C have to make monthly payment for the months of January, February and March of each year.

8.18. On the whole, from the replies received it is seen that the system of quarterly returns is generally acceptable to the trading community. Associations representing small dealers like hoteliers, bakery dealers, kirana dealers etc. pleaded for having only annual returns. It was pointed out by them that the cost involved in submitting quarterly returns and making quarterly payments is some times more than the amount of taxes payable by them. We recommend that as a general rule, dealers should file quarterly returns. However, the present provisions regarding filing of monthly returns by dealers who are granted new documents may continue unchanged. It is seen that the small dealers who constitute a very large percentage of the total number of dealers, find it difficult to file returns and to pay taxes quarterly. From the report of the Sales Tax survey in Maharashtra conducted by the Directorate of Economics and Statistics, during the year 1960-61 and 1964-65, it is seen that 63.58 per cent of the total number of dealers paying tax upto Rs. 500 contributed 1.39 per cent of total revenue in the year 1960-61. Similarly, 64.78 per cent of the dealers paying taxes upto Rs. 500 contributed 0.9 per cent in the year 1964-65. It is thus seen that the percentage of small dealers paying taxes upto Rs. 500 per year is increasing year after year and at the same time their contribution to the total revenue is decreasing in percentage year after year. Considering these facts we recommend that dealers having total turnover upto Rs. 3 lakhs in a year and whose yearly tax liability does not exceed Rs. 500 should be allowed to file annual returns with annual payment of tax. This would, in our opinion, considerably reduce the hardships of the small dealers.

8.19. In Bombay City there is a centralised branch known as "returns branch" which accepts the returns from the dealers. The officers of this branch give acknowledgements for receipt of returns and chalans and issue show cause letters in cases where the dealers fail to furnish returns. Suitable action regarding suspension and/or cancellation of documents for failure to furnish returns is also taken by the return Branch. Suggestions have been received to decentralise the returns branch and allow the dealers to file the returns with their respective sales tax officers. It was claimed that under such a system the respective sales tax officers can initiate actions against the defaulters. It was also claimed that it would ensure better and efficient supervision. We do not recommend such a decentralisation at this stage as we are recommending computerisation to be introduced in the Sales Tax Department. A centralised returns branch would, in our opinion, facilitate computerisation of this aspect of work.

Penalty Provisions

8.20. The provisions of penalties to be levied by the authority are enumerated in section 36 of the present Act. The penalties are provided to secure compliance with the provisions of law and should therefore be related to the nature and degree of the non-compliance with law. We have discussed this matter at great length and have come to the conclusion that penalties need to be revised on certain principles. For example, our attention was drawn to clause (a) of sub-section (1) of section 36. Under the said clause penalty is provided of an amount not exceeding the amount of purchase tax where taxable goods purchased against certificates on the strength of the documents are used contrary to the recitals of the certificates issued, even if the contravention is disclosed in the returns and the purchase tax is paid thereon. This provision can operate very harshly especially when a businessman is not in a position always to decide the utilisation of the purchases in future.

8.21. It has been pointed out that by virtue of amendments and additions in the various provisions, two penalties even can be levied for the same breach of law. Our attention was invited to the provisions contained in Explanation (1) to clause (c) of sub-section (2) of section 36 and to the penalty provided under clause (3) of the same section. It is explained that where a tax, the liability in respect of which has been accepted in the return but not discharged, in addition to the penalty under section 36 (3), penalty under Explanation (1), referred to above can as well be imposed. This operates unduly harshly and rethinking on the entire penal provisions is called for.

8.22. It would be observed that in section 36 the penalty provided under clause (b) of sub-section (1) is in respect of liability which is not disclosed. The same is the case in respect of penalty provided under explanations (1) and (2) of clause (c) of sub-section (2). On the other hand penalty provided under sub-section (3) is for late payment of accepted liability of tax. The former penalty is discretionary while the latter is reducible at the hands of appellate Assistant Commissioners and the Tribunal. In our view, discretion in the matter of levy of penalty gives scope to corrupt practices and results in inequitable imposition of penalty at the hands of different officials for similar offences. It is, therefore, desirable to remove this discretion to the extent possible. It is also necessary to see that a dealer who does not file a return should not be treated on par with a dealer who accepts tax liability. Furthermore, where the tax liability is not discharged in time, penal interest at the rate of 2 per cent per month should be made payable automatically; and that orders levying such penal

interest should not be appellable. Powers of remission or reduction of penal interest should be reserved exclusively to the Commissioner and the Additional Commissioner of Sales Tax for being exercised in exceptional circumstances. The present provision giving the powers of remission to the appellate authorities should be withdrawn. Considering these various aspects, we recommend as follows:—

(i) Once the tax is not paid by the due date there should be no need to issue show cause notice and of hearing before levying penalty. A defaulter has no vested right to get a fresh opportunity for compliance before the penal interest is levied. We see, therefore, no justification in allowing an opportunity of being heard when facts establish that the defaulter has not paid the tax on the due date. All that is necessary is that a clause relating to liability to pay penal interest without further notice be printed in bold letters on the demand notice itself. This would serve, in our view, a sufficient notice to the tax payer.

(ii) Where any dealer or commission agent purchases any taxable goods under a certificate provided in section 11 or 12, or under any notification issued under section 41, but acts contrary to the recital of the certificate, then no penalty should be levied if the dealer has paid the purchase tax due, along with the return for the period in which the breach occurs. Where the dealer buys goods on a certificate for use in the manufacture of taxable goods for sale but having branches in other States stock transfers such manufactured goods to other States, even then no penalty should be charged if the dealer pays the additional purchase tax of 1 per cent along with the last return of the year opted for assessment.

(iii) Where the tax liability is accepted but the time for payment is extended or instalments are granted by the authorities then penal interest should be levied at the rate of 1 per cent per month only. This is because such concession would be given to the tax payer only on showing a reasonable cause.

(iv) Where the tax liability is accepted in the return but the tax is not paid either fully or partially, then the unpaid amount should be subjected to penal interest at a flat rate of 2 per cent per month, for the maximum period of 18 months from the date of default. The latter limit is necessary because the department is expected to complete assessments in such cases within 18 months.

(v) Where a dealer does not file a return and also does not pay the tax, then the tax assessed should be deemed to be due from him, from the date on which he ought to have paid the tax and penal interest should be levied at the rate of 2 per cent per month.

(vi) Where the assessment results in demand and such tax demanded or part thereof is not paid within the time prescribed, then penal interest at the rate of 2 per cent per month should be levied, on such outstanding amounts.

(vii) Where the stay order is issued either in the proceedings of the appeal or in the proceedings of the revision by any authority including the Tribunal, such stay should not operate as a bar for the levy of penal interest and the same should continue to run from the due date of its payment prescribed in the original demand notice notwithstanding the stay. Such penal interest however should be calculated on the amount of tax finally found due in the said proceedings.

(viii) The penalty under section 36(2)(c) main clause should continue to operate for concealment of the particulars of any transactions or knowingly furnishing inaccurate particulars of any transaction liable to tax. Such penalty should however be related to the tax evaded instead of the total tax assessed. This penalty should be in addition to the penal interest leviable under the above mentioned circumstances.

(ix) In view of the foregoing provisions under clause (a) of sub-section (1), and the Explanations (1) and (2) to clause (c) of sub-section (2), and sub-section (3) of section 36 may be deleted.

Recovery of Tax or Penalty

8.23. Under the provisions of the Bombay Sales Tax Act, if the amount of tax or penalty is not paid within the specified time, then for the purposes of recovering the amount as arrears of land revenue, the authorities had to issue requisition to the revenue collector. In order to expedite the recovery and bring about better co-ordination, the powers under the Maharashtra Land Revenue Code have been delegated to the Deputy Commissioners of Sales Tax and Officers from the Revenue Department were assigned to work under Deputy Commissioners for recovery of sales tax arrears as arrears of land revenue. This dual control of the staff, however, has not helped efficient recovery of sales tax dues.

8.24. The present outstanding dues of sales tax in the State of Maharashtra are large and are mounting up year by year, even after making an allowance for the current arrears and the recoveries stayed in appeal. The departmental officers as well as some organisations have strongly recommended that the departmental officers should be empowered to recover the sales tax dues, as the latter know the dealers fully well and are in a position to effect recovery promptly. We noticed

that the two States, viz. Tamil Nadu and Madhya Pradesh, have shown considerable improvement in the recovery of sales tax dues by authorising, in the case of Tamil Nadu, the Sales Tax Officers under the Land Revenue Code to effect the recovery of sales tax dues and by appointing, in the case of Madhya Pradesh, the Sales Tax Officers as Additional Tahsildars for this purpose. We, therefore, recommend that the departmental authorities should be empowered to effect recovery of sales tax dues, as arrears of land revenue under the Land Revenue Code, on the lines of section 29 of the Tamil Nadu General Sales Tax Act.

Refunds

8.25. Under the Bombay Sales Tax Act, 1959, refund is provided of the excess amount of tax and penalties paid by the dealer. Simple interest at the rate of 9 per cent on refund delayed beyond 90 days is also provided. It was, however, brought to our notice that in many cases there are considerable delays in granting refunds arising out of the Tribunal's judgements. Similarly while the refund sanction order is sent along with the assessment order, the actual refund payment order is issued much later. It was further pointed out to us that whenever there is an excess amount receivable by the dealer as per his returns due to adjustment of set-off etc. he is not allowed to adjust the same against the taxes payable by him in subsequent quarters. On going through the various provisions and procedures adopted by the department, we feel that it should be possible for the department to avoid delay in granting of refunds arising out of the orders passed by the Tribunal. The departmental authorities should send the refund payment orders along with the assessment orders. We further recommend that provisions should be made to authorise the dealer to adjust the excess amount paid as per any return against the dues as per subsequent returns, subject to the restriction that such adjustments shall be made in the same assessment year and not carried over to the next assessment year.

8.26. Some Chambers and Associations have represented that the rate of interest on delayed refunds should be raised to the rate of interest charged by the banks or at least made equal to the rate of interest prescribed under the Income Tax Act. We recommend that the rate of interest may be raised to 12 per cent per annum and brought on par with the provisions in the Income Tax Act.

8.27. It has been also represented that the Department adopts a 'double' standard in the grant of refunds arising from the decision of the Tribunal. When the Tribunal decides against the dealer, the

Department does not grant any stay for the recovery of the amount, even when the dealer goes in reference to the High Court. But when the Tribunal decides against the Department and the latter goes in reference to the High Court, the Department does not grant refund. It is claimed that this is one sided justice and that the refund should be granted according to the decision of the Tribunal, even if the Department prefers a reference application to the High Court. We think that this plea is justified and recommend that refund should be granted pending the decision of the High Court on the reference application ; but where the Department has reason to feel that refunded amount may not be recovered subsequently if the High Court decides in favour of revenue, it may ask for a suitable bank guarantee or any other security for that purpose.

Inspection and Audit

8.28. It has been brought to our notice that at present in addition to the audit done by the Sales Tax Revenue Audit (A.G.), the Assistant Commissioners and the Deputy Commissioners also undertake audit of the assessment cases. It is, however, complained that these authorities issue notices for fresh verification of accounts indiscriminately and sometimes the same dealer's account is audited more than once for the same year. Suggestions were also received to the effect that a separate audit section should be opened in the department on the lines of the Income Tax Department.

8.29. The present position regarding inspection and audit is that usually 10 per cent of the cases assessed are subjected to audit. In taxation department, audit of cases assumes great importance in view of the financial implications. Statistical data show that dealers having turnover above Rs. 5 lakhs are 20 per cent in Bombay, 12 per cent in Western Maharashtra and Marathwada and 13 per cent in Vidarbha. These dealers contribute 80 per cent of the total tax. We, therefore, recommend that all these cases should be audited as a rule in the interest of revenue. We recommend that there should be a separate audit section under Deputy Commissioner (Audit). At the same time we do not wish to divest the Assistant Commissioners (Administration) of this work, as the latter have to supervise and guide the officers working under them. Unless he has occasion to audit the assessment made by the officers subordinate to him, he will not be able to assess their work and guide them. In suitable cases, the Inspecting Assistant Commissioner should even visit the places of business of the assesseees to ascertain the correctness of the assumptions made and conclusions arrived at by the assessing officers.

8.30. Regarding the other complaint made, we would recommend that no dealer should be subjected to more than one audit for the same year. The audit should be conducted on the basis of the office record and only where the auditing officer is in doubt, he should inform the assessee of the specific points on which he desires to have additional information and that he should not call upon the assessee to produce all his books of accounts, and embark upon a fishing and roving enquiry.

8.31. We recommend creation of a separate audit section in the department under a Deputy Commissioner (Audit) to carry out a detailed audit of all dealers with a turnover of over one crore of rupees. The Deputy Commissioner should assist the Commissioner of Sales Tax in ensuring that the internal audit is carried out efficiently and without delay and also in issuing guidelines to concerned subordinate officers how to conduct audit.

Offences under the Act

8.32. Offences and punishments therefor are provided under the section 63 of the present Act. It has been brought to our notice that since the minimum punishment of simple imprisonment for a term not exceeding 6 months or with fine of not less than Rs. 500, or with both, is not sufficient deterrent in respect of the offences of evasion. They are required to be made more stringent. In order to curb the activities of havala dealers, it is necessary to provide stringent punishment to such dealers. Not only the havala dealers, but even their beneficiaries should also be severely penalised. So also, the offences of evasion of tax should meet with deterrent punishments. Evaders should not find it advantageous to indulge in malpractices, as their offences are against society. Of late, it has been appreciated that economic offences should be dealt with more severely than the criminal offences since the former is a fraud on society, whereas the latter is an offence against an individual, being in many cases an up-shot of emotional impulse.

8.33. Bearing this trend in mind as also the necessity to ensure proper revenue, we suggest that for the following offences minimum punishment of one year's rigorous imprisonment should be prescribed:—

(1) knowingly issuing to any person or producing before the Commissioner a false bill, cash memorandum, voucher, declaration, certificate or other document for any purpose referred to in subsection (2A) of section 36 of the present Act ;

(2) failing to keep a true account of the value of goods brought or sold by him as required by section 48 ;

(3) knowingly producing incorrect account, registers, or documents or knowingly furnishing incorrect information ;

(4) knowingly furnishing a false return.

We hope that by prescribing such stringent penalty for havala dealers and evaders, their cancerous activities can be curbed effectively.

9. EVASION AND ENFORCEMENT

9.1. It was stated before us that evasion of sales tax is practised on a wide scale due to various reasons. Before, however, any remedies can be thought of and suggested it is necessary to form some estimates of the size of evasion.

9.2. Avoidance of tax has become possible on account of a few loopholes in the law as stated in paras. 7.4 to 7.6. As regards evasion in recorded transactions, various estimates have been given to us. On the basis of the survey undertaken by the Bureau of Economics and Statistics for 1968-69, the estimate of the net taxes payable during the year 1968-69 has been estimated at Rs. 77.59 crores as against the actual receipt of Rs. 75.71 crores. The tax receipts, however, do not pertain to the reference period but include the arrears of previous years collected during the year but exclude the additional taxes on those assessments which are postponed to the next year. But on the assumption, which may not be far wrong, that the arrears collected during the year more or less balance the amount due during the current year but postponed to the next year, there does not seem to be much evidence in support of large evasion in recorded transactions.

9.3. In order to find out the extent of evasion through unrecorded transactions, comparison was made between the estimate of taxable sales as per commoditywise sales tax survey undertaken for 1968-69 and the estimate of production, consumption and potential taxable sales worked out on the basis of information from independent sources in respect of a few commodities. For the commodities selected, there is reason to believe that there is evasion of sales tax on a considerable scale. This establishes the fact that evasion of tax is more pronounced in unrecorded transactions i.e. on the turnovers which are suppressed outright. This is also confirmed by the information which has been supplied to us by the Deputy Commissioner of Sales Tax (Enforcement Branch). He collected, from the octroi records of the Bombay Municipal Corporation, information of imports in Bombay by railway during the months of March and April 1974 in respect of 12 commodities. After collecting the names of the importers from octroi record of the Bombay Municipal Corporation, 3347 transactions covering these commodities were tried for tally. It was found that 62 per cent

of the consignments received were either not accounted for at all or were in fictitious names. If this loss of revenue of about half a crore in two months and that too in respect of 12 commodities is indicative of anything, it is that it is in the field of unrecorded transactions that efforts will have to be concentrated to check the drain of Government revenue.

9.4. Legal avoidance has been facilitated by some of the existing constitutional provisions. Entry 54 of List II of the Seventh Schedule to the Constitution of India authorises the State Government to levy and collect taxes on sales of goods effected within the State. By the various judgements of the Supreme Court, the word 'sales' in the said entry of the Schedule has been interpreted to mean only the sale as defined under Sales of Goods Act, 1930. As the Supreme Court held that before a transaction is exigible to tax, it has to be a sale as defined in the Sales of Goods Act, works contracts in which property in materials passed to the contractee have been held as being outside the purview of sales taxation. Hence, almost all turn-key contracts do not attract the levy of sales tax. It is true that the raw materials used are all tax-paid but the value of finished products for outweigh the value of raw materials. The State does not get the sales tax revenue in regard to such finished products.

9.5. In the case of hire-purchase transactions, as there is no passing of property on the date the agreement of hire-purchase is made, tax cannot be levied till the hire-purchaser exercises the option of purchasing on the payment of last instalment. There is a gap ranging from one year to three years between the date of delivery of the subject matter of hire-purchase and the date the option to purchase is exercised. The total amount mentioned in the hire-purchase agreement represents the price, the finance charges etc. but as laid down by the Supreme Court in *Johar and Co. vs. D.C.T.O.* (1965) 16 S.T.C. 213 at 231 a part of the amount represents the hire and part towards the payment of price. It is for the authorities, said the Supreme Court, to determine, in an appropriate way, the price of the goods on the date the hirer exercises the option and becomes the owner. The tax cannot be levied on the first part, that being the payment towards the user. Added to this, if the hire-purchaser exercises the option against purchase and returns the subject matter no tax is exigible at all. A recent feature of the commercial transactions these days is hire-purchase and more and more commodities are getting into such transactions. This really depletes the legitimate revenue of the State. Under the Central Sales Tax Act, 1956, section 2 (g) defines sale as including a 'transfer of goods on the hire-purchase or other system of payment of instalments'.

The power of the State Legislature however under entry 54 of the State List is limited to 'sales' as defined in the Sales of Goods Act and hence this difficulty.

9.6. As there is no sale involved when the goods are stock transferred to a branch on consignment or between agent and principal or *vice versa* to another State, the tendency to open a branch or enter into an agency agreement to avoid the incidence of Central Sales Tax is growing. This tendency has become more pronounced with the rise in the incidence of Central Sales Tax to four per cent. The State suffers also on account of this.

9.7. In order to plug this loss of State revenue it is necessary to make suitable changes in law so that such transactions become exigible to tax. It is understood that the State and the Central Government are already seized of the matter and are exploring the possibility of taxing works contracts, hire-purchases and branch transfers.

9.8. Under the scheme of first stage single point levy of tax which we are recommending, there is a possibility that a dealer may float an intermediary concern, show the sale price of the goods sold to him at an unreasonably low price and would pay tax on a value much less than the market price. That concern in turn would then show a sale to the actual buyer at the inflated price which would be equivalent to the market price. In this way by a fictitious sale he would avoid his real tax liability. In order to check this type of avoidance of tax we recommend that a provision on the lines of sub-section (2) of section 52 of the Indian Income Tax Act, 1961 should be introduced, empowering the Commissioner to levy tax on the market value of the goods.

Evasion Through Recorded Transactions

9.9. Evasion of tax in recorded transactions takes place through the agency of a 'havala dealer' known as bill traders in the south. The *modus operandi* is reported to be as under. These havala dealers sell vouchers posing as vendors of goods upon whom the first point levy falls. A sale to a document holder is also exempt from taxes or is liable to be taxed at a concessional rate on production of a prescribed certificate. Due to these provisions some unscrupulous dealers are trading in purchase vouchers or declarations without actually effecting the concerned sales or purchases. Subsequently such persons do not pay the tax and are not in a position to do so.

9.10. The existence of these dealers is attributed to several factors. Sometimes the goods imported on actual user's licences find their way

to market either because they are not needed by the actual user's licence-holder for the manufacturing process or because they fetch a high price. With a view to satisfy the requirements under the Income Tax Law, the needy purchasers are required to support the purchases with vouchers. As no vouchers can be issued by such vendors dummies came into existence. Such dummies issue invoices bearing the registration number and the required declaration, thereby posing as first sellers. Since these havala dealers are registered dealers and do not pay the tax, the entire tax on these goods is lost. It is, however, seen that such evasion was generally noticed only in certain specific items like art silk yarn, dyes and chemicals, stainless steel and such other articles during the time when they were in short supply. Similarly when the goods are smuggled, they find their way in the regular market, under the coverage of these vouchers issued by the havala dealers.

Payment Verified System

9.11. The Committee is required by its terms of reference to consider the "Simplified Tax System" as proposed by Shri S. D. Kulkarni. In the said system Shri Kulkarni has suggested levy of a higher sales tax at the first stage and turnover tax at $\frac{1}{4}$ per cent at all subsequent stages. With a view to ensure that there is no evasion in respect of the tax to be levied at the first stage he has proposed cross-verification of dealerwise lists of purchases with the corresponding dealerwise sales of the vendor. According to his proposal every dealer has to submit one copy of the dealerwise list of his purchases and two copies of dealerwise lists of sales along with the Registration certificate numbers of the vendees and with endorsement of the number of the challan under which the tax is paid. For that purpose he requires the dealers to submit 'Payment verified lists'. According to his scheme the claimant dealer claiming tax exemption on the ground that he has effected his purchases from registered dealers and so his sales are 'resales' would be exempted only after tallying his purchases with the corresponding sales of his vendor and after ascertaining that his purchases have borne the (first point) tax at the hands of his vendor or at a still earlier stage. As, however, the tax is leviable at the first point, if his vendor is a bonafide registered dealer, he is absolved of the liability of the first point tax even if it is not actually paid at an earlier stage and liability for payment of such unpaid tax shifts to the bonafide registered dealers earlier in the chain. This is sought to be achieved by requiring the departmental officers to verify and endorse the sale lists to the above effect. According to him, a havala dealer would immediately come to light as he would not be in a position to show either the payment of tax by him or his purchases from registered dealers with

tax paid thereon. Shri Kulkarni has further suggested that it should not be difficult to complete the verification of the lists manually within the office in a short period of 8 months from the end of the year.

9.12. A number of Associations and Chambers have dealt at length with this proposal in their written replies. A large number of organisations have expressed serious reservations regarding the payment verified system proposed by Shri Kulkarni. In their opinion if this work was to be manually done by the department then they had reasons to apprehend that the assessment work would indefinitely linger on for want of tally. Fears were also raised that in actual working, the scheme would lead to manipulations resulting in corrupt practices and also to collusion between the vendor and the vendee. A view was also expressed that in case the system is adopted, it can only be worked through a computer.

9.13. Many of the replies received by the Committee have pointed out many difficulties in the operation of the payment verified system. It was pointed out that the dealers maintain their accounts according to the different accounting years. Even if they are to submit these lists financial yearwise, they would be still required to show details of the goods involved ratewise and also periodwise. This would cause heavy paper work for all the dealers, particularly small dealers. Further, they also pointed out that the submission of these lists at the end of the accounting year of each dealer would prolong the cross-check, even though the lists are submitted financial yearwise. Some of them emphasised the possibility of the lists being not reconciled due to various reasons. For example they pointed out that the likelihood of the goods sold being returned after the end of the accounting year of one of the dealers cannot be ruled out. Rebates are also given on different counts at the end of the accounting year which may not be reflected in the lists. It is pointed out that the commission agents, while preparing their 'pattis', always adjust charges for postage, godown rent, telephone charges, loading and unloading expenses and his own commission from the value of the goods. As against this, the principal will show the sale value and as a result the two lists would never tally. Some of the associations apprehend misplacement of the lists in the completion of the assessment. Yet another set of associations pointed out, with reference to the type of business they are conducting, that under the present system of taxes they are dealing mostly in tax-free articles, the assessment procedure is very simple. The tax which they are to pay is also in respect of a very insignificant portion of their purchases and the time consumed in the assessment is also negligible. Under the proposed scheme, however, they will have to wait till all their purchase,

including those of tax-free goods and purchases from bonafide registered dealers, are cross-verified, causing undue harassment. It is further pointed out that a large number of dealers are located in different parts of the State outside Bombay city. To make these scattered dealers depend upon the scrutiny of their purchases effected from different dealers situated at different district headquarters, would amount to nothing but punishment. These contentions are supported by actual data. A wholesale kirana dealer from Nasik, having tax liability of about Rs. 500 per year at present, produced bundles of sales and purchase lists. An association from Nagpur produced statistics showing that the average lists per dealer would be of 130 vendors and 600 vendees. These difficulties of dealer have, therefore, necessarily to be considered before accepting the proposed payment verified list system.

9.14. In addition to the above objections on behalf of the trading community, several administrative difficulties have been pointed out. According to the modified scheme, the dealers are required to give a one line total of their transactions on a sheet. The sheet is then supposed to be cut in small strips. Since these strips will have to be sent to and fro between the officers, administratively it will be well nigh impossible to keep track of their movements. The procedural requirements relating to this correspondence will be voluminous. Regarding the certification, it is expressed that, apart from the want of space on such strips, no officer would be in a position to certify the payment of tax on the sales shown in the lists without prior verification of all sales. Again a one line total of purchases will not enable the officer to determine the set off legally admissible to the assessee. For determination of such set offs, detailed purchases with their break-up under different tax rates would be very necessary and this information would hardly be available from one line total.

9.15. We have given serious consideration to the proposals contained in the scheme. It is observed that havala transactions are restricted only to a few dealers and are carried on only in respect of a few specific commodities, which are primarily raw materials, which finally reach the manufacturers. In view of the fact that havala dealings take place only in those commodities which bear a rate of tax higher than 4 per cent, our recommendation that the manufacturer purchasing such goods free of tax on requisite declaration, should be made to pay tax of 4 per cent, would minimise the scale of such dealings, it is not in dispute that the number of havala dealers is insignificant as compared to the total number of registered dealers and they also operate in a few restricted commodities.

9.16. It has been reported to us that due to the penal action started by the enforcement branch against the havala dealers and the stringent action taken recently against smugglers, the dealers are afraid of trading with the havala dealers and the havala transactions are on the decline. We have also been told that of late the dealers are preferring havalas from unregistered dealers to those from registered havala dealers. It would not therefore, be necessary and proper to call upon all the dealers to undergo this ordeal of submission of payment verified lists and wait till the administration finds convenient to verify, satisfy themselves about the correctness of and then to certify the claims.

9.17. It has been suggested that in order to check the possibility of evasion it would be desirable to introduce a system of cross checks on a sample basis. For this purpose the dealers should be asked to furnish to the sales tax department by 31st May of every year a list showing the amounts of purchases from and sales to other registered dealers where they exceed Rs. 10,000 in the aggregate in the case of every dealer during the previous financial year. The assessment of the dealers should not however be held up for completing the cross verification of sales and purchases. Some of the members have serious reservations regarding the practicability and the utility of these statements especially in view of the different accounting years adopted by the dealers. A majority of us feels that the very fact that such lists are called for will deter the dealers from suppressing taxable transactions and the lists will serve as useful tools for curbing evasion.

9.18. As a measure of tackling the problem of the department's inability to collect the tax from havala dealers who are normally men of straw, it was suggested by a member of the Committee that a provision should be made in the Sales Tax Act to the effect that if the selling dealer fails to pay the tax, the Commissioner may, after taking previous approval of a Board (to be constituted for the purpose) recover the tax from the purchasing dealer under certain circumstances to be specified in the Rules. It was also suggested as a corollary that where the purchasing dealer has a doubt as to whether the tax collected by the selling dealer from him would be paid to the Government or not, such purchasing dealer should have a right to pay a portion of the purchase price representing the tax in respect of the sales made by the vendor by separate cheque in favour of Government. This view was carefully considered by the committee but for reasons stated herein a majority of the members could not agree with it. Firstly, under the jurisprudence of taxing statutes, the burden of proving an exemption or deduction is on the claimant dealer. If, in the opinion of the Commissioner of Sales Tax, the claimant has not proved the resale claim to

his satisfaction, it is open to the Commissioner to disallow the claim and levy tax on the full sale price of the claimant dealer. Secondly the point of imposition of the tax has to be definite and cannot be kept uncertain. Besides, it is doubtful whether fixing tax liability on both the vendor and the buyer will be legally feasible. Thirdly, the vendor and buyer amongst themselves cannot be permitted to determine the liability to tax. Normally, the buyer cannot be expected to choose a few cases in which to issue two cheques for a single invoice, as it will tantamount to an admission of the fictitious nature of the transaction, which admission will be fatal for him in proceedings before the authorities dealing with laws other than sales tax. Moreover, a vendor is also not likely to accept this position which may lead to endless disputes resulting in brickerings and mutual distrust.

9.19. There are examples where havala dealers have also genuine business, and in such cases the difficulty will still remain. Further, if, between the havala dealer and the buyer, another havala dealer is interposed the suggested procedure will not work as there is no liability of the second havala vendor to pay the tax.

9.20. The Committee also felt that any provision in the sales tax law giving power to a purchaser to direct the seller to deal with a portion of the purchase price in a particular manner may be open to challenge on the question of competence of the State Legislature. It is also doubtful whether in law both the vendor and the buyer can be made responsible for payment of tax in respect of the same transaction. In fact, sales tax, being a part and parcel of the sale price, is as much a subject matter of contract as the price of the goods sold. Once an agreement in respect of the entire sale price including the sales tax is reached between the buyer and the seller, the liability for sales tax should logically follow. Such a liability could not possibly be altered by providing that a portion of the purchase price should be paid in a particular manner.

9.21. Even under the law as it stands at present the Commissioner of Sales Tax has wide powers to deal with the buyers, if in his opinion the sales made by the vendors are bogus. He can deal with each case as the circumstances warrant. If the purchaser is made liable to pay sales tax in certain circumstances, even genuine buyers may have to discharge the liability vicariously of some unscrupulous vendors who may contrive to make it appear as if they merely made havala sales. The suggestion leaves the buyers at the mercy of the vendors who have merely to say that their sales are havala sales. The right course will be to tighten the enforcement machinery to tackle such persons by applying the provisions of law

stiffly both against sellers and buyers. The various suggestions made by us for checking evasions are in our opinion, adequate for this purpose.

9.22. It has not been possible to estimate the extent of evasion through unrecorded transactions, although it is apparent that it is substantially higher than the evasion on recorded deals. It has, however, been possible to ascertain the main causes leading to such evasion, apart from unduly high rates of tax. Firstly, whenever, an item is in short supply and its price or distribution or both are controlled, and when the control cannot be exercised properly, it gives opportunity to unscrupulous dealers to take advantage of the situation and profiteer. Thus when the law prescribes use of a commodity in a restricted manner, for example, the use of imported stainless steel sheets for the purpose of surgical instruments, then evasion takes place by showing commensurate production of surgical instruments, while the sheets are actually diverted for production of utensils, on which the tax is evaded. In the process "Black Money" is generated and a variety of taxes including sales tax is lost. The committee has come across an important area where sales tax is substantially evaded. It so happens that the industries — large, medium or small — get their quota of raw material by way of actual user's import licences or release orders for a number of items which are produced indigenously. Some of the allottees often cannot make use of the allotted material for a variety of reasons including financial stringency. The industrial units, fearing the loss of their right to the quota or the actual users licence, obtain their allotted material and then make unrecorded sales by transfer of import licences or by way of actual sales of such material. It is further learnt that even those who desire to meet their obligation to pay tax cannot do so since they fear prosecution at the hands of other Government departments if they record the sales.

9.23. In the light of the suggestions which we have made for introducing a first stage single point levy of tax in the State, it is all the more essential to have a deterrent check on unrecorded transactions. This can be achieved possibly by verifying that all the goods that are imported inside the State are properly recorded in the books of accounts and that all the internal transactions in respect of goods locally manufactured are also recorded. For the purpose of imposing a check on the imports the introductions of check posts *per se* appears attractive but that system can be executed only by introducing road permits system along with it. We had occasion to examine the working of such a system in other States which we visited. We are, however, of the opinion that such a system complicates the working of the tax system and causes undue harassment to the importers. Besides the system

has a place in a State where the industrialisation and urban trade and consumption is relatively to a lesser extent. However, in a highly industrialised State like ours, with a large urban trade and consumption, a system of check posts would only result in obstructing the smooth flow of trade. We, therefore, do not recommend establishment of check post barriers on a road permit system in this State.

9.24. In our opinion expansion of the activities of the existing enforcement branch by channelling its work on scientific lines and by augmenting the staff should serve the purpose better. We are suggesting the expansion of market intelligence in the working of the enforcement branch, the induction of a police wing with a view to introducing investigation techniques and ensuring successful prosecution and also introduction of road and railway sections to check incoming and outgoing goods from important stations coupled with periodical surveys to be carried out by a separate survey section and also enrolment of godowns and warehouses, so that a close watch can be kept and surprise checks conducted on warehouses and godowns stocks to unearth unaccounted stocks of goods. Another suggestion we would like to make is that this activity of surprise checks of godowns as well as of goods coming through railways and roads should be carried out by mobile squads. No doubt such a squad may not be able to cover hundred per cent check on imported goods. However, the existence of mobile squads, combined with a system of deterrent punishments for evaders as recommended by us in para. 8.34, will go a long way in curbing this evil. We have made proposals for augmenting and strengthening the enforcement staff in para. 10.23.

Market Intelligence Cell

9.25. At present the intelligence work of locating the areas and the dealers where tax is evaded is entrusted to two sales tax officers. The need for keeping watch on trade centres and businessmen of ill-repute to locate the markets in which the bogus dealers are operating can hardly be overemphasized. Intelligence officers must collect in respect of such commodities, information relating to the clandestine sources through which these goods enter the market, in proper time. They should, for this purpose, establish their own sources of information and engage the services of trained watchers. It is necessary to do the ground work of watching and reconnaissance through the field officers and supervisory staff before visits to dealers to ensure success. Complaints were voiced before us that the visits are paid too frequently by the enforcement branch officials on frivolous complaints resulting in undue harassment and mental torture. Such unnecessary visits can be avoided, raids can be properly planned and chances of

removal of record etc. can be eliminated if sufficient grounding and processing is undertaken before-hand as suggested. For the purpose of carrying out these activities, a separate market intelligence cell manned by adequate officers should be created.

Police Staff

9.26. We have seen, especially in Uttar Pradesh and West Bengal that a separate police squad is attached to the enforcement wing. The association of personnel from police force is said to have helped in introducing techniques and methods of investigation in the cases of sales tax evasion in addition to the protection to the staff on duty. We would, therefore, recommend that a separate police wing should be attached with the enforcement branch in Bombay. This can be useful in conducting criminal investigation in respect of evaders so that they can be severely and properly punished.

Road and Railway Sections

9.27. From the results of the cross-checking in respect of goods imported through railways reported earlier, the paramount need of introducing such a section is obvious. A regular watch on the incoming and outgoing goods with a view to find out as to whether all these transactions are properly recorded or not is essential. For this purpose, the officers of this section should be given necessary powers to stop the goods moving by road and check up the bonafides of the sellers and the buyers. It is here that the mobile squad to which a reference has been made earlier could be of great help. The check on goods imported by roads and railways by mobile squads, should, to start with, be restricted to the Bombay-Poona complex, and can be extended to other industrial areas in the State in due course.

Customs Section

9.28. We have already mentioned that 86 entries fetch a revenue of about 90 per cent of total tax collected. For a first stage single point system to function effectively it is necessary to concentrate on the import, production, distribution and accounting of these goods in particular. It is, therefore, necessary to expand the field of investigation so as to find out the imports effected through the Bombay port. The object should be to watch imports day by day and follow up the course of dealings rather than investigating the imports effected quite some time back, as is done now.

Licensing of Godowns, Warehouses and Transport Companies

9.29. Instances have been reported to us that on checking the goods lying in godowns they are either found to have been stored in

fictitious names or that the purchases and disposal thereof has been kept out of records. Similarly, it is reported that the road transport companies are issuing transport receipts showing fictitious consignors and consignees. We are of the view that it is essential in the interest of the revenue to license the godown-keepers and the transport companies and to compel them to keep adequate records. The godown-keepers should be compelled to keep account of goods received, stored and released with the names and addresses of the persons for whom the goods are stored and to whom they are released. Similarly, the transport companies must be required to keep a record of the names and addresses of the consignors and consignees along with description of goods. It is further necessary to make legal provisions compelling them to produce such records when called for. Similarly, the department must be adequately empowered to distrain the goods in the godowns and in transport companies and to permit the movement thereof only after the true owner proves his claim. In registration also it must be made necessary to disclose, in addition to his own godowns, all other godowns where a dealer would be keeping his goods. These steps would help to curb the evasion now practised.

Survey Operations

9.30. It is necessary to have periodical surveys in the city of Bombay and all important trade centres in the State to find out the dealers who are liable to pay taxes and are not registered. The follow-up sections should carry out follow-up action in selected cases only. Investigations should be undertaken in cases where registration certificates are cancelled due to closure to ascertain that the said dealers have not started business with other names in other's places. Similarly, such action should be concentrated on proprietary dealers who are not connected with other well established concerns and who are dealing in such commodities in which havala dealers are found to be operating. The recovery cell in the enforcement branch should be utilized in making detailed investigations in those cases in which the Commissioner suspects that the defaulters are dodging recovery proceedings by fraud or by manipulation.

Follow-up of Dealers

9.31. It has come to our notice that after registration certificates are issued there should be follow up regarding filing of returns and payments of tax. On examining records of 'havala dealers' it was found that in several cases the returns are not filed over five years and there has been no follow up. Assessments of such dealers have been not taken up in many cases. This we consider, is not a satisfactory

situation. We therefore recommend that a strict vigilance should be kept on filing of returns payment of tax and making assessments in good time of such defaulters.

9.32. At present the entire department is provided with only four jeeps — two in Bombay, one in Poona and one in Nagpur — for enforcement work. If the work of the enforcement branch is really to be carried out with efficiency and promptitude, then it must have an adequate number of vehicles. We are fortified in making this suggestion by what we have observed on our visits in other States. The position ascertained in those States is as under:—

State	Year	Revenue	Heads	No. of Vehicles
Kerala ..	1971-72	46.16	G.S.T. C.S.T. A.I.T.	32
Tamil Nadu ..	1974-75	206.54	G.S.T. C.S.T. M.S.T. & E.T. Betting.	82
Karnataka ..	1974-75	93.86	G.S.T. C.S.T.	24
W. Bengal ..	1974-75	126.20	S.T. C.S.T. M.S.T. Raw Jute Paddy purchase.	14
Uttar Pradesh.	1974-75	120.18	S.T. C.S.T.	70

We, therefore, recommend that the Government should sanction an adequate fleet of vehicles for the department having regard to need for speed and coverage.

Settlement of Cases

9.33. In respect of cases unearthed, it is necessary, in the interest of revenue, to ensure that the assessments are completed within a period of three to six months. This can be done by strengthening the investigation section and by providing for settlement of dues. The following observations of the Direct Taxes Enquiry Committee appointed under the chairmanship of Shri Justice K. N. Wanchoo, retired Chief

Justice of the Supreme Court of India, in its report are very relevant and are quoted below :—

“ This, however, does not mean that the door for compromise with an errant tax-payer should for ever remain closed. In the administration of fiscal laws whose primary objective is to raise revenue, there has to be room for compromise and settlement. A rigid attitude would not only inhibit a one-time tax-evader or an unintending defaulter from making a clean breast of his affairs, but would also unnecessarily strain the investigational resources of the department in cases of doubtful benefit to revenue while needlessly proliferating litigations and holding up collections. We would, therefore, suggest that there should be a provision in the law for a settlement with the tax-payer at any stage of the proceedings.”

We, therefore, recommend that a settlement machinery be created in the Act to settle the dues in suitable cases. Such cases should be referred to a committee comprising of the Commissioner, the Deputy Commissioner (Enforcement Branch) and the Deputy Commissioner of the concerned area when dues inclusive of penalty are less than Rs. 50,000 and to a committee of the Finance Secretary, the Law Secretary and the Commissioner when the dues exceed the above amount.

Rewards to Departmental Officials

9.34. We have already referred to the fruitfulness of departmental intelligence. To get the best out of the officers it is necessary to prescribe rewards to the officials in suitable cases, especially when they display ability beyond the normal expectations in detection and investigation of tax evaders. The rewards, however, need not be restricted to officials of the enforcement branch only. Where their superiors are of the opinion that the concerned official has displayed extraordinary skill, initiative, tact, courage or devotion to duty in handling or investigating cases officials outside the enforcement branch should also be rewarded. It may as well be necessary to reward the officials who furnish valuable information leading to actual recovery. In our view the maximum reward need not exceed Rs. 5,000 in a single case and a note of such reward should be made in the record of the official concerned.

10. ORGANISATION AND PERSONNEL

10.1. Various proposals we have made for changing the system and structure of tax and for the streamlining of procedures will need appropriate changes in organisation and personnel policies to give the maximum benefit. We have, however, not been in a position to take a comprehensive review of the organisational and personnel needs of the department. We have tried to discover and study the problem areas and recommend the changes that are needed to solve them. In order to study these problems, we had issued a separate questionnaire on these matters to the Class I Officers of the department as also to persons who were previously associated with the working of the department at a higher level, such as Deputy Commissioner and Commissioner.

10.2. Several suggestions in this regard were received, particularly from the departmental officers. The main suggestion from the trading community was to the effect that the institution of sales tax inspectors should be abolished to avoid duplication of work. The departmental officers suggested reduction of targets of disposal fixed in the past. They also emphasized the importance of systematic training, not only to the new entrants but also to officers who have already been in the department for a number of years, by way of refresher courses. They also pleaded for planned transfers with a view to equip them with the experience in different fields of the department. The members of the staff associations also complained that in the present set up, the chances of promotion are very inadequate causing frustration at all levels.

10.3. A comparative study of the establishment expenses and arrears of revenue of Commercial Departments in some of the States and those of Sales Tax in this State shows glaring features as under:—

State	Year	Revenue (Crores)	Head	Expenditure (Crores)	Percentage	Arrears of S.T. and C.S.T. (Crores)
Tamil Nadu	.. 1974-75	206.54	GST + CST + MST + ET + Betting Tax	3.33	1.61	14.29

State	Year	Revenue (Crores)	Head	Expenditure (Crores)	Percentage	Arrears of S.T. and C.S.T. (Crores)
Karnataka ..	1974-75	93.86	GST + CST	1.80	1.92	10.31
Kerala ..	1971-72	46.16	GST with SC CST + AIT	1.13	2.44	11.33
Maharashtra ..	1974-75	315.02	BST CST MST PT MAIT	2.57	0.81	35.86

10.4. We observe that in the former States the arrears of Sales Tax Revenue even if compared with the annual receipts are comparatively very low and the pendency of arrears of assessments almost negligible. As against this, in the State of Maharashtra, the arrears are heavy and are mounting up year by year. Similarly the backlog of assessments is considerably large and the pendency is almost over 2 years. Needless to say, delay in completion of assessments results in delay in realisation of revenue and in some cases leads to non-realisation of revenue. One year's assessments lead to creation of additional demand of about Rs. 16 crores. Economy at the cost of administrative efficiency would affect the ability of the department to curb effectively evasion and keep both the arrears in assessments as well as in dues well within the limits. It would also cause avoidable dissatisfaction to the tax payers who have to wait for months and months to get their assessments completed and obtain refunds in time.

Assessment set up

10.5. The present position of allotment of assessment work needs close examination not only to simplify the procedure but also to make the assessing officers fully responsible for the assessment. What we found in southern States was that the number of assessments assigned to each assessing officer was reasonably low with the result that the assessments were upto date and the assessing officer had personal knowledge of and control over each of his assesseees within his charge. This in turn keeps the officer upto date with regard to his knowledge of the assesseees in respect of their assessment position, dues, recovery and the trade practice prevalent in his assigned area. This aspect has not received proper attention in this State. Here the charge of an assessing officer is very large. We have also recommended a time

limit within which the assessments are to be completed. The smaller charges would enable the officers to keep the assessment position upto date. We, therefore, recommend that the charge for each officer should be small and territorially compact.

10.6. We have also observed that the system of two tier verification, which is prevalent in this State, is totally absent in most of the States. In our view also, retaining of an authority between an assessee and the assessing officer without any responsibility cast upon it, is bound to give rise to malpractices. We have, therefore, recommended abolition of this two tier system of verification, in para. 7.5.

10.7. We have recommended that the dealers who have their turnover below 3 lakhs per year and contribute only about 10 percentage of the total revenue should be permitted to file annual returns and make annual payments. Considering their small contribution to the revenue it is necessary that the administrative expenses in respect of these dealers should be kept low and that the dealers should also not be required to undergo the ordeals of detailed verification. The small dealers for whom we have suggested the Composition Scheme will also be covered by the above category of dealers. We, therefore, suggest that such cases should be allotted to Sales Tax Officers who should assess the dealers without the aid of Sales Tax Inspectors. It would be desirable for the assessing officers to visit the places of business to satisfy themselves of the bonafides of the dealers or when they think such visits are necessary for recovery or collection of data. Taking into account the fact that these officers will do the assessment without the aid of Sales Tax Inspectors and will have to find time to visit the places of business of the dealers at least twice, the number of cases in their charge should be reduced and they should not be allotted more than five hundred cases per year.

10.8. Since these assessments would be simple in nature we suggest that they should be entrusted to Sales Tax Officers (Class II). This would require about 296 posts of Sales Tax Officers to handle these assessment cases. We recommend that this cadre should be filled in exclusively from amongst the Sales Tax Inspectors. 50 per cent of these posts should be filled in by promotion on the basis of seniority-cum-merit, while the remaining 50 per cent posts should be filled in on the basis of merit irrespective of seniority. If necessary, a written test, coupled with a *viva voce*, can be prescribed for selecting the candidates on merit. This suggestion would, we hope, remove the stagnation now existing in the cadre of Sales Tax Inspectors and would improve the service prospects for really deserving and intelligent Inspectors.

10.9. The statistical data shows that 23.22 per cent of the dealers have their turnovers between 3 lakhs and 50 lakhs and they contribute 37.04 per cent of the total revenue. In other words out of the 1,80,000 dealers as on 1st April 1976 about 42,000 dealers would be covered by this category. We recommend that posts of Sales Tax Officers (Class I) should be created to handle these cases. This is essential because quite a good number of these dealers would be document holders, importers, manufacturers and exporters. The work of assessing these dealers with the grant of set-offs etc. is fairly complicated and is important from the revenue point of view. In our view their work is in no way less important than the work performed by the Income Tax Officers from Class I cadre. We also find that, at present, there is a common examination prescribed for selection to the posts of Sales Tax Officers and District Deputy Collectors and officers from other departments. The scales which are prescribed for these different posts show that the scales of sales tax officers are comparatively low as a result of which talented officers exercise their option in favour of other departments. It is necessary to attract at least the second best among the selected officers to this department in view of the role it has to play in the financial structure of the State. Both in view of the complexity of the work and the need to attract the best possible talent to the department, we recommended Class I scale for the post of Sales Tax Officers who handle the cases having turnover above Rs. 3 lakhs. For the purpose of efficient handling of these cases we propose that each of these officers should be given about 200 cases. This will need the creation of 266 Class I posts. 50 per cent of these posts should be filled in by direct recruitment through competitive examinations by the Public Service Commission as is done now. The remaining 50 per cent posts should be filled up by promoting officers from Class II cadre on merits. That would bring the pattern of Sales Tax Officers on line with the existing pattern in respect of Income Tax Officers in that department.

10.10. The dealers who are having turnover between Rupees 50 lakhs to 1 crore are about 1 per cent and they contribute 11.50 per cent of the total revenue. There would be about 1,800 such dealers. After taking into consideration the more complicated nature of these cases and their revenue yield, we propose that these cases should be handled by senior officers from the Class I cadre. Before appointing Sales Tax Officers to handle these cases, they should be given an opportunity to work in the Enforcement Branch and the legal branch and given training through refresher course. The number of cases to be allotted per Sales Tax Officer in this charge should be 100. This will need creation of 24 Class I posts.

10.11. That brings us to the remaining about 1,200 cases having turnover over Rs. 1 crore and contributing 41 per cent of the total revenue. In our view, the work of assessing these dealers should be entrusted to Assistant Commissioners only. We have seen that in Tamil Nadu, a few selected cases are handled by the officials of this level. If persons from Assistant Commissioners' cadre are appointed, the work of assessment of these dealers would, in our opinion be, done with the requisite care and competence. The experience gained by the Assistant Commissioners from different branches would help them to assess the liability correctly. In view of the nature of the cases involved we would propose assistance of two Sales Tax Inspectors to each of the Assistant Commissioners and allotment of 75 cases to each of them.

10.12. The main recommendation that we have received in regard to assessment work from the trading community is that the Sales Tax Officers should do the assessment work themselves, as this is a statutory duty cast upon them, without the assistance of Sales Tax Inspectors. We have also seen that the system of two-tier verification, as is prevalent in this State, is totally absent in southern States. In view of this, we have already recommended that the Sales Tax Officers dealing with cases of dealers who have a turnover below Rs. 3 lakhs should not be given the assistance of a Sales Tax Inspector. In other cases, however, we appreciate that there would be some sort of verification like cross-verification of sales on declarations, and so the assessing officers will have to be given assistance of a Sales Tax Inspector for this purpose. However since as a result of our other recommendations we have reduced the sales on declarations and simplified the working of set-off, we propose that the assistance of one Inspector should be given to each Sales Tax Officer (Class I) and two to each assessing Assistant Commissioner. We would however like to make it clear that in no circumstances these Sales Tax Inspectors should be utilised for the purpose of verification of the returns. Their assistance should be taken for pursuing the action against defaulters, doing field verification work and for effecting recovery. Under any circumstances a stop must be put to the dual system of verification existing today. As a result of this 789 posts of Sales Tax Inspectors doing this work will be rendered surplus.

10.13. In Bombay City, at present, the work of registering the dealers and of receiving returns is centralised. We do not propose decentralisation of this work and distribution of the same to the respective assessing officers in view of the fact that a centralised system of registration and return is essential for the use of a computer which we have proposed in para. 10.39 for this purpose. It will be

essential to augment this staff suitably so that this work is handled efficiently. We are therefore refraining from suggesting decentralisation of these two branches at least in Bombay. However the officers in the mofussil should be entrusted with the work of registering the dealers and receiving returns from the respective dealers in their charges. We have also proposed that the powers under the Land Revenue Code should be delegated to the Sales Tax Officers. The assessing officer would therefore be responsible for recovering the dues under the Code from the dealers in his charge. We also suggest that these assessing officers should complete the assessment of the dealers in their charges within 12 months. We have recommended the smaller charges after appreciating the additional work load which would be involved by the above proposals.

Assistant Commissioner (Administration)

10.14. In the light of the above set up, there would be in all 724 Sales Tax Officers from Class I as well as Class II. Auditing the assessment orders done by all these Sales Tax Officers is to be done by the Assistant Commissioners (Administration). We have also recommended that all the cases of dealers having turnover above Rs. 5 lakhs must be audited without exception. This audit work has to be done by him personally without the help of the Inspectors. These Assistant Commissioners will however have to supervise the work of these officers and will have to inspect their offices. For this, each Assistant Commissioner may be given assistance of two Inspectors. As supervisor officers they are also supposed to guide the Sales Tax Officers in their assessment work and give them appropriate legal advice. Considering the volume of audit work and inspection and supervisory work we would recommend appointment of 1 Assistant Commissioner for 10 to 12 Sales Tax Officers. The work would thus require about 68 Assistant Commissioners.

Deputy Commissioner (Audit)

10.15. As already recommended in the chapter on 'Procedure' the work of auditing the cases assessed by the Assistant Commissioners (Assessment) is to be entrusted to the Deputy Commissioner working in the Office of the Commissioner of Sales Tax. Over and above this work he is also supposed to give guidelines to the Assistant Commissioners (Administration) on the basis of the experience and knowledge gained by him. Looking to the volume of the work (1200 cases) involved he will have to be assisted by Assistant Commissioners. Each Assistant Commissioner (Audit) can at best audit about 300 cases in a year. At this rate 4 posts of Assistant Commissioners (Audit) with 4 Sales Tax Inspectors will be necessary. These Assistant Commissioners

should however be drawn from the senior persons in the cadre and the whole section should be attached to the Office of the Commissioner of Sales Tax.

Assistant Commissioner (Appeals)

10.16. From the patterns of distribution of cases for assessment which we are recommending we feel that the 1,35,000 small cases having turnover upto Rs. 3 lakhs would not contribute significantly to appeal work. At best the number of appeals from these cases can be estimated at 1 per cent. There would be thus 1,350 appeals from this class of dealers. The remaining 45,000 cases may give rise to appeals to the extent of 20 per cent of the assessment orders. Thus the total number of appeals would be in the vicinity of 11,000 as against 13,753 in 1974-1975. The above figure of 11,000 does not include appeals arising out of orders passed in the Enforcement Branch. If those are considered the total number of appeals would be about 12,000 in a year. We are estimating only 1,000 appeals out of the Enforcement Branch since we believe that with the introduction of the settlement machinery there would be fewer cases being agitated in appeal.

10.17. At present the Assistant Commissioners deciding appeals arising out of ward offices are required to pass 120 orders per month, while the Assistant Commissioners deciding appeals from the Enforcement Branch have to decide about 60 appeals per month. With the development of case law in the past so many years and complexities involved in deciding legal issues, the appellate authorities are required not only to apply their minds carefully but also to draft detailed orders explaining the points at issue. In this process much time is consumed and it may not be proper to saddle them with this heavy rate of disposal. Considering these facts it may be reasonable to prescribe a target of 45 appeals a month in respect of assessment orders passed by the officers of the Enforcement Branch and of 80 appeals per month in other cases. Viewed in this context, there would be a need for 13 Assistant Commissioners (Appeals), 2 for Enforcement Branch appeals and 11 for other appeals. While creating these charges our suggestion that the appeal work must be segregated from the administrative charge irrespective of the cost involved should be borne in mind. These Assistant Commissioners may be given the help of 1 Sales Tax Inspector only for arithmetical calculation and scrutiny of appeal petitions.

Deputy Commissioner (Appeals)

10.18. Even though we have proposed to delete the option with regard to second appeals before the Commissioner of Sales Tax which

in effect were filed before the Deputy Commissioner, we have also proposed that the Assistant Commissioners should be assessing authorities for cases having turnover above Rs. 1 crore. The appeals against these assessment orders would lie to the Deputy Commissioner. As a result it will be necessary to continue the post of the Deputy Commissioner of Sales Tax (Appeals) in Bombay. According to the existing practice the appeals in the Eastern and Central Divisions are heard by the Deputy Commissioners (Administration) of these Divisions. In consonance with the principles of total segregation of the appeal work from the administrative work, it would be proper for the Deputy Commissioner (Appeals) in Bombay to have jurisdiction over such first appeals filed from the Central and Eastern Divisions as well. As a result of this the Deputy Commissioner (Administrative) at Pune and Nagpur will be divested of the appeal work. The Deputy Commissioner (Appeals) in Bombay should do the hearing work outside Bombay by undertaking tours. In view of the work involved he may be given assistance of two Sales Tax Inspectors as at present.

Deputy Commissioner (Administration)

10.19. With the proposed distribution of work of assessment and appeals there would be 97 Assistant Commissioners as under:—

Appeal	..	13
Assessment	..	16
Administration	..	68
		97
Total	..	97
Present strength	..	45
Additional strength	..	52

For supervising this entire cadre along with the Sales Tax Officers and their staff working under them it will be necessary to continue the charge of Deputy Commissioner (Administration). In addition to supervision work of inspecting of the offices of the Assistant Commissioners, the establishment work relating to sanction of leave, posting, transfers, recruitment and deciding cases under section 52 is also entrusted to the Dy. Commissioner. Certain other obligations as heads of the department also fall upon them. In view of this it will be proper to have one Deputy Commissioner for every 6 Assistant Commissioners. That will include 4 Assistant Commissioners (Administration), one Assistant Commissioner (Assessment) and one Assistant Commissioner (Appeals). On this basis 16 Deputy Commissioners would be required for the purpose of administration as against the present strength of 9.

Deputy Commissioner (Legal)

10.20. A separate question was asked as to whether the representation before the Tribunal should be by Officers in the cadre and scale of Assistant Commissioners of Sales Tax. The replies received generally favoured appointing Assistant Commissioners for this purpose. At present barring a few cases the representation is through Sales Tax Officers. We would propose that the work of preparation of briefs may be continued to be entrusted to the Sales Tax Officers, as at present. Appearance in simple cases like second appeals against summary rejections, dismissal for non-appearance and cases involving issues which are more or less settled should also continue to be by Sales Tax Officers. It is necessary that in respect of other matters the Department is represented by Assistant Commissioners. We also consider it necessary that the officers must gain experience of legal matters at the Tribunal level to equip them properly before earning promotions or assessing cases in the turnover slab of Rs. 50 lakhs and over. For that, a unit of 2 Assistant Commissioners and 3 Sales Tax Officers per bench is recommended. A separate legal cell should also be continued in the branch with one Assistant Commissioner and two sales tax officers to do the work of preparing reference applications and keeping upto-date index. The present section attached to the Commissioner's office for the work relating to matters pending with High Court and Supreme Court should, however, be placed under this Assistant Commissioner and the entire branch should be placed under the Dy. Commissioner (Legal). This would reduce the movement of the papers and would bring about uniformity in policy for all the legal matters. It is further recommended that considering the arduous duties involved, the officers should be given special pay of Rs. 100 per month.

Statistical Cell

10.21. We have recommended in para. 4.12 that a statistical wing headed by a Joint Director of Statistics should be established in the Office of the Commissioner of Sales Tax to carry out annually a sample survey of sales tax and commoditywise sales tax data as a part of the sales tax administration. This wing will also carry out a sample survey of distributive trade once in two or three years, as may be necessary. The Joint Director will be assisted by one Deputy Director in the preparation of the sample design, selection of sample and supervision over field work, tabulation of data etc. and two Research Officers for each of the two wings viz. (i) sales tax data, and (ii) distributive trade survey data. The supporting staff of 5 Research Assistants, 4 Statistical Assistants, 2 Stenographers, 2 clerk-typists and 4 peons may be sanctioned for this purpose. The survey will need a field staff

of 30 Sales Tax Inspectors and five Sales Tax Officers. For the survey of distributive trade, some more staff will have to be sanctioned, when the survey is undertaken. The statistical posts should be manned by taking officers on deputation from the Directorate of Statistics and Economics and should be declared as additions to the corresponding cadres of the Directorate.

Enforcement Branch

10.22. The first stage single point tax system which we have recommended, calls for better method of controlling the havala racket and evasion in respect of recorded and unrecorded transactions. For this purpose, the Enforcement Branch as a whole and the market intelligence wing and the road and railway sections in particular will have to be augmented, mobile squads will have to be added and sufficient number of vehicles will have to be attached to this branch. We have elsewhere suggested licensing of godowns and transport companies for having effective control on the movement of the goods. All these activities would need sufficient staff.

10.23. At present, the Deputy Commissioner of Sales Tax (Enforcement Branch) is assisted by 6 Assistant Commissioners who in turn are assisted by 46 Sales Tax Officers and a number of Sales Tax Inspectors. The branch looks after registration of dealers, investigation of evasion, corresponding assessment and prosecution work. In addition, the work of recovery in those cases where dues are reported to be irrecoverable for want of whereabouts of defaulter or for want of assets are also entrusted for further investigation to this branch. Investigation of havala dealers through follow up action etc. is also undertaken by this branch. The present staff of the Enforcement Branch is grossly inadequate if the enforcement work has to be properly reorganised as proposed by us. We consider that the following are the minimum requirements of this branch :—

		A.C.	S.T.O.
Intelligence and Market Research	..	1	12
Investigation section	.. ..	6	28
Prosecution section	.. ..	1	2
Recovery section	.. ..	..	3
Customs section	.. ..	Nil	4
Road and Railway section	.. ..	1	6
Survey section	.. ..	1	6
Registration	.. ..	1	6

			A.C.	S.T.O.
Follow up section	..	..	1	13
Rank section	..	..	Nil	5
Staff required	..	..	12	85
Existing staff	..	..	6	41
Additional staff required	..	..	6	44

We, therefore, propose the creation of additional staff of 6 Assistant Commissioners and 44 Sales Tax Officers. Out of 85 posts of Sales Tax Officers, 25 posts should be in Class II cadre. We also recommend the creation of one more post of Police Prosecutor in addition to the existing post. With this expansion, the branch will have to be divided in two Divisions headed by two Deputy Commissioners instead of one Deputy Commissioner as at present. Similarly, in the Enforcement Branch instead of the present strength of 4 Sales Tax Inspectors per Sales Tax Officer, we recommend 3 Sales Tax Inspectors per Sales Tax Officer and 2 Sales Tax Inspectors per Assistant Commissioner and 3 Sales Tax Inspectors per Deputy Commissioner.

Assistance to the Commissioner of Sales Tax

10.24. In his office, the Commissioner of Sales Tax is assisted by one Deputy Commissioner of Sales Tax (H. Q.), one Assistant Commissioner (Administration) and eight Personal Assistants in the cadre of Sales Tax Officers. As regards the Personal Assistants working under the Commissioner it will be in the fitness of things to upgrade the posts to the level of the Assistant Commissioner. We would recommend such upgradation for the two Personal Assistants (Inspection) and one post of Personal Assistant (Legal). In view of the work of the profession tax which is added, it would be proper to have another Personal Assistant as Assistant Commissioner's level to look after the work relating to profession tax, agricultural income tax, sugarcane purchase tax and such other taxes. For co-ordinating the work of these Personal Assistants, the present post of Deputy Commissioner (H. Q.) be also continued. In addition, there would be four Assistant Commissioners (Audit) in his office, headed by one Deputy Commissioner (Audit).

Staff requirements

10.25. It needs to be stated here that the strength of officers at various levels as suggested above is on the basis of statistical data of spread over of the dealers in different turnover slabs for the year

1968-69. The actual requirements will have to be worked out after collecting the latest position. Besides, in estimating the strength of the staff, the simultaneous work load of assessment under the Central Sales Tax Act has also to be duly considered. After considering the present strength of staff upto Sales Tax Officers level sanctioned by the Government, we estimate that additional requirement of staff would be 9 Deputy Commissioners, 65 Assistant Commissioners and 205 Sales Tax Officers, Class I and Class II. As already stated there would be a reduction of 789 Sales Tax Inspectors.

10.26. In our view an establishment unit of sales tax officers should consist of about 30 persons and there should be a senior clerk to look after the establishment work. At present a Sales Tax Inspector is deployed for this purpose. Instead of that, if a senior clerk is provided, the promotion prospects for the clerical cadre would automatically improve.

10.27. At present Deputy Commissioners (Administration) are given the assistance of a Personal Assistant and one Establishment Officer from the cadre of Sales Tax Officers. Since this work helps in equipping the Sales Tax Officers with sufficient knowledge before promotion, it is necessary to man these posts from Sales Tax Officers Class I cadre. We could not examine in details the working pattern in the offices of the Deputy Commissioner (Administration) and of the Commissioner of Sales Tax and that is a job which will have to be entrusted to the O. and M. Unit. But, nonetheless, the present pattern of 12 clerks and 10 Sales Tax Inspectors for supervisory work in the Office of the Deputy Commissioner cannot be supported. *Prima facie* it would be correct to replace bulk of the clerks in the higher offices by senior clerks and to dispense with bulk of the Sales Tax Inspectors.

Stenographers and Typists

10.28. It has been brought to our notice that though copies of assessment orders are supplied to the assesseees they are however carbon copies of manuscript orders. As a result in a good number of cases they are illegible. Further it is pointed out that there is no discussion of the points raised in the orders. It is necessary to improve the image of the department in this respect. We, therefore, feel that adequate staff should be provided in this respect. For this purpose we would suggest a pool of clerks with shorthand allowance. This would help in supplying copies of typed assessment orders and would reduce the manual labour that the assessing officers have to do in writing out their orders in long hand. In addition to this, for every unit, one Marathi clerk-typist may also be supplied to deal with inter-departmental correspondence.

10.29. For the Assistant Commissioners (Assessment), Assistant Commissioners (Appeals) and Assistant Commissioners (Administration), we would propose assistance of one Stenographer (Lower Grade) each. It has to be remembered that the orders passed by the Assistant Commissioners in appeal are subject to second appeal before the Tribunal. It is necessary that these orders are well reasoned and are supported by sufficient case law. Similarly since the Assistant Commissioners (Assessment) would be dealing with very difficult cases it is essential that they are as well supplied with a Stenographer (Lower Grade) each. The same would be the case with the Assistant Commissioners (Administration) and (Audit). Each Deputy Commissioner should be provided with Stenographer (Higher Grade) and the Commissioner and the Additional Commissioners should be given one Selection Grade Stenographer each.

Stagnation and promotion chances

10.30. We have already referred to the complaint made to us that there is considerable stagnation in the department at all levels. We feel that the various proposals which we are recommending in the organisational pattern would improve promotion prospects at all levels. In particular, we are recommending a sufficient number of posts of Senior Clerks. Similarly while we recommend abolition of the two-tier system of verification, we are recommending addition to the Class II cadre which should be entirely filled up from the Inspectorial cadre. In order to give impetus for good and intelligent workers we are proposing reservation of 50 per cent of the posts from that cadre through written test. We have proposed increases in the corresponding strength of the posts of Assistant Commissioners and Deputy Commissioners. By providing clerks with shorthand allowance to Sales Tax Officers and also allotting stenographers (lower grade) to Assistant Commissioners, stenographers (higher grade) to Deputy Commissioners and stenographers (selection grade) to Additional Commissioners and Commissioner, sufficient chances for promotion would automatically be created for typists and stenographers. If the proposals of staff recommended by us are accepted, every member of the staff can hopefully look forward to a promotion after 10 to 12 years of service and get at least two promotions during his service career.

Career Planning and Transfers

10.31. The distribution of the assessment work to different officials is recommended by us with reference to the turnover limits of the assesseees. This would require that these cases are allotted with reference to the experience and the capacity of the assessing officers. Mere

length of service of an officer is not going to add to his capacities to deal with the cases of higher turnover. It will be necessary that during his service period and before he is required to handle big cases, every officer is routed, as a matter of course, through different postings. This may include the postings in the Enforcement Branch to give him practical training in detecting evasion and framing legal and sustainable orders. A further posting in the legal branch would make the officer conversant with case law and more so its proper application and also in drafting of the orders. If an officer is posted to a senior charge, thereafter, it will not merely safeguard revenue but would also go a long way in improving the image of the department in the trading community. Similarly it is essential that an Assistant Commissioner on first promotion should be routed as far as possible in the legal section and in the enforcement branch. Their posting as Assistant Commissioner (Audit) and Personal Assistants to Commissioner of Sales Tax before further promotion would go to make a person suitable for holding the post of Deputy Commissioner and then that of Additional Commissioner where policy making ability is required.

10.32. We are aware that the number of posts in legal branch and enforcement branch would mostly be available in the City of Bombay and that if training is to be given through posting in these branches the officers from mofussil will have to be transferred to Bombay. We would like to emphasize that an interchange of officers between mofussil and Bombay is inevitable and to an extent necessary as well. With the major trade and industry being located in Bombay City the experience of assessing these dealers is very vital for every good officer and this grounding is necessary before promoting a person to a higher sub-divisional level. To some extent experience in mofussil offices also is essential to every officer, as this would enable him to take decisions on his own and manage an office independently without the day to day guidance of superior officers.

Training College

10.33. The department must provide adequate training facilities at the stage when a person enters the department as well as inservice training and refresher courses during the service period. Taxation is a technical subject in itself and tax officials must be well equipped with knowledge of accountancy, case-law, business and trade practices and should have working knowledge of the allied enactments.

10.34. In the Income Tax Department full-fledged training is imparted to directly recruited officers in a training institute for a period of one year before they are brought on to the field work. In the

light of the above facts, we consider it essential for the department to have its own full-fledged residential training college. This college should provide thorough training to the new entrants at all levels. It should also provide inservice training through refresher courses with a view to bring the serving officers' knowledge upto date.

10.35. The courses to be provided in the training should cover Bombay Sales Tax and Central Sales Tax Acts, and Acts relating to Profession tax, Agricultural Income Tax, Sugarcane Purchase Tax and Chit Funds. The ancillary Acts like Evidence Act, Contract Act and Sale of Goods Act along with a broad outline of the Indian Income-Tax Act should also be taught to the candidates. A thorough course should be arranged in accountancy. With a view to acquaint the newly recruited officers with various perspectives, representatives of the business community, the Chartered Accountants and Advocates should be invited to deliver lectures. Experts in business management and administration should be invited to teach management practices. Practical training on verification of accounts and framing of model assessment orders should also be given. They should be grounded with the basic knowledge relating to collection of statistical data and data processing system by the computer. The knowledge of using mechanical devices should be imparted to the trainees during the training period.

10.36. During the course of the training they should be attached to different branches of this department to acquaint them with their working. They can be attached to the Enforcement Branch including the registration branch, the returns branch and the legal branch. Thereafter for some period they should be asked to work with simple cases having turnover of less than Rs. 3 lakhs. It may be ensured that those cases include cases of small manufacturers to some extent and also of importers. Handling of these cases without the aid of the inspector would give them sufficient grounding before they are actually required to handle cases of turnover above 3 lakhs.

10.37. In service training through refresher courses should be considered as a must before a person is promoted. It is necessary to enable the officers to relax and to think calmly over the administrative problems which he is facing day to day. This can be achieved only if he is put on such a course of training. At the end of such a course, regular tests should be held and the performance therein should be considered as one of the vital criteria for selection to higher post.

10.38. We are told that Government has in principle accepted the establishment of a training school for the department and a nuclear

staff has already been sanctioned but held in abeyance from time to time due to paucity of accommodation. With the development of New Bombay, it should be possible now to acquire sufficient accommodation and start a college there. We would, therefore, recommend to the Government to take early steps to start such a training college in the interest of the department and the revenue.

Mechanical Aids

10.39. At present the work of watching the non-submission of returns and defaults in making payments of tax is done manually. The number of dealers is already very big and in the course of time their number is bound to increase creating additional work of supervision and control. In view of this, we feel the time is now ripe for taking the help of a computer in this regard. The need for timely action against the defaulters for ensuring recovery of Government revenue needs no emphasis. In a computerised system, the possibility of human error in locating defaulters and in issuances of notices to such defaulters will not exist. The Computer can list out such defaulters and print the notices in the prescribed forms. Thus, not only human error will be avoided but also the follow-up operations would be very quick and this is the *sine qua non* for an efficient control and supervision of any administration. It would also reduce the work load of the returns branch in terms of human labour as also reduce inconvenience to the tax payers through un-called for notices. The computerised system can similarly be extended to various other procedural jobs, required to be performed under the Acts, viz. selecting cases fit for summary assessments, reconciliation of arrears and recovery of dues. History Records of the Registered dealers maintained under the computerised system would help to decide who are the genuine dealers and who are of a doubtful character. The computer can also prepare performance record of each of the departmental officers which would ultimately go a long way in toning up the administration. Like wise commodity statistical data, if computerised, would be helpful in formulation of policy in different fields. We, therefore, strongly recommend that the system of computerisation be introduced immediately.

Organisation and Methods Study

10.40. As pointed out earlier a special O. and M. unit comprising of departmental officers was entrusted with the work of carrying out studies in specific activities of registration, returns, assessment and recovery. The Unit had undertaken a detailed study of the various activities connected with these jobs and have made useful recommendations for simplifying the procedures with a view to reduce cost as well as the inconvenience to the dealers. We have been benefited

by this exercise in recommending simplification of certain procedures in the matter of grant of Registration certificate etc. Such studies are useful for eliminating avoidable procedural activities. We, however, do not recommend the creation of a permanent O. and M. unit in the office of the Commissioner, as the work of such an O. and M. unit tends to become routinized. We recommend that the Commissioner of Sales Tax should set up *ad hoc* and O. and M. groups from time to time to ascertain the areas in which procedural simplification could be brought about. There are two areas in which studies need to be taken up immediately. The problem of delegations of powers from the Government to the Commissioner and from the Commissioner down the line needs a scientific study. We, therefore, recommend that a special O. and M. Study group may undertake detailed studies in ascertaining the delays caused for want of satisfactory delegation of these powers. and their repercussions on administrative efficiency. Another area which needs to be looked into, is the system of returns, forms and reports which are required under the Act. These will need changes in any case in the light of our recommendations. Besides, we have proposed collection of commoditywise statistics from the dealers in their quarterly returns. For this purpose necessary forms will have to be designed for collecting this information. Again, this information will have to be supplied to the data processing section of the computer. Hence the code numbers and the other details will have to be worked out before designing such forms. We would, therefore, recommend that the special O. and M. study group should be entrusted with the work of designing of the various forms, returns and reports under the Act in consultation with the computer section.

Public relations

10.41. At present there is one Public Relations Officer from the Sales Tax Officer's Cadre in Bombay City. He is entrusted with the work of maintenance of the building and such other allied matters. Grievances have been voiced before us that, as a result, the tax payers do not receive necessary clarifications and guidance from the Department. The office of the Public Relations Officer is a link between the public and the department. It is he who could keep and brighten the image of the department and establish cordial relations between the public and the department. It is he who would inform the Commissioner of Sales Tax about the difficulties of the trade and industry. Keeping these facts in view we recommend the following:—

- (1) The Public Relations Officer should be of the rank of Assistant Commissioner of Sales Tax and he should have initiative, drive and aptitude for the job.

(2) He should entertain queries of the public and should make replies orally and in writing.

(3) As and when there are amendments or even important judgments of High Courts/Supreme Court he should inform the public, by means of press, T.V. or Radio talks. Suitable publications giving details about changes in law, the decisions of the Commissioner of Sales Tax, the public circulars issued, important decisions of the Tribunal, High Court and Supreme Court should be brought periodically.

(4) He should also look after waiting arrangements, drinking water, sanitation and other amenities for the public.

(5) Complaints of the public regarding delays in assessments/refunds should be entertained by him. He should be authorised to direct the officers to act promptly to mitigate causes of complaints.

(6) He should see that full text of the Act and Rules are published at proper intervals.

Corruption

10.42. Complaints are voiced against malpractices and corruption to us. On a study of the reasons for this vice in the department, we found that there are two factors mainly responsible. First is the wide discretion given to the authorities in the matter of levying penalties and the second is the ambiguous and complicated nature of provisions, especially in the working of set off. The various recommendations we have made namely an officer-oriented system of assessment, the abolition of the present two-tier system of varification at the time of assessment, the automatic levy of penalty in the form of penal interest, the simplification of the set off procedure, the minimum recourse to the use of forms by manufacturers through prescription of 4 per cent tax on all indentifiable raw materials and intermediate goods and the provision of adjustment of set off under the local Act against the dues under the Central Sales Tax Act to the exporters, and the abolition of Form 16 and the simplified method of assessment for small dealers would remove the scope for harassment and corruption considerably. Through our Questionnaire we had invited opinions with regard to adoption of section 13(3) of the Income Tax Act of 1952 of the United Kingdom under which if an officer wilfully makes a faulty or vexatious surcharge on tax or knowingly or wilfully, through favour, undercharges or omits to charge any person then he can be convicted and discharged from his office. Attention was also drawn to the similar provisions contained in section 146 of the Customs Act, 1962 and section 22 of the Central Excise and Salt Act, 1944. We also gave

serious thought to this provision and we came to the conclusion that there are already adequate provisions under the Prevention of Corruption Act and the Indian Penal Code for prosecution on a charge of corruption. What is really necessary in our opinion is to provide a quick and effective remedy to the tax payer when he is unduly harassed and to the department where an un-called for favour is bestowed upon an assessee for consideration.

10.43. We, therefore, recommend that a provision be made in the statute itself authorising the Commissioner to take deterrent action against an officer who is found guilty either of false and vexatious assessment or of taking any action vindictively against a dealer ; or knowingly or wilfully undercharging or assessing any person at any lower amount. On receiving a complaint from the assessee or a report from the higher appellate or administrative authorities, the Commissioner should be empowered to take action against the person concerned after giving him an opportunity of being heard. If such a provision is made and the contents thereof are brought to the notice of the assessee by printing in bold type in the Sales Tax return itself in our view the purpose of the provisions now contained in the United Kingdom Act or in the Central Excise Act or the Customs Act would be served.

11. FINANCIAL IMPLICATIONS

11.1. It would be seen that in our report we have proposed a flat rate of tax of 4 per cent on all identifiable raw materials and intermediate goods. We have also recommended a tax of 4 per cent instead of the present rate of 3 per cent on the purchase price of goods used in the manufacture by the manufacturers. In rationalising the rates we have suggested increase in rates in regard to a number of commodities. We have tried to work out the cumulative effect of our proposals on the revenue yield. Unfortunately we do not have up-to-date commoditywise statistical data relating to taxable sales and we have to depend upon the figures available for the year 1968-69. We have estimated the tax yield at the current rates of tax on the taxable turnover available for 1968-69. Similarly the tax yield was estimated on the same turnover at the proposed rates. That showed an increase of Rs. 6.37 crores on account of proposed tax rates. In order to take into account the price rise and consequent rise in taxable turnover the ratio of the latest estimates of actual receipts of 1975-76 (Rs. 247.3 crores) and the above estimate of tax yield as obtained by applying current rates to the taxable turnover of 1968-69 was worked out. By applying this ratio to the above increase of Rs. 6.37 crores, we get the probable increase in tax yield by virtue of our proposals, which comes to about Rs. 17 crores. This does not include the additional revenue, which will be received if our suggestion to levy a sales tax at the rate of 2 per cent on certain items currently exempt is accepted.

11.2. As against this additional yield of revenue, some expenditure would have to be incurred for implementing our recommendations in regard to establishment. On working out roughly the staff at various levels, it is seen that the following additional posts would be required over the present sanctioned strength. It may however be made clear that these figures are worked out on the basis of statistical data relating to distribution of the dealers in different turnover slabs for the year 1968-69 and the actual requirements will have to be worked out after collecting the latest statistics. Therefore these estimates will have to be treated as broadly indicative.

Deputy Commissioners	...	...	9
Assistant Commissioners	...	...	65
Sales Tax Officers Class I & II	...	...	205

11.3. By our proposal for abolition of the two tier system of verification and change over to officer oriented work at all levels, we have proposed creation of 321 Class II posts to be exclusively filled from the Sales Tax Inspectors. At present, every assessing officer has the assistance of about 4 inspectors and a complement of 3 clerks directly working under him. The cumulative effect of our proposal is that even though the number of posts of assessing officers have increased, there would be reduction of 789 posts of Sales Tax Inspectors.

11.4. It may be added that while proposing addition to the posts of senior clerks, we have reduced the posts of Sales Tax Inspectors (Adm.), who are now looking after the establishment matters. We have also proposed small establishment units of about 30 persons. In our view, this replacement would make the unit more efficient and in addition would create an intermediary post between the clerks and the inspectors offering opportunities for promotion to the clerks.

11.5. We have tried to work out the cost involved for the above pattern and it appears that the expenditure involved on the staffing pattern suggested may not appreciably exceed the sanctioned grant for the year 1976-77. It would thus be seen that without incurring appreciable increase in expenditure the implementation of our proposal would result in reducing existing stagnation at various levels.

Phased Programme of Implementation

11.6. We have already pointed out that as a result of our proposals regarding the scheme of tax and the rate structure there is likelihood of addition to the Government revenue yield to the extent of at least Rs. 17 crores per year. It would hence be very desirable for the Government to decide upon our proposals as early as possible and also to decide the date from which the new system of tax recommended by us should be implemented.

11.7. The proposals which would require amendments of the sales tax law should preferably be brought into effect from the beginning of a quarter of the financial year, say from the 1st October. Our suggestions regarding simplification of procedure can, however, be brought into effect even before the changes in the statute since these suggestions stand by themselves and are not linked to the system proposed. The changes suggested by the Organisation and Methods unit in handling the applications for registration in the registration branch fall in this category. We have also suggested that even if it involves additional expenditure the appellate and administrative charges should

be separated. This recommendation of the Committee can as well be implemented before taking a decision on the scheme suggested.

11.8. For the administrative changes which we are suggesting, especially the abolition of two tier verification at the Sales Tax Officer's level, it will be first necessary to find out the exact distribution of dealers in terms of turnover slabs. Our estimates, as we have already pointed out, are based on the statistical information collected for the year 1968-69 and it is necessary to have the latest estimates in this respect. In our view the process of collection of this information can be started immediately. With the help of the Organisation and Method unit and the computer unit it should be possible for the department to decide how best this information can be collected. While doing so, several other aspects like the total turnover, the tax liability, the main commodities dealt with, the accounting year opted for and the status of the dealer etc. can be simultaneously collected. It should be possible for the department to group dealers in a compact area, having different slabs of turnover, under individual officers. Further grouping in respect of difficult cases should also be possible with reference to the commodities dealt in by the dealers as well.

11.9. The accommodation requirements on account of expansion of staff will pose an immediate problem. Once the additional requirement at each district places are worked out, steps should be taken to find out suitable accommodation for the officers. We have suggested expansion of the Enforcement Branch. For quick decisions, we have recommended formation of a settlement machinery of which the Commissioner is one of the members. From that point of view it is necessary to have the Enforcement Branch situated in the vicinity of the main building. We would, therefore, recommend that the Government should expedite construction of the adjacent building near the present Vikrikar Bhavan in Bombay, which, we understand, is already administratively approved by Government. It would also be desirable in the interest of efficient administration to construct separate office premises at every district place for this evergrowing and major revenue yielding department. We would therefore propose that the Government should, after ascertaining the requirements of the accommodation, embark upon immediate construction of the offices. Similarly after working out the requirements of the additional furniture and stationery, the same should be indented and requisitioned well in time.

11.10. Steps can be taken to recruit the clerical staff and training should be started for clerks to be posted as senior clerks in advance so that by the time the new set-up of administration is set into motion suitable trained staff would be readily available. Similar training

programme can as well be started for training of Sales Tax Inspectors to be promoted as Class II Sales Tax Officers. In substance, therefore steps to start the training college will have to be taken quickly. Since 50 per cent of these posts are to be filled in by selection, the necessary preliminary steps can be initiated immediately.

M. R. YARDI,
Chairman.

V. R. PANDIT

V. K. TEMBE

D. T. LAKDAWALA

A. K. BHIMANI

V. B. HARIBHAKTI

*M. P. CHITALE

P. D. DALAL

R. V. PATEL

H. B. MUNSHI

S. RAMAMOORTHY

W. G. JOSHI

*S. D. KULKARNI

* Signed subject to separate Minutes of Dissent.

12. SUMMARY OF RECOMMENDATIONS

Sales Tax Information System

(1) The compilation of statistical information which was collected on a sample basis prior to 1968-69 may be conducted once in five years on the basis of quarterly returns to include information on total turnover, taxable turnover and taxes payable, classified according to rates of taxes, groups of dealers, types of dealers, geographical area etc. (para 4.10)

(2) A sample survey of commoditywise sales tax data should be undertaken every year on a continuing basis. (para 4.10)

(3) A survey of distributive trade may be conducted once in two years. (para 4.11)

(4) A statistical cell headed by an Officer of the status of a Joint Director from the Directorate of Economics and Statistics should be established in the Sales Tax Department and work directly under the Commissioner of Sales Tax. (para 4.12)

(5) The Commissioner of Sales Tax and the Director of Economics and Statistics should take steps to make the results of surveys available within a year or a year and half from the close of the reference period. (para 4.15)

The System of Sales Tax

(6) A system of levy of single point sales tax at the first stage of sale for all commodities is recommended. (para 5.12)

(7) The retail sales tax should be abolished. (para 5.14)

(8) Section 14 providing for levy of purchase tax in the case of contravention of recitals of the certificates issued against Authorization, Recognition and Permit should be retained. A suitable provision should be made to plug the possible loss of revenue resulting from contravention of the recitals of certificates issued under section 41. (para 5.15)

(9) The definition of "business" may be amended on the lines of the definition in the Tamil Nadu General Sales Tax Act, 1959. (para 5.16)

(10) The liability to pay tax when sales are effected by engaging the services of auctioneers should be placed on such auctioneers and once such liability is discharged by them, the principal may not be called upon to pay tax again. (para 5.17)

(11) The turnover limit for the manufacturer and importer should be raised to Rs. 20,000 in place of Rs. 10,000 and for other dealers from Rs. 30,000 to Rs. 50,000. The value of the taxable goods out of the goods imported or manufactured which at present stands at Rs. 2,500 should also be raised to Rs. 3,000. (para 5.21)

(12) A suitable provision be incorporated in the State Sales Tax Act to place the buyer of goods from a dealer liable to pay the State Sales Tax under section 4 on par with the buyer from a dealer registered under the State Sales Tax Act. (para 5.22)

(13) Raw materials, and intermediate goods, which are easily identifiable and essentially used as industrial inputs should be subjected to a tax of 4 per cent. (para 5.23)

(14) The residuary items which are not included in any of the schedules, be subjected to tax at the rate of 4 per cent. (para 5.23)

(15) When a manufacturer uses the purchases effected against recognition at the concessional rate of tax and transfers a portion of the manufactured goods to branches outside the State, he should be called upon to pay an additional tax of one per cent on such purchases utilised in the manufacture of the goods so transferred. (para 5.24)

(16) If a manufacturer proves that taking his overall local purchases made in the year of assessment that he has used the concessional form only to the extent of permissible sales, then no contravention should be presumed. (para 5.25)

(17) Necessary provisions should be made in the Bombay Sales Tax Act enabling the exporters to adjust the amount of set-off against the tax payable under the Central Sales Tax Act. (para 5.26)

The Rate Structure

(18) The device adopted in the present law for making the sales tax progressive by linking the rates of tax with the price at which the goods are sold offers scope for evasion of tax and so there may be no price-linked tax rates as far as possible. (para 6.2)

(19) It is essential to exempt from sales tax the articles which are the bare necessities of life and those consumed by the poorer section of society ; articles of perishable nature may also be exempt from sales tax in view of the administrative difficulties involved. (para 6.3)

(20) Sentiment, whether cultural, religious or otherwise, should not, as far as possible, be a deciding factor in granting exemption. (para 6.3)

(21) The exemptions for promoting Khadi and Village Industries may be continued. (para 6.5)

(22) The articles exempted from sales tax in view of the levy of additional excise duty under the Additional Duties of Excise (Goods of Special Importance) Act of 1957, may continue to be so exempt. (para 6.6)

(23) The Motor Spirit Taxation Act need not be retained as a separate enactment and may be merged in the Sales Tax Act itself. (para 6.7)

(24) 16 specified entries may be deleted from Schedule A and transferred to Schedule C with a low rate of tax of 2 per cent. (para 6.8)

(25) The exemption or concession granted by the executive should be brought to the notice of the Legislature by placing the relevant notifications on its table. (para 6.9)

(26) The exemptions granted in exercise of the power under section 41 should be re-examined and reduced to the minimum. (para 6.10)

(27) Since the rate of inter-State sales tax has now been increased to 4 per cent, it would be reasonable to levy a tax of 4 per cent on the purchases of what are essentially industrial inputs by the manufacturers and give a set-off to the manufacturers of taxes paid in excess of 4 per cent on inputs on which the tax rate is higher than 4 per cent. (para 6.15)

(28) Rates higher than 12 per cent on luxury articles can be self-defeating and should be avoided as far as possible, unless these are strong non-economic considerations of State policy. (para 6.18)

(29) Articles which contribute to the comforts of life (which are neither articles of necessity nor of luxury and fall in between) can be taxed at two rates 6 and 8 per cent. (para. 6.19)

(30) Ganja, bhang and opium may be taxed along with country liquor and Indian made foreign liquor at 12 per cent. (para 6.23)

(31) Considering the grounds of State policy, the present rates of tax on liquor be retained. (para 6.23)

(32) The resultant loss of revenue by merger of the Bombay Sales of Motor Spirit Taxation Act, 1958 and the Bombay Sales Tax Act, 1959 may be recouped by increase in the present rates of tax as proposed. (para 6.25)

Assessments and Appeals

(33) The services of Sales Tax Inspectors should not be utilised for verification of returns of dealers. The services could be utilised for cross checks, field work and purely arithmetical work connected with figure work in respect of the more important assessments. (para 7.5)

(34) The assessment of dealers having turnover upto Rs. 3 lakhs should be entrusted to Sales Tax Officers, Class II for assessment. The cases of dealers whose turnover is between Rs. 3 lakhs and 1 crore should be dealt with by Sales Tax Officers, who, in view of the importance of the work entrusted to them, should belong to Class I cadre. Cases above Rs. 1 crore should be assessed only by Assistant Commissioners. (para 7.7)

(35) A time limit should be prescribed for completing the assessment. This time limit should be of three years from the end of the year of assessment. (para 7.8)

(36) There should be a provision for cancellation of an *ex parte* order as provided under section 146 of the Income Tax Act. (para 7.9)

(37) A lump sum amount may be accepted by way of composition of tax liability from small restaurants, eating houses, bakery dealers, farsan shops and power-loom dealers. (para 7.12)

(38) The administrative control over the appellate authorities should continue to remain with the Commissioner of Sales Tax. However, there should be a statutory restriction on the Commissioner with regard to the issue of instructions to the appellate authorities. (para 7.19)

(39) The evaluation of judicial work of the Appellate Officers should be done by the Sales Tax Tribunal. (para 7.20)

(40) The appellate work should not be combined with the administrative work. (para 7.20)

(41) The assessee should be provided with the facility of approaching the Commissioner directly in revision in exceptional cases. (para 7.22)

(42) A provision should be made empowering the Commissioner to take up suitable follow-up action within two years from the date when an appellate or revisional authority decides whether a sale is a local or an inter-State sale. (para. 7.23)

(43) The optional facility for filing a second appeal to the Commissioner is not necessary. (para 7.24)

(44) Deputy Commissioner of Sales Tax once appointed as a Member of the Sales Tax Tribunal should not revert to the department. (para 7.25)

(45) The President of the Sales Tax Tribunal should be appointed in consultation with the chief Justice of the High Court. The other members of the Tribunal should be appointed on the recommendation of a Board consisting of a Judge of the High Court, the President of the Tribunal and the Secretary to Government in Law and Judiciary Department. (para. 7.26)

(46) Provision should be made to enable filing reference application against an order of rectification passed by the Tribunal and for extension of the period of limitation in respect of reference application. (para 7.27)

(47) The decision of the Tribunal in one case should not entitle the assessee in all other cases to a right of rectification. (para 7.28)

(48) Government should take all the necessary steps of completing the preliminaries in respect of the reference applications sent by the Tribunal so as to enable the High Court to dispose of the heavy backlog of references and writ petitions. (para 7.29)

Procedures

(49) The procedure of granting the registration certificate should be simplified. (para 8.4)

(50) The contents of the 'Statement of Application' should be incorporated in the application form itself. (para 8.5)

(51) Applicants should be required to supply specimen signature of the proprietor, partner or director etc. who would be signing the declarations and the vouchers issued in respect of sales to other registered dealers before grant of such certificate. (para 8.5)

(52) It is necessary to keep copies of photographs of all the partners on record if the desired purpose is to be served. (para 8.6)

(53) The authorisation, recognition and the permit should be continued. (para 8.7)

(54) The provision for granting exemption at two stages before export should continue unchanged. (para 8.10)

(55) The liability to pay tax on purchases at concessional rate of 4 per cent where the basic tax rate is more than 4 per cent, should be shifted to the manufacturers themselves. (para 8.11)

(56) The present provisions should be amended to require the dealers to keep a true account of the sales or purchases of the goods effected

by him in the course of business together with particulars thereof including receipts and payments in respect of such business. (para 8.12)

(57) The possibility of enabling Sales Tax payments to be made through Nationalised Banks may be explored. (para 8.14)

(58) A scheme for staggering of the payment of tax by dealers who are at present required to make monthly payments so that payments are made quarterly instead of monthly may be worked out. This may be implemented in a phased manner over a period of three years. (para. 8.16)

(59) Dealers having total turnover upto Rs. 3 lakhs in a year and whose yearly tax liability does not exceed Rs. 500 may be allowed to file annual returns with annual payment of tax. (para 8.18)

(60) Where the tax liability is not discharged in time, penal interest at the rate of 2 per cent per month should be payable automatically and that orders levying such penal interest should not be appealable. Powers of remission or reduction of penal interest should be reserved exclusively to the Commissioner and the Additional Commissioner for being exercised in exceptional circumstances penalty provision may be revised as proposed. (para. 8.22)

(61) The departmental authorities should be empowered to effect recovery of sales tax dues as arrears of Land Revenue under the Land Revenue Code on the lines of section 29 of Tamil Nadu General Sales Tax Act, 1959. (para. 8.24)

(62) Provision should be made to authorise the dealers to adjust the excess amount paid as per any return against the dues as per subsequent returns, subject to the restriction that such adjustments should be made in respect of the returns for the same assessment year. (para 8.25)

(63) The rate of interest on delayed refunds may be raised to 12 per cent per annum and brought on par with the provisions of Income Tax Act. (para 8.26)

(64) Refund should be granted pending the decision of the High Court on the Reference Application ; but where the department has reason to feel that the refund amount may not be recovered, in case the High Court decides in favour of revenue, it may ask for a suitable bank guarantee or any other security for that purpose. (para 8.27)

(65) All cases of dealers having turnover of above Rs. 5 lakhs should be audited as a rule in the interest of revenue. (para. 8.29)

(66) No dealer should be subject to more than one audit for the same year. (para 8.30)

(67) A separate audit section should be created in the department under a Dy. Commissioner (Audit) to carry out a detailed audit of all the dealers with a turnover of Rs. 1 crore and above and to enable the Commissioner to issue guidelines to the auditing officers of the department. (para. 8.31)

(68) For the following offences minimum punishment of one year's rigorous imprisonment should be prescribed:—

(i) Knowingly issuing to any person or producing before the Commissioner false bills, cash memo, voucher, declaration certificate or other document for any purpose referred to in sub-section (2A) of section 36 of the present Act.

(ii) Failing to keep a true account of the value of the goods bought or sold by him as required by section 48.

(iii) Knowingly producing inaccurate account registers, or documents or knowingly furnishing incorrect information.

(iv) Knowingly furnishing a false return. (para 8.33)

Evasion and Enforcement

(69) In order to check avoidance of tax by billing an intermediary concern at an unreasonably low price, a provision on the basis of sub-section (2) of section 52 of the Income Tax Act, 1961 should be introduced. (para. 9.8)

(70) Establishment of check posts or barriers on road permit system in this State is not recommended. (para 9.23)

(71) A separate market intelligence cell adequately manned should be created. (para 9.25)

(72) A separate police wing should be attached to the Enforcement Branch in Bombay. (para 9.26)

(73) In order to curb the practice of suppressing the goods brought by rail or road from regular accounts of the dealers, it is necessary that the requisite staff and powers should be given to officers of the Enforcement Branch. (para. 9.27)

(74) Necessary staff may be provided to follow up imports through the Bombay port. (para 9.28)

(75) It is essential in the interest of Revenue to licence godown-keepers and transport companies and to compel them to keep adequate records and to produce such records when called for. (para. 9.29)

(76) It is necessary to have periodical survey in the City of Bombay and all important trade centres in the State. (para 9.30)

(77) Strict vigilance should be kept on the filing of returns, payment of tax and finalising of assessments of defaulters in good time. (para 9.31)

(78) The Government should sanction an adequate fleet of vehicles for the Department having regard to need for speed and cover age. (para 9.32)

(79) A settlement machinery should be created in the Act to settle the dues in suitable cases. (para. 9.33)

(80) To get the best out of the officers it is necessary to prescribe rewards to officials in suitable cases. (para 9.34)

Organisation and Personnel

(81) The jurisdictional charges for each assessing officer should be small and territorially compact (para 10.5)

(82) Cases of dealers having turnover below Rs. 3 lacs per year should be allotted to Sales Tax Officers who should assess the dealers without the aid of Sales Tax Inspectors. It would be desirable for the assessing officers to visit the places of business to satisfy themselves of the bonafides of the dealers. (para 10.9)

(83) Since these assessments would be simple, they should be entrusted to Sales Tax Officers (Class II). This cadre should be filled in exclusively from amongst the Sales Tax Inspectors. (para 10.8)

(84) The posts of the Sales Tax Officers (Class I) be created to handle cases of the dealers having turnovers between 3 lakhs and 50 lakhs. Class I scale for these officers is recommended. (para 10.9)

(85) The cases of dealers having turnover between Rs. 50 lakhs to 1 crore should, in view of the more complicated nature of these cases and their revenue yield, be handled by senior officers from the Class I cadre. It would be proper, before appointing Sales Tax Officers to handle these cases, to give them an opportunity to work in the Enforcement Branch and the Legal Branch and to give training through refresher courses. (para 10.10)

(86) The work of assessing the cases of dealers having turnover over rupees 1 crore should be entrusted to Assistant Commissioners. (para 10.11)

(87) Assistance of one inspector should be given to each Sales Tax Officer (Class I) and that of two inspectors to each assessing Assistant Commissioners, but in no circumstances should they be utilised for the purpose of verification of returns. (para 10.12)

(88) The assessing officers should complete the assessment of the dealers in their charges within 12 months. (para 10.13)

(89) One Assistant Commissioner (Administrative) should be appointed for 10 to 12 Sales Tax Officers. He should audit all cases of dealers having turnover above Rs. 5 lakhs himself personally. (para 10.14)

(90) It may be reasonable to prescribe a target of 45 appeals a month in respect of assessment orders passed by the officers of the Enforcement branch and of 80 appeals per month in other cases. (para 10.17)

(91) It will be necessary to continue the post of Deputy Commissioner of Sales Tax (Appeals) in Bombay. In consonance with the principles of total segregation of the appeal work from the administrative work, it is recommended that the Deputy Commissioner (Appeal) in Bombay should have jurisdiction over Central and Eastern Divisions as well. (para 10.18)

(92) There should be one Deputy Commissioner (Administrative) for every 6 Assistant Commissioners. (para 10.19)

(93) The work of preparation of briefs may be continued to be entrusted to the Sales Tax Officers as at present. Appearance in simple cases like second appeals against summary rejections, dismissals for non-appearance and cases involving issues which are more or less settled may also continue to be by Sales Tax Officers. In other matters it is necessary that the Department is represented by Assistant Commissioners. A unit of two Assistant Commissioners and three Sales Tax Officers per Bench is recommended. (para 10.20)

(94) A separate legal cell should also be continued in the Legal Branch with one Assistant Commissioner and two Sales Tax Officers to do the work of preparing reference applications and keeping an up-to-date Index. The present section attached to the Commissioner's Office for the work relating to matters pending with High Court and Supreme Court should be placed under this Assistant Commissioner. (para 10.20)

(95) Considering the arduous duties involved, the officers in Legal Branch should be given a special pay of Rs. 100 per month. (para 10.20)

(96) The statistical cell should be manned by taking officers on deputation from the Directorate of Statistics and Economics and these posts should be declared as addition to the corresponding cadres of the Directorate. (para 10-21)

(97) We propose the creation of additional staff of six Assistant Commissioners and 44 Sales Tax Officers and one Police Prosecutor with Enforcement Branch at Bombay. The Branch will have to be divided in two Divisions headed by two Deputy Commissioners. (para 10.23)

(98) We recommend upgradation of the posts of Personal Assistants to the Commissioner to the rank of Assistant Commissioner. (para 10.24)

(99) The Establishment unit and ancillary staff in the office of the Sales Tax Officer may consist of about 30 persons with a Senior clerk to look after the work. (para 10-26)

(100) An adequate number of clerks with shorthand allowance should be provided to Sales Tax Officers. (para. 10.28)

(101) Sales Tax Officers and Assistant Commissioners should be routed through different Branches of the Department before promotion. (para 10.31)

(102) It is considered essential for the Department to have its own full-fledged residential Training College for providing through training to the new entrants at all levels and also inservice training through refresher courses. (para 10.34)

(103) Computerisation may be introduced for various aspects of the Department's work. (para 10.39)

(104) Commissioner should set up *ad hoc* O. & M. groups from time to time to ascertain the areas in which procedural simplification could be brought about. (para 40)

(105) The Public Relations Officer should be of the rank of Assistant Commissioner of Sales Tax. (para 10.41)

(106) A provision be made in the statute itself authorising the Commissioner to take deterrent action against an officer who is found guilty either of false or vexatious assessment or of taking action vindictively against a dealer. (para 10.43)

Financial Implications

(107) Our proposals should preferably be brought into effect from the beginning of a quarter of the Financial Year. (para 11.7)

(108) Suggestions regarding simplifications of procedure can be brought into effect immediately along with separation of administrative and appellate posts. (para 11.7)

(109) Process of collection of information relating to dealers with reference to turnover slabs, tax liability etc. can be started immediately. (para 11.8)

(110) As a preliminary to reorganising assessment work with a view to ensure that the assessment of the larger cases is done by senior officers, information concerning the exact distribution of dealers in terms of turnover slabs may be collected immediately. Simultaneously other relevant information such as total turnover, the tax liability, the main commodities dealt in, the year opted and status of the dealer can also be collected. (para 11.9)

13. MINUTES OF DISSENT

NOTE OF DISSENT

By Shri M. P. Chitale

1. For tackling the problem of bogus or havala dealers a suggestion was made that in respect of transactions with such dealers, the tax remaining unpaid should be recovered from the concerned purchasing dealers. A majority of my colleagues, for reasons stated in paras 9.18 to 9.21 of the Report, do not agree with this suggestion. Even after taking these reasons into account I consider that the suggestion is of special relevance and merits a place in Sales Tax Law. It is necessary, therefore, to set out the suggestion as also my approach, and deal in detail with the reasons adduced in paras 9-18 to 9-21 of the Report.

2. For various reasons, introduction of a dummy or havala dealer becomes inevitable. Whenever a sale, if made in a normal manner, would involve an infraction of any law or regulation such a sale is often made through a havala dealer or in a fictitious name. It is not easy to spot such transactions; and even if the transactions are identified, it becomes impossible for the department to collect the tax from the selling havala dealer as he is usually a man of straw.

3. Section 63(*ga*) of the Bombay Sales Tax Act does provide for punishment in the nature of a simple imprisonment in cases where a false bill or voucher is issued or produced. However, as stated by the Deputy Commissioner of Sales Tax (Enforcement Branch) "under the present Sales Tax Act and Penal Law, it is very difficult and time consuming process to bring the culprit to book after proving the case before courts". Moreover, the Sales Tax Department is primarily concerned with collecting the tax and it is, therefore, necessary to consider whether the tax relating to such havala transactions can be collected in any other suitable manner.

4. It is obvious from the very nature of circumstances leading to a havala transaction that goods are purchased from a person (havala dealer) who just appears on the scene, almost all of a sudden, in the sense that regular supplies of such goods are normally obtained by the

purchasing dealer from other sources, recognised and sufficiently long established merchants dealing in the concerned commodity. That the normal sources of supply for the purchasing dealer do not include the havala dealer would be evident from the books of the purchaser. Very often, therefore, there is an element of connivance or collusion in the havala transactions.

5. Under a system of first stage single point Sales Tax recommended by our Committee, transactions with an importer or manufacturer are alone subject to tax and a registered dealer purchasing goods for the purposes of business is expected to exercise ordinary care while dealing with an altogether new supplier.

6. A view was expressed that if manufacturers were obliged to use Form 15 while making all of their purchases of taxable commodities, liability for payment of tax on such purchases could be shifted on to the manufacturers. Unlike traders, who can manage to be temporary fly-by-night operators, manufacturers will have more permanent establishment and if responsibility for payment of tax is placed on manufacturers, loss of tax revenue arising on account of havala dealers could be minimised.

7. In this connection, it needs to be kept in mind that not all manufacturers are required to make purchases from havala dealers. Even where purchases are made from havala dealers, the number of such transactions is very few compared to the total number of transactions of the purchasing dealer. To deal with such few transactions it is not proper, in my opinion, to place all the manufacturers under a burden to fill in and use Form 15 for making all of their purchases of taxable commodities.

8. In this perspective, I consider that the problem of havala dealers can be dealt with in the following manner :—

(a) Sales Tax is a levy incidental to a sale transaction. As a sale arises from contract between two parties, both the parties, the purchaser and the seller can be held responsible for the payment of Sales Tax, in almost the same manner as they would be for the purpose of paying stamp duty, if any. In the Sales Tax Act, it may be specifically stated that the responsibility to pay Sales Tax is primarily that of the seller. But, if the selling dealer fails to pay the tax, the Commissioner shall, after obtaining previous approval of the Board, have a right to recover the tax from the purchasing dealer under certain circumstances specified in the Rules.

(b) The Board from which approval is to be obtained by the Commissioner shall consist of a Chairman and two other Members.

The Chairman shall be a person with suitable judicial experience. Of the two remaining Members, one shall be a President of a recognised Chamber of Commerce and the other shall be the Secretary, Finance Department.

(c) This right of the Commissioner to recover tax from the purchasing dealer is expected to be exercised not in all cases where tax remains to be paid by the selling dealer. This is a special right to be exercised in extraordinary cases where the circumstances surrounding the transaction of purchase and sale indicate that it partakes of the character of havala transaction. For illustration, as regards the purchasing dealer there would be evidence that his normal sources of supply prior to his dealings with the havala dealer and even in subsequent period were not from the havala dealer but from other parties. Perhaps, the credit facilities normally available were not applicable to these transactions. In the case of selling dealer there would be evidence that his sales turnover during the relevant period was exceptionally large in relation to his normal level of turnover, and that frequency and volume of his bank deposits and withdrawals is far too excessive. It is only in these types of cases as will be more particularly prescribed in the Rules that the Commissioner may be empowered to recover tax from the purchasing dealer.

(d) Sales Tax incidental to purchase and sale transactions taking place in the normal course of business is not intended to be recovered from the purchasing dealer. It should, therefore, be further provided that where the selling dealer was a known and recognised firm of reasonably good standing dealing in the concerned commodities and/or the purchasing dealer was over a long period habitually making his purchases from the particular selling dealer, the Commissioner cannot invoke this special power of recovery.

(e) Under the law, the primary responsibility for payment of Sales Tax will lie on the selling dealer. Normally, it will be difficult for the purchasing dealer to ascertain and ensure that the tax has been paid by the selling dealer. Nevertheless, under the circumstances explained above, the Commissioner will have a right to recover the tax from the purchasing dealer. This will result in double taxation for the purchasing dealer. It would, therefore, be appropriate to provide a measure of protection to the purchasing dealer. This may be done by specifically providing in the law that a purchasing dealer shall have a right to pay the selling dealer such part of the consideration for sale as consists of the sales tax applicable to the sale by means of a cross and order cheque drawn in favour of "Commissioner of Sales Tax (A/c xyz Registered Dealer, No.)".

(f) Such a cheque tendered to the selling dealer will be deemed to be a sufficient satisfaction of the consideration for sale to the extent of the sum for which the cheque is drawn. If the purchasing dealer finds that the cheque has remained uncleared for a period of one month from the date of tendering the cheque, the purchasing dealer shall be entitled to cancel the cheque and make payment directly to the Commissioner under advice to the selling dealer.

(g) A protection of this kind to the purchasing dealer will help remove any bonafide grounds of complaint he may entertain about the vicarious liability for payment of tax cast on him under the circumstances specified above. The Commissioner will be enabled to exercise this special right of recovering the tax from the purchasing dealer where the selling havala dealer fails to pay the tax.

(h) If the provisions suggested above are made in the Law, in actual practice the dealers who are obliged to make purchases from havala dealers are not likely to give a cheque drawn in favour of "Commissioner of Sales Tax". Dealers would arrange to make such purchases from unregistered dealers and themselves pay the tax thereon directly to Government. Otherwise, they may as well prefer to pay tax when the Commissioner requires them to do so under his special power of recovery and consider this payment as extra price paid for the scarce goods obtained from havala dealers.

9. In my opinion, if the special power of recovery as suggested is provided for in the Law, the problem of havala dealers can be met with effectively. Also, there would then be no need to retain the use of Form 15 for minimising the scope for havala dealers. Even otherwise, Form 15 can be used by the manufacturers while making purchases from only first-stage dealers, importers or manufacturers. Ordinarily, small scale industries and industries located in the backward areas may not be able to make purchases directly from the first-stage dealers. Whereas big industries can make tax-free purchases directly from the first-stage dealers, manufacturers making their purchases from dealers at a second or subsequent stage of sale, will have to pay tax to the selling dealers while making purchases from them, and will have no scope for making tax-free purchases. In my opinion, retention of Form 15 will then appear as a prerogative available to a few favourably placed manufacturers and affect a little adversely the competitive position of manufacturers who have to make their purchases in large measure from dealers other than a first-stage dealer. This distortion should be avoided by deleting Form 15 altogether. If use of forms is eliminated except for sales made for

the purpose of export, administration of single point sales tax at the first stage will be considerably simplified.

10. Let me deal now with the reasons stated in paras. 9.18 to 9.21 of the Report, which are supposed to militate against acceptance of the suggestion explained above. For convenience of discussion, I have grouped these reasons in a suitable order.

It is stated :

10.1. (i) The point of imposition of tax has to be definite and cannot be kept uncertain. Besides, it is doubtful whether fixing tax liability on both the vendor and buyer will be legally feasible. The vendor and buyer amongst themselves cannot be permitted to determine the liability to tax.

(ii) It is also doubtful whether in law both the vendor and the buyer can be made responsible for payment of tax in respect of the same transaction.

Under a single point sales tax at the first stage of sale responsibility for the payment of sales tax is unambiguously placed on the selling dealer. While this is the general rule, exceptions are recognised even now. When sales are made to a manufacturer under Form 15, it is not the selling dealer who pays tax to Government, but the purchasing manufacturer. Liability of the manufacturer is not regarded as uncertain just because he happens to be a purchasing dealer. Similarly, where a person primarily responsible for the payment of tax fails to make payment, in order to safeguard against loss of revenue the revenue authorities are empowered to recover the tax from the other party connected with the transaction. In contingencies specified in the statute the State is endowed with a right to recover the tax from either party to the transaction. That this is now a settled law can be illustrated by reference to various fiscal statutes.

Under the Income-tax Act, tax is deductible at source while making payment of salaries. This tax deducted by the employer is considered to be income received by the employee. But it is only where the deducted tax is paid to the Central Government that it is treated as payment of tax on behalf of the employee. If the employer fails to pay the deducted tax, the employee is required to pay tax on his salary income.

Where any property is gifted by an individual to his wife or minor child, and income from such gifted property is assessed in the hands of the donor individual, apart from the individual, his wife and minor child also remain liable to pay the tax attributable to income from gifted property.

Under the Gift-tax Act, gift-tax is payable by the donor. But when the tax cannot be recovered from the donor, it may be recovered from the donee.

Similar provision is contained in the Wealth-tax Act, where both the transferee and the transferer remain liable for payment of wealth-tax under specified circumstances. It can thus be observed that dual responsibility for payment of tax is not a feature unknown to fiscal statutes.

- 10.2. (iii) Normally, the buyer cannot be expected to choose a few cases in which to issue two cheques for a single invoice, as it will tantamount to an admission of the fictitious nature of the transaction, which admission will be fatal for him in proceedings before the authorities dealing with laws other than sales tax. Moreover, a vendor is also not likely to accept this position which may lead to endless disputes resulting in bickerings and mutual distrust.

Transaction which appears to be made with havala dealer cannot be regarded as a normal transaction and conformity with normal rules of behaviour need not be expected. It has been clearly stated above in para 8 (d) of this Note that where the purchasing dealer was habitually over a long period making his purchases from the particular selling dealer, the Commissioner cannot invoke this special power of recovery. Where supplies are being obtained not from a regular dealer but from a new party the purchasing dealer is expected to exercise normal caution. If supplies are obtained from a new party (havala dealer) because the goods are not otherwise available, the purchasing dealer may remain helpless and buy the goods regardless of whether or not the selling dealer pays the tax. In the event, if purchasing dealer is later on called to pay the tax, it has to be regarded as extra price paid for the goods in short supply. In such cases as explained in para 8 (h), dealers would arrange to make purchases from unregistered dealer and themselves pay the tax thereon directly to Government.

However, where supplies are obtained from a new dealer as a measure of business policy, it would be prudent for the purchasing dealer to pay the new selling dealer a portion of the purchase price representing the tax element by a cheque drawn in favour of "Commissioner of Sales Tax". If the selling dealer is a bonafide trader in the market, he need not hesitate to accept such cheque, as that would help not only in augmenting his turnover by cultivating a new customer, but by reinforcing his trustworthiness and bonafides. The very refusal to accept such a cheque would support an inference that the selling

dealer is likely to be a havala dealer. In all bonafide transactions, particularly in the course of dealings with new parties, availability of a right to pay the relevant tax by a separate cheque to the purchasing dealer would provide a measure of protection to the unwary purchasing dealer.

- 10.3. (iv) Any provision in the Sales Tax law giving power to a purchaser to direct the seller to deal with a portion of the purchase price in a particular manner may be open to challenge on the question of competence of the State Legislature.
- (v) Once an agreement in respect of the entire sales price including the sales tax is reached between the buyer and the seller, the liability for sales tax should logically follow. Such a liability could not possibly be altered by providing that a portion of the purchase price should be paid in a particular manner.

As explained above in para. 10.1, law has been sufficiently developed to deal with the possibilities of avoidance and evasion of tax. Requirement to pay a portion of the consideration separately and in a different manner is familiar to fiscal statutes. Under the Income-tax Act, an employer is required to pay a portion of salary payable to employee by way of tax deducted at source and paid in a particular manner. So also, in case of payment to contractors or sub-contractors or payment of interest or dividend, a portion of the payment is required under the Act to be made separately and in the specified manner. In my opinion, there is no legal hindrance in providing for a right to the purchasing dealer to pay a portion of the purchase price in a manner specified in the suggestion.

- 10.4. (vi) There are examples where havala dealers have also genuine business, and in such cases the difficulty will still remain.
- (vii) If the purchaser is made liable to pay sales tax in certain circumstances, even genuine buyers may have to discharge the liability vicariously of some unscrupulous vendors who may contrive to make it appear as if they merely made havala sales. The suggestion leaves the buyers at the mercy of the vendors who have merely to say that their sales are havala sales.

In formulating the suggestion, adequate care has been taken to safeguard genuine business transactions. Firstly, purchases from a regular source of supply are treated as genuine transactions and saved from

the special power of recovery. If a seller, considered later as a havala dealer, happened to be a regular source of supply, such genuine business is specifically saved. Secondly, a right to protect himself from the possibility of a new party turning out to be a havala dealer is purposefully provided to the purchasing dealer. Thirdly, if at the time when purchases were made, the selling dealer was a known and recognised firm of reasonably good standing dealing in the concerned commodities the Commissioner is forbidden to proceed against the purchasing dealer. Fourthly, in order to ensure that genuine business transactions are not affected by any arbitrary use of this power by the Commissioner, the power itself can be used only after prior approval by the Board, consisting particularly of a President of a Chamber of Commerce and a judicial member.

10.5. (viii) Under the jurisprudence of taxing statutes, the burden of proving an exemption or deduction is on the claimant-dealer. If, in the opinion of the Commissioner of Sales Tax, the claimant has not proved the resale claim to his satisfaction, it is open to the Commissioner to disallow the claim and levy tax on the full sale price of the claimant-dealer.

(ix) Even under the law as it stands at present the Commissioner of Sales Tax has wide powers to deal with the buyers if in his opinion the sales made by the vendors are bogus. He can deal with each case as the circumstances warrant.

(x) The right course will be to tighten the enforcement machinery to tackle such persons by applying the provisions of law stiffly both against sellers and buyers.

That the problem of havala dealers can be dealt with by gearing up of the enforcement machinery and using the powers at present available more effectively is not supported by the past experience and track record of the Department. In the course of evidence before our Committee, experienced departmental officers have gone to the length of suggesting a new practice of the department itself printing and issuing serially numbered requisite Forms to the relevant purchasing dealers. Ex-Commissioner of Sales Tax was exercised with an idea of identifying and distinguishing selected selling dealers as the only dealers from whom purchases of taxable goods without payment of tax could be made. Significantly, the Deputy Commissioner of Sales Tax (Enforcement Branch) is reported (*Times of India*, April 9, 1976) to say "Havala transactions are known to be taking place on a sizeable scale. But under the present Sales Tax Act and penal law, it is very difficult and

time consuming process to bring the culprits to book after proving the case before courts.”

The more relevant issue is how to recover the tax from the havala dealer, after he is traced and found to be a man of straw. Even, with the efficient use of wide powers the problem of recovering the tax remains unsolved. Further, assuming that the existing powers are adequate to recover the tax, the Commissioner will then be relieved of the duty to approach the Board and obtain its approval for exercising special power of recovery. It will thus result in the special power of recovery being resorted to only in rare instances. If this new special power of recovery were so potent to energise the department into vigorous action, that itself is sufficient justification for incorporating the suggested provision in the statute.

- 10.6. (xi) If, between the havala dealer and the buyer, another havala dealer is interposed, the suggested procedure will not work as there is no liability of the second havala vendor to pay the tax.

If by a mere interposing of another havala dealer a sales tax system can be set at naught, it is desirable to review more seriously the supporting framework available for administration of the Act. Let me go back to the first principles. Under a single point sales tax at the first stage of sale, the tax is payable where the goods are firstly sold by a registered dealer in the State. On resale of such goods, which have borne tax at the first stage of sale, no further tax is paid by the resellers. From the point of view of the administration, sale of taxable goods is exempted from payment of tax provided such goods are subjected to the State sales tax at an earlier stage of the sale of those goods. As the manufacturers and importers of goods from outside the State cannot satisfy this condition their sales become liable to tax. In the case of reseller, they are required to satisfy that the goods sold by them are purchased from the registered dealers. If these registered dealers happen to be the first stage dealers, it will be evident from the purchase invoice itself that the tax is charged by the selling registered dealer. It is taken for granted that the tax charged will have been paid by the selling registered dealer as laid down in the law. It will be obvious that the administration is concerned here in satisfying itself with two aspects. One, that the goods are purchased from a registered dealer and, another, that the tax on these goods is paid by that registered dealer.

10.6.1. If the resaler happens to purchase goods not from a first-stage dealer, but from a registered dealer who is himself a reseller

selling goods at the second or subsequent stage of sale, the problem before the administration becomes more difficult. Purchase invoice will not indicate that the tax has been charged. It will only support an inference that the goods have been purchased from a registered dealer. Whether or not this selling registered dealer was himself required to pay the tax on his purchases, and if any tax is payable he has so paid it, will remain unknown to the concerned purchasing dealer. He can only furnish purchase invoices indicating that the purchases are made from a registered dealer.

10.6.2. How could the department reasonably satisfy itself before exempting the sales of taxable goods made by a dealer on the grounds that (a) purchases of all such goods by the selling dealer have been made from another registered dealer, and (b) that these goods have borne tax at the earlier stage of sale ?

10.6.3. The first aspect can be examined by inspecting each and every purchase invoice of the selling dealer. But the test of examining hundreds of purchase invoices of more than a lakh of dealers is so voluminous that recourse to examination only on a sample basis becomes inescapable. An efficient sampling system calculated to cover as large a number of transactions as is possible remains crucial for effective administration. This is the rationale underlying the recommendation made in para 9.17 of the Report requiring every dealer to furnish every year a list showing the amounts of dealerwise purchases and sales in the aggregate during the previous financial year. By a process of matching or near matching of the purchase amount in the list with the sale amount in the list of the corresponding selling dealer, the department will be helped in spotting the unmatched purchases. The next step is to ascertain whether these unmatched purchases have borne tax in the hands of the selling dealer.

10.6.4. If this selling dealer was making a sale of the first stage it is easy to find whether or not he has paid the tax. If he has not paid the tax a further enquiry into the nature of his dealings is inevitable. If his customers are found to be obtaining their supplies from him not as a regular source of supply there is a strong presumption for considering the selling dealer as a havala dealer. The department can then further examine whether it is a fit case for exercise of the special power of recovering the tax from his customers.

10.6.5. If the selling dealer claims himself to be a reseller not selling the goods at the first stage, it would be necessary to examine his purchase list and correlate it with the list of corresponding selling dealers. If the corresponding selling dealer has not paid the tax and

the nature of his dealings reveal that he is a kind of havala dealer special steps for recovering the tax from his customers can be initiated. If his customer also is not in a position to pay the tax, a further enquiry into the customer's dealings becomes necessary. If the enquiry shows that the customer himself has the characteristics of a havala dealer and he is incapable to pay the tax even under special power of recovery, in respect of the default in payment of tax by this customer, being an interposed havala dealer, it will be open for the Commissioner to exercise special power of recovery against the customers of the interposing havala dealer. Amount recoverable under the special power of recovery is also a tax due from the purchasing dealer. And if this tax remains unpaid by the dealer, and the dealer is himself found to be an interposing havala dealer, machinery for special power of recovery can be set in motion against his customers. Interposing of another havala dealer would not thus be allowed to obstruct the tax system.

10.6.6. To round up this discussion about administrative procedure, it may be stated that unmatched purchases and default in payment of tax are the two crucial factors which require to be pursued unto the end by the tax administration.

10.7. (xii) "The various suggestions made by us for checking evasion are, in our opinion, adequate for this purpose."

The primary aim of tax administration is to collect proper tax revenue. Tracing and identifying evasion is only an intermediate step. After spotting the evasion, the relevant tax may remain to be collected and may be unrecoverable from the dealer. If this dealer is an havala dealer, special power of recovering the tax from his customers under the extraordinary circumstances has a useful and significant role to play.

11. In view of what has been stated in this Note, I recommend that the suggestion made above in para. 8 be implemented.

NOTE OF DISSENT

By **Shri S. D. Kulkarni**

I must at the out-set put on record my grateful thanks to the Members of the Committee and particularly the Chairman Shri M. R. Yardi, for the warm words of appreciation about me.

My Scheme (my Scheme of 'Simplified Sales Tax System' has been referred to as 'Scheme' in the questionnaire issued by the Committee) has two parts: (i) Structural, and (ii) Procedural. The Committee has found itself in agreement with some of the aspects in both these parts. However, the Committee's recommendations regarding the manner in which the statements of sales to and purchases from registered dealers are to be used as tools in curbing Havala transactions and the completion of small dealer's assessments in a simple manner are not, in my opinion, effective.

I set out below the salient features of my Scheme:—

A. Structural Part :

1. A single point sales tax at the first stage ;
2. Retail (turnover) sales tax at $\frac{1}{4}$ per cent on the subsequent stages ;
3. Avoidance of price-linked rates ;
4. Reduction in multiplicity of rates ;
5. A small exemption schedule ;
6. Abolition of declaration system as far as practicable ; and
7. The slab system for the hoteliers.

B. Procedural Part :

1. Dealerwise statements of totals of sales to and purchases from a registered dealer to be furnished by the registered dealers ;
2. Linking of these statements with the payments made by the registered dealers ; to enable the Department to put a curb on havala racketeers or issuance of bogus declarations ; and

3. Simplification of the assessment procedure in the process of verification of these statements (described as lists in the Scheme).

A. Structural Part

(The serial numbering of paras. is according to A and B above.)

- 1 & 4. The Committee has accepted my suggestions in this behalf.

2. The Committee has suggested abolition of retail sales tax as levied at present, but has left the field open for introduction of a levy of a turnover tax in lieu of octroi as recommended by the Wankhede Committee. Otherwise with the adoption of a single point levy at the first stage, the retail (turnover) sales tax at $\frac{1}{4}$ per cent at subsequent stages would yield a revenue between 12 to 15 crores a year. The arguments advanced by the Committee for the abolition of retail sales tax are not valid in the context of its recommendations. The yield of Rs. 1.80 crores, worked out by it, is on the basis of the present system, under which retail sales tax is levied on Schedule E goods only. Under the proposed single point system of tax, there being no such two point schedule, the yield is bound to be in the vicinity of Rs. 12 to 15 crores, even at a low rate of $\frac{1}{4}$ per cent. I have assumed here that there would not be such $\frac{1}{4}$ per cent tax on the turnover of goods included in the exempted schedule. Moreover the abolition of the retail sales tax has not served to reduce the inconvenience of the dealers in Gujarat. If, on the other hand, such a turnover tax is imposed, the small dealers' assessments will be much simpler.

3. *Avoidance of price-linked rates.*—Please see my observations under 5 (b) below. Otherwise, the Committee has also found that the price-linked rates cause evasion and create difficulty in administration.

5. (a) The Committee has opined that the necessities of life, such as cereals and pulses etc. and the perishable articles such as fruits and vegetables should be exempt from tax. I am in favour of a small first stage tax, say at 1 per cent on cereals and pulses (in most of the States in the Indian Union rate of tax on these items is more than 2 per cent). The burden of such a tax would not fall on village-level consumer. On the urban-based consumer too, its incidence would not be more than Rs. 3 per person, per annum. The Government would however add about Rs. 5.00 crores to its kitty and utilise it for amelioration of the rural masses.

5. (b) In the light of the observations made in the preceding para. the following articles may be removed from the exemption schedule and subjected to tax at 2 per cent:—

1. Bread etc.—present entry A-5.
2. Butter-milk, curds, lassi with the exclusion of chakka — A-17.
3. Cooked food — A-14.
4. Eggs — A-16.

When however, these are served in a hotel or restaurant they may be taxed on a slab basis as detailed below :

The Committee has proposed that cooked food when sold at a time for a price not exceeding Rs. 5 should be exempt. This exemption limit would apply to sales of farsan as well. This proposal does not remove the present ambiguity or controversy about the entry A-14. This leaves scope to the dealers to manipulate bills of Rs. 5.00 even when such sales would exceed this limit. This would in turn cause wrangling between the hoteliers and the farsan dealers on the one hand and the assessing officers on the other. To avoid this, all these items including sweets and sweetmeats when sold by a hotelier or a hand-made bakery dealer be exempt, if the turnover of such a dealer does not exceed Rs. 50,000 (as recommended by the Committee).

Otherwise, these dealers should be subjected to a flat rate of $\frac{1}{2}$ per cent when their turnovers exceed Rs. 50,000 but do not exceed Rs. 1 lac. For turnovers more than Rs. 1 lac, but not exceeding Rs. 5 lacs the tax rate should be 1 per cent, the first turnover upto Rs. 1 lac being assessed at $\frac{1}{2}$ per cent.

Such dealers when their turnovers exceed Rs. 5 lacs, should be subjected to a rate of 4 per cent on turnovers exceeding Rs. 5 lacs, to avoid complications of calculations of set-off. The proposed rate of 6 per cent with the exemption limit of Rs. 5 together with the complications of set-off, as recommended by the Committee, would give scope for manipulation and wrangling.

In hotels where the price of cooked food and non-alcoholic drinks served at one time per person exceeds Rs. 10 tax rate should be 12 per cent. The customers in such hotels are not so much money-conscious and the hotel management too, issue correct bills (Also see 7 below).

6. (a) *The use of Form 15 by the manufacturers.*—The Committee's proposal regarding the use of Form 15 by the manufacturers for making tax free purchases of items they require for use in the manufacture of

goods for sale opens new avenues for abuse of Form 15. Today, they have to pay 3 per cent. (the Committee has proposed to raise to 4 per cent) a concessional rate, if the item purchased carries a tax rate of more than 3 per cent, against a declaration in Form 15.

The Havala racketeers eat this 3 per cent tax today, and so to curb this tendency it is proposed that the manufacturers should purchase these items tax free against form 15 and pay purchase tax instead. Here it is assumed that the abuse of Form 15 would not be there to effect a tax free purchase in this manner. All that the seller has to do is to set up a dummy as a manufacturer, obtain a recognition certificate and issue Form 15, pocket the tax free concession and see that the dummy vanishes from the market when he is likely to be detected. This is the *modus operandi* of the dealers issuing bogus declarations today.

The Committee seems to recognise this, when it does not recommend the use of form 15 for purchases when the rate of tax is 4 per cent (on a tax free basis). But it recommends the use of Form 15 for higher tax rate purchases (on a tax free basis). Would it not act as a greater incentive to evade the whole of tax on purchases against Form 15 by setting up a dummy ?

Otherwise, as the Committee rightly points out, by its proposals Form 15 would be sparingly used. So the fear of the tax money being blocked for a longer period if facility is not given is misplaced. Even today, many dealers do not avail of the facility of Form 15 for one reason or the other. Again, the sample study made by the Committee of some 25 reputed manufacturers from A Ward of the Bombay City Division revealed that they had made purchases worth Rs. 15.96 crores in a year against Form 15 in the total of Rs. 44.43 crores. In other words for the balance of $(Rs. 44.43 - Rs. 15.96) = 28.47$ crores Form 15 was not used. These purchases were made after paying the tax. If this concession is withdrawn the tax money blocked would work out to Rs. 48 lacs (tax on Rs. 15.96 crores) a year. But as the facility of quarterly adjustment of tax thus paid against tax payable is available, the quarterly amount of tax thus blocked would work out to Rs. 4 lacs for 25 dealers or Rs. 16,000 per dealer per quarter. But the tax on their sales, they pay quarterly. It cannot, therefore, be said, that in effect the dealer's tax money is blocked at all. The Indian Merchants Chamber in its supplementary memorandum observes " Shri Kulkarni has now pointed out that there will be automatic set-off under which the manufacturer will be able to set off the tax he has paid on his purchases of raw materials, components and accessories against the tax payable by him on the sale of his

finished products and as such there is no ground for fear about blocking up of finance under his Scheme”.

My only comment on the INC's observation is that such automatic set-off is even now available if the manufacturer does not avail of the facility of Form 15.

If, therefore, Form 15 is also eliminated, we shall have only Form 14 which also, with the Committee's recommendation in this behalf, would be very sparingly used. The transactions against this form being very few, can easily be controlled. The Committee has accepted that sales on forms should be the minimum possible. With the elimination of Form 15 this objective can be fully achieved and the abuse of Form 15 would also be avoided. It has to be noted in this connection that a large body of small scale manufacturers who have no access to the primary sources of the commodities (i.e. first sellers in the State) required for use in the manufacture of goods for sale cannot make use of this form for their concessional rate purchases. They have necessarily to pay tax and to depend on set-off.

6. (b) *The use of Forms 14 and 14A by the Exporters.*—In para. 8.10 the Committee observes, “In the terms of reference, the Committee is required to review the need for continuance or otherwise of this concession. In answer to the question relating to this point, suggestions have been received to the effect that this concession of effecting purchases free of tax at two stages, viz. Forms 14 and 14A, should be restricted to one stage only in consonance with provisions of set-off. It is explained that the present provisions make it difficult to ascertain whether the goods have in fact been exported or sold interstate by the second authorised dealer”. Again, “the corresponding provision of set-off where the authorisation is not made use of, do not provide for such a concession at two stages in respect of grant of set-off of taxes paid”. In these circumstances the removal of the exemption of this facility at two stages would not only result in simplifying the procedure but it also would bring it in consonance with the set-off provision. The recommendation of the Committee goes counter even to the Committee's dictum, namely use of forms should be to the minimum. The argument that the second stage buyer has to block his funds in tax amount has no force, particularly in the light of the Committee's recommendation to allow all such dealers the facility of adjusting the tax paid on purchases against tax payable on inter-State sales. Moreover, if such a second stage buyer can afford to block funds in the purchase amount, well, he can afford to block the much smaller tax amount for a month or so, for he would ordinarily buy these goods when he has the export order in hand. The procedure does not run

counter to the Saraiya Committee's approval of the Maharashtra position. For, what that Committee wanted was the facility to two dealers in export business. This is available even under the new procedure suggested by me. The first buyer can purchase tax free for export on the strength of Form 14 and the second buyer gets the set off of tax paid on purchases. The advantages of this procedure are that the need of vigilance at two stages i.e. Forms 14 and 14A is obviated and the procedure of assessment is simplified without affecting the dealers' competitive superiority over the dealers in other States.

6. (c) *The use of these Forms (14 and 14A) for the inter-State sales.*—The facility of using these forms for the inter-State sales was provided because the inter-State sales were treated on par with the exports. Even with the levy of tax on inter-State sales since 1st July 1957 this facility was continued because the local tax paid on purchases was not allowed to be adjusted against Central Sales Tax payable on inter-State sales. Since the Committee has now recommended such adjustment, the need to allow such facility diminishes. The facility of using these forms for these sales may, therefore, be withdrawn. If this facility is continued all such dealers would continue to purchase on a tax-free basis, goods required in the inter-State sales and so the Committee's recommendation regarding adjustment of local tax paid on purchases against tax payable on inter-State sales, loses all significance. By making such a recommendation the Committee had intended to withdraw this facility in consonance with its views to reduce the use of forms for tax-free or concessional rate of purchases. But in the report, this intention has not been reflected.

7. I have suggested under 5(b) above, a tax rate of $\frac{1}{4}$ per cent for the hoteliers and hand made bakery dealers. The slab rates proposed by the Committee will act harshly on dealers with a turnover just above the lower slab and prove advantageous to dealers with turnover at the maximum of the particular slab. Moreover with the exemption of bread, lassi etc. (as proposed by the Committee) the determination of turnovers subject to slab rates becomes complicated. Again, the bakery dealers manufacturing biscuits, pastries, etc. would when so advised, take advantage of lower slab rates. (I have proposed slightly higher rates for turnovers between Rs. 1 lac and Rs. 5 lacs, and lower tax rates for turnovers over Rs. 5 lacs by denying them the set-off, to make the whole assessment procedure simple). As a consequence these dealers would also have to engage a counsel and the very intention to make the assessments of such dealers simpler, is defeated.

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B. Procedural Part

1. The Committee, while accepting this suggestion (please refer to BI above) has laid down that such statements of sales and purchases, be made compulsory, when the amount of these transactions in the aggregate exceed Rs. 10,000 a year. These statements are to be submitted for a uniform period i.e. a financial year, irrespective of the year, a dealer follows. It has to be noted that the limit of Rs. 10,000 per dealer per year, is fairly low, and so almost all the dealers with turnovers more than Rs. 3 lacs will be covered.

Under my proposals, too, the retail dealer with turnover less than Rs. 3 lacs, as he would make sales only to consumers, would not have to submit sales statements at all. They would be submitting dealerwise purchase totals. Their vendors who would either be manufacturers, importers or wholesalers with turnovers more than Rs. 3 lacs a year, would be submitting sales statements. The advantage of such a procedure, is that by a broad tally of these sales and purchases statements, the assessments of these dealers would be completed, without calling them to the sales tax office for the purpose of verification of their accounts. The statements of sales and purchases proposed by me are also to be used as tools in detecting tax evasion. The system of sales tax recommended is certainly less complicated. The Committee states that the assessment under its proposals regarding small dealers would be simple in nature. It, therefore, lays down ; "Considering their small contribution to the revenue, it is necessary that the administrative expenses in respect of these dealer (i.e. the dealers with turnover less than Rs. 3 lacs a year. They number 75.12 per cent of the total and pay only 10 per cent of the total revenue) should be kept low, and the dealers also should not be required to undergo the ordeals of detailed verification."

In spite of this objective set out before if by the Committee, except for hoteliers and handmade bakery dealers it wants detailed assessments for all other such dealers. It proposes the allotment of 500 cases per officer per year, as against the present standard of 900 to 1200 cases a year.

The Department has been in search of a formula to complete the assessment of the small dealers under section 33(2) of the present Act. But its efforts, have not proved successful so far. My proposal described here, offers an ideal one.

2. The Committee, by recommending the submission of sales and purchases statements by registered dealers, had by implication overruled the objectives and difficulties voiced by some of the trading and

other organisations in implementing this procedure such as heavy paper work, misplacement of these statements, possibility of the statements being not reconciled due to return of goods and some adjustment etc. But it has not accepted my proposal to correlate these statements with the payment of tax in respect of the transactions totals noted in these statements.

May I pose here a question? If it is not the function of these statements to detect the havala racketeers, the issuance of bogus declarations or the suppressed sales; then what else it is? Surely, the Committee does not want these statements which may run into lacs, just to stock-pile them in the archives of the sales tax department. It wants these to be cross-matched to discover the evasion of tax on the recorded transactions by any of the known or unknown methods. Supposing, that this cross-matching, reveals some havala racketeers or suppressed sales, can we assess these dealers and tax the escaped transactions? The answer is clear, No. For, to assess these there is no provision in the present law to bring these dealers to book. Let us see, what the Deputy Commissioner of Sales Tax (En. Br.) has to tell the press. I quote: "Havala transactions are known to be taking place on a sizeable scale. But under the present sales tax act and penal law, it is very difficult and time consuming process to bring the culprits to book after proving the case before courts" (quoted from page 4, *The Times of India*, April 9, 1976 Press conference report).

Apart from proving such a case before the courts, the primary concern of the Sales Tax Department is to collect tax on the transactions involved in the operations conducted by these mischievous elements amongst the trading community. That this (collection) becomes difficult, well-nigh impossible is also clear from what the Committee states in para. 9.9. I quote: "The *modus operandi* is reported to be as under: Under the first point levy subsequent sales do not attract tax. These havala dealers sell vouchers holding out themselves as vendors of goods upon whom the first point levy falls. A sale to a document holder is also exempt from taxes or is liable to be taxed at a concessional rate on production of a prescribed certificate. Due to these provisions some unscrupulous dealers are trading in purchase vouchers or declarations without actually effecting concerned sale or purchase." The Committee further states that the first stage single point levy calls for better method of controlling the havala rackets and evasion in respect of recorded transactions. But the remedy suggested is market intelligence, statistical survey and the submission of statements of sales and purchases.

Supposing these methods throw up these havala racketeers and other such mischievous elements these would not curb their operations. Even now, after a time, these are thrown up. But this becomes a case of locking a stable after the horse has bolted. It is assumed that the commodities in which these racketeers operate are identified in this process and then the transactions in these can easily be watched. This is not borne out by facts. The department, even now knows that this racket is flourishing in dyes and chemicals, art silk yarn and stainless steel items. But the department is not able to identify the dealers who deal in these, till they are caught. Post mortem does not help in recovering the tax lost. Post mortem should lead us to the correct method by which these operations can be controlled. And my attempt in evolving this Scheme is precisely this.

This cross-verification is even today carried out, but to no effect. The Committee has not been able to throw up any new suggestion to curb the activities of the first stage havala racketeers than this hackneyed approach of cross-verifying transactionswise details after the event has taken place.

In this context of the ineffective remedies pursued so far, the relevance of my proposal to prescribe correlation of the statements of sales and purchases to the actual payments made by the dealers according to the statements so submitted, becomes apparent. After all the purpose of these statements is to detect whether tax is paid according to these. If after such detection there is no remedy in law at present to collect tax on these detected transactions the need for such a provision arises. The very *raison d'etre* for the appointment of this Committee is the concern of the Government about evasion by havala racketeers and the Scheme proposed by me to curb these activities.

Prominent merchants chambers referred to in the Committee's report and the other experts and theoreticians in the Sales Tax law and its administration have supported the remedy in law suggested by me. The State Law and Judiciary Department has cleared this proposal.

The suggestion of my colleague on the Committee Shri M. P. Chitale, i.e. both the seller and the purchaser he held responsible for the payment of sales tax is also an effective remedy to curb the activities of the havala racketeers. In effect, it is the same remedy as mine, inasmuch as, under my Scheme also if the seller does not pay tax, then under certain circumstances the buyer has to pay tax. The primary responsibility to pay tax would be that of the seller, but if the selling dealer fails to pay because he is a dummy set up by the regular dealer having control over the commodities sold on the bill or voucher issued by the dummy, the purchaser has to bear this liability.

Yet another remedy is provision in the law similar to that obtaining in section 4 (2) of the Delhi Sales Tax Act, 1975, "taxable turnover means that part of a dealer's turnover during the prescribed period in any year which remains after deducting therefrom:—

(a) his turnover during that period on,

(b) sales of goods in respect of which due tax is shown to the satisfaction of the Commissioner to have been paid ;”

Under the Delhi Sales Tax Rules, 1975, certain transactionwise departmentally printed declarations are prescribed. This procedure is much more elaborate than the one suggested by me. Again once a departmentally printed declaration is given, the sale would have to be exempted from payment of the first point of tax. The 'trading' in such declarations, it was stated before the committee during its visit to Calcutta, is a matter of concern to the authorities there.

Again, this remedy is very cumbersome and do not enable the Department to simplify the assessment procedure. I have noted in B(1) above the advantages of the statements procedure in completing the assessments of the small dealers, without calling them with books of accounts for verification by the Sales Tax Authorities. The verification in their case is only to correlate their purchase-sheets with the sale statements of their vendors. Once it is proved that these vendors are registered dealers, their liability is over. They do not have to worry even if these vendors have not discharged their tax liability. The tax being at the first stage, the earlier dealer in the chain of registered dealers would always be liable and the vendee would never be liable so long as the vendor is a registered dealer. Under today's system also he has to prove that his purchases are from a registered dealer and has to attend the Sales Tax Office every year for the purpose of the assessment. Under my scheme, once the purchase-sheets are proved to be from a registered dealer, the assessment can be completed without requiring the presence of such a dealer. The liability to pay tax at the first stage passes on to the next dealer, if the first dealer in the chain proves to be a *havala racketeer*. This aspect of the Scheme is discussed in the outline of the Scheme (*see* Annexure II to the Committee's Questionnaire). The State Law and Judiciary Department has cleared this aspect. When, however, the Officer chooses to verify the veracity of the returns and statements filed by such a dealer, with the books of accounts maintained by him, the dealer would have to be called with his books of accounts for scrutiny. I have proposed that once in 3 years, this exercise be made on the random sample basis, so that no

discretion is left to the officer to call a particular dealer in a particular year. This would also avoid the possibility of collusion between a particular dealer and a particular officer.

Once this procedure of assessments based on the broad tally of the sales and purchases statements is adopted, and the dealers are requested to submit a trading account with details of opening and closing stocks, the assessments of even the wholesalers, the manufacturers and the importers can also be completed on the basis of their returns, the statements and the trading account filed by them. Their presence before the officers of the Department with the cartload of their books of accounts would not be necessary for the purpose. Of course, once in three years, they can also be called to test the veracity of the returns, the statements and the trading account filed by them with the Department.

The procedure I have suggested would therefore go a long way in reducing the burden of annual assessments both on the Department and the Trading Community by simplifying the whole procedure and at the same time putting a curb on evasion of tax on recorded transactions. This way, the energies of the whole Department would be released to concentrate on stopping the evasion of that on unrecorded transactions.

TABLE 1
Combined Burden of Excise and Sales Duties on select commodities, 1975-76

Serial No.	Description	Schedule	Rate of S. T.	Excise Schedule	Entry No.	Rate of excise	Combined burden
1	2	3	4	5	6	7	8
			per cent				per cent
						per cent	per cent
1	Tinned Food Stuff.	E-6	8	1B		10	18·80
2	Asphalt Bitumen ..	C-25	5	11		30	36·50
3	Vanaspati ghee ..	C-37	7	13		10	17·70
4	Cosmetics ..	E-19	15	14F		40	61·00
5	Toilet ..	E-7	11	14F		40	55·40
6	Fertilizers ..	A-18	..	14HH		15	15·00
7	Soap ..	C-28	5	15		10	15·50
8	Plastic materials ..	E-19A	11	15A		50	66·50
9	Cellophane-Films ..	C-51	12	15B		20	34·40
10	Tyres ..	C-58	12	16		50	68·00
11	Rubber products ..	E-22	8	16A		50	62·00
12	Plywood ..	C-32	8	16B		25	35·00
13	Glassware ..	C-44	10	23A		30	43·00
14	Chinaware ..	C-44	10	23B		30	43·00
15	Cement products ..	E-22	8	23C		20	29·60
16	Refrigerators ..	C-47	15	29A		75	101·25
17	Air-conditioning Equipment.	C-60	15	29A		100	130·00
18	Electric Motors ..	C-20	10	30		20	32·00
19	Fluorescent Tubes	E-15	14	32		22	39·08
20	Radio, Transistor ..	C-65	12	33A		20	34·40
21	Soda Ash ..	C-18	5	14A		10	15·50
22	Caustic Soda ..	C-18	5	14B		10	15·50
23	Sodium Silicate ..	E-22	8	14BB		20	29·60
24	Dye Stuffs ..	E-22	8	14D		25	35·00
25	Drugs ..	E-22	8	14E		10	18·80
26	Nitric, sulphuric Acids.	E-22	8	14G		10	18·80
27	Woollen yarn ..	D-2	3	18B		20	23·60
28	Cement ..	C-35	6	23		35	43·10
29	Copper, Pipes and Tubes.	E-22	8	26A		10	18·80
30	Iron and Steel Pipes	E-22	8	E.D. on Pig iron. 26AA		15	24·20
+ 1. Sugar ..			A-	....	37½% + 4%		
+ 2. Cotton Fabrics			A	....	12½% + 2½%		

TABLE
State Tax Revenue

Year	Sales Tax	State Excise	Taxes on goods and passengers	Electricity duty	Motor Vehicle Tax	Entert- ainment Tax
1	2	3	4	5	6	7
1961-62 ..	3,503 (52·41)	126 (1·89)	175 (2·62)	391 (5·85)	586 (8·77)	2·83 (4·23)
1962-63 ..	4,057 (51·83)	147 (1·88)	231 (2·95)	517 (6·60)	602 (7·69)	404 (5·16)
1963-64 ..	5,490 (54·58)	172 (1·71)	433 (4·31)	720 (7·16)	647 (6·43)	489 (4·86)
1964-65 ..	6,240 (55·34)	305 (2·70)	492 (4·36)	784 (6·95)	738 (6·55)	498 (4·42)
1965-66 ..	7,059 (57·56)	327 (2·67)	550 (4·49)	890 (7·26)	776 (6·33)	613 (5·00)
1966-67 ..	9,090 (59·61)	377 (2·47)	660 (4·33)	1,260 (8·26)	958 (6·28)	786 (5·15)
1967-68 ..	9,608 (56·99)	415 (2·46)	930 (5·52)	1,290 (7·65)	1,041 (6·18)	772 (4·58)
1968-69 ..	10,645 (56·68)	549 (2·92)	1,040 (5·54)	1,420 (7·56)	1,183 (6·30)	898 (4·78)
1969-70 ..	12,534 (57·87)	726 (3·35)	1,140 (5·26)	1,520 (7·02)	1,306 (6·03)	1,101 (5·09)
1970-71 ..	15,559 (60·84)	682 (2·67)	1,217 (4·76)	1,811 (7·08)	1,398 (5·47)	1,290 (5·04)
1971-72 ..	15,698 (57·13)	789 (2·87)	1,682 (6·12)	1,888 (6·87)	1,539 (5·60)	1,459 (5·31)
1972-73 ..	18,233 (60·24)	1,012 (3·34)	1,790 (5·91)	2,051 (6·77)	1,633 (5·39)	1,755 (5·79)
1973-74 ..	23,115 (60·46)	2,516 (6·58)	2,156 (5·64)	2,010 (5·26)	1,978 (5·16)	1,894 (4·95)
1974-75 ..	30,872 (62·01)	2,936 (5·90)	2,966 (5·96)	2,998 (6·02)	2,036 (4·08)	2,249 (4·52)
1975-76 Revised ..	36,841 (64·30)	3,137 (5·48)	2,637 (4·60)	2,756 (4·81)	2,231 (3·89)	2,513 (4·39)
1976-77 Budgeted ..	40,794 (65·67)	3,289 (5·30)	2,735 (4·40)	2,921 (4·70)	2,375 (3·82)	2,738 (4·41)
Annual rate of growth (Compound) from 1961-62 to 1974-75	18·2	27·5	24·4	16·9	10·1	17·3

Note.—Figures in brackets give respective tax revenue expressed as per cent of *Sources.*—Directorate of Economics and Statistics, Bombay 3. Consist of Betting

in Maharashtra

Stamp and Registration Fees	Land Revenue	Agricul- tural Income Tax	Other State Tax Revenue	Total State Tax Revenue	State Tax Revenue excluding Sales Tax	Non-tax Revenue
8	9	10	11	12	13	14
Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
606 (9·07)	618 (9·24)	Nil.	396 (5·92)	6,684 (100·00)	3,181	3,740
717 (9·16)	729 (9·31)	....	424 (5·42)	7,828 (100·00)	3,771	4,590
843 (8·38)	813 (8·08)	2 (0·02)	449 (4·47)	10,058 (100·00)	4,568	5,790
869 (7·71)	727 (6·45)	107 (0·95)	515 (4·57)	11,275 (100·00)	50,35	6,050
908 (7·40)	558 (4·55)	25 (0·20)	557 (4·54)	12,263 (100·00)	5,204	7,420
989 (6·49)	726 (4·76)	31 (0·20)	313 ^a (2·45)	15,250 (100·00)	6,160	7,540
1,126 (6·68)	875 (5·19)	4 (0·02)	797 (4·73)	16,858 (100·00)	7,250	9,050
1,185 (6·31)	882 (4·70)	3 (0·02)	975 (5·19)	18,780 (100·00)	8,135	11,800
1,326 (6·12)	797 (3·68)	6 (0·49)	1,102 (5·09)	21,658 (100·00)	9,124	11,350
1,336 (5·22)	989 (3·87)	5 (0·02)	1,288 (5·03)	25,575 (100·00)	10,016	12,010
1,531 (5·57)	1,202 (4·37)	30 (0·11)	1,662 (6·05)	27,480 (100·00)	11,782	14,560
1,782 (5·88)	1,026 (3·39)	14 (0·04)	998 (3·29)	30,266 (100·00)	12,033	17,650
1,790 (4·68)	1,532 (4·01)	49 (0·13)	1,197 (3·13)	38,232 (100·00)	15,117	23,670
1,896 (3·80)	2,132 (4·28)	33 (0·07)	1,671 (3·36)	49,788 (100·00)	18,196	18,158
1,961 (3·42)	1,936 (3·38)	35 (0·06)	3,250 (5·67)	57,297 (100·00)	26,456	28,501
2,050 (3·30)	1,936 (3·12)	35 (0·06)	3,242 (5·22)	62,115 (100·00)	21,321	33,875
9·1	10·0	....	11·7	16·7	14·8	12·9

total tax revenue.
and Luxury Taxes, Education Cess, etc.

TABLE 3

Shares of Sales Tax in Total Revenue, Total Tax Revenue and Revenue from State Taxes in Maharashtra State

(Rs. in lakhs)

Year	Sales Tax Revenue	Total revenue (Revenue Account)	Total Tax Revenue	State Tax Revenue (i.e. State's own tax revenue excluding the share of Central Taxes)
1	2	3	4	5
1961-62 ..	3,503	11,875 (29·50)	8,131 (43·08)	6,648 (52·41)
1962-63 ..	4,057	14,960 (27·12)	10,369 (39·13)	7,828 (51·83)
1963-64 ..	5,490	18,725 (29·32)	12,939 (42·42)	10,058 (54·58)
1964-65 ..	6,240	20,261 (30·79)	14,210 (43·91)	11,275 (55·34)
1965-66 ..	7,059	22,739 (31·04)	15,320 (46·08)	12,263 (57·56)
1966-67 ..	8,747	27,203 (32·15)	19,660 (44·49)	15,250 (57·36)
1967-68 ..	9,608	30,969 (31·02)	21,915 (43·84)	16,858 (56·99)
1968-69 ..	10,645	36,390 (29·25)	24,588 (43·29)	18,780 (56·68)
1969-70 ..	12,534	39,553 (31·69)	28,201 (44·45)	21,658 (57·87)
1970-71 ..	15,559	45,631 (34·10)	33,615 (46·29)	25,575 (60·84)
1971-72 ..	15,798	52,138 (30·11)	37,582 (41·77)	27,480 (57·13)
1972-73 ..	18,233	59,254 (30·77)	41,603 (43·83)	30,266 (60·24)
1973-74 ..	23,115	74,362 (31·08)	50,689 (45·60)	38,232 (60·45)
1974-75 ..	30,872	80,272 (38·46)	62,114 (49·70)	49,788 (62·01)
1975-76 Revised	36,841	1,01,994 (36·12)	73,493 (50·13)	57,297 (64·30)
1976-77 Budget	40,794	1,12,174 (36·37)	78,299 (52·10)	62,115 (65·68)
Annual rate of growth (compound) from 1961-62 to 1974-75.	18·2	15·8	16·9	16·7

N.B.— Figures in brackets indicate S.T. expressed as per cent of relevant revenue.

Source.— 'Budget in Brief' published yearly by the Directorate of Economics and Statistics, Bombay.

TABLE 4

Relative Contribution of Sales Tax in different States (1973-74)

Serial No.	State	Sales Tax as percentage of		
		Total Revenue	Total Tax Revenue	State's own tax revenue
1	2	3	4	5
1	Andhra Pradesh	16·23	25·50	36·70
2	Assam	14·00	26·98	48·36
3	Bihar	15·75	22·11	45·49
4	Gujarat	27·93	44·78	62·15
5	Haryana	20·16	32·67	40·78
6	Himachal Pradesh	4·36	15·12	26·36
7	Jammu and Kashmir	3·96	15·57	29·68
8	Karnatak	18·51	32·59	45·36
9	Kerala	24·71	37·66	56·36
10	Madhya Pradesh	16·78	27·50	45·99
11	Maharashtra	29·98	45·60	60·46
12	Manipur	2·71	18·25	50·00
13	Meghalaya	4·51	20·21	50·32
14	Nagaland	1·53	21·07	32·90
15	Orissa	12·87	25·35	53·25
16	Punjab	22·53	34·64	42·64
17	Rajasthan	17·05	31·07	49·50
18	Tamil Nadu	27·20	36·81	48·42
19	Uttar Pradesh	15·17	24·13	44·85
20	West Bengal	26·84	36·62	53·74

N.B.—State 'Tripura' is excluded from the above table as the Sales Tax revenue for the year 1973-74 is 'nil'.

Source.—Percentages worked out on the basis of data published in the Reserve Bank of India Bulletin.

TABLE 5

List of Articles which account for 95·48% of total taxes

Serial No.	Entry No.	Broad description of entry	Percentage of taxes received	Progressive total per cent	Present rate of tax
1	2	3	4	5	6
					Per cent
1	E-22	Residuary	30·34	30·34	8 ¹
2	C-58	Motor Vehicles	8·95	39·29	12
3	C-37	Vanapati Ghee	4·55	43·84	7
4	D-II-I	Liquors	3·22	47·06	
5	C-20	Electrical goods including cables, wires, Electrical Motor and Electrical Machinery.	3·10	50·16	10
6	D-6	Edible Oil	2·60	55·62	4
7	D-6A	Milk products—Ghee, Butter, etc.			
8	B-I-2	Cotton Yarn	2·60	55·62	4
9	B-II-6	Oilseeds	2·57	58·19	4
10	C-23	Non-ferrous metals	2·45	60·64	5
11	B-II-I	Cotton	2·13	62·77	4
12	C-25	Petroleum Products	1·95	64·72	5
13	C-31	Sweets and Sweetmeats	1·77	66·49	8
14	C-32	Timber	1·74	68·23	5
15	C-36	Tea/Coffee	1·59	69·82	6
16	C-28	Soaps	1·50	71·32	5
17	E-19-A	Plastic goods	1·40	72·72	11 to 18
18	B-I-03	Iron and Steel	1·36	74·08	4
19	C-24	Paper	1·33	75·41	10
20	C-35	Cement	1·24	76·65	6
21	C-33	Ice	1·22	77·87	15
22	C-39	Paints etc.	1·18	79·05	12
23	E-15	Domestic electrical appliances, flourescent tubes, fans, etc.	1·05	80·10	14
24	C-65	Wireless Instruments	1·04	81·14	12 to 15
25	C-14A	Kerosene	1·03	82·17	3
26	C-02	Art Silk Yarn	1·00	83·17	3
27	E-06	Foodstuffs in sealed containers..	0·95	84·12	8
28	E-21A(C)	Utensils (non-ferrous)	0·90	85·02	6
29	E-12AA	and steel trunks			
30	D-7	Spices	0·81	85·83	5
31	C-56	Iron Furniture	0·81	86·64	15
32	E-04	Cakes and Biscuits, Toffees, Chocolates.	0·79	87·43	9 to 10

TABLE 5—contd.

Serial No.	Entry No.	Broad description of entry	Percentage of taxes received	Progressive total per cent	Present rate of tax
1	2	3	4	5	6
					Per cent
33	E-20	Stainless Steel Articles ..	0·77	88·20	11
34	C-33	Aerated Waters ..	0·76	88·96	12
35	C-07	Lubricants ..	0·67	89·63	5
36	D-I-08	Jewellery and Precious Stone ..	0·60	90·23	10
37	E-19	Perfumery Cosmetics ..	0·58	90·81	15
38	C-21	Foot-wear ..	0·53	91·34	5 to 20
39	C-55	Gold and Silver ..	0·52	91·86	12
40	E-07	Toilet Articles ..	0·51	92·37	15
41	C-17	Bricks and Roofing Tiles ..	0·51	92·88	5
42	C-47	Air-conditioning Plants ..	0·50	93·38	15
43	D-I-05	Dry fruits ..	0·47	93·85	5
44	C-34	Bicycles ..	0·44	94·29	7
45	C-03	Betal nuts ..	0·44	94·73	2
46	E-05	Floor and wall tiles ..	0·37	95·10	11
47	E-01	Bullion and Species ..	0·37	95·48	‡

TABLE 6

List of 35 luxury goods as per Central Government which account for 18·30% of the total tax yield

Serial No.	Entry No.	Broad description of the entry
1	C-41	Photographic material.
2	C-43	Fireworks.
3	C-44	Domestic articles made from porcelain or glazed earthenware.
4	C-45	Vacuum flasks.
5	C-46	Aeroplanes.
6	C-47	Air conditioning plants.
7	C-48	Arms including rifles, revolvers.
8	C-49	Binocular (telescopes), opera glasses and its components.
9	C-50	Cigarette cases and lighters.
10	C-51	Cinematographic equipments including cameras, Projectors and sound recording etc.
11	C-52	Dictaphone and other similar apparatus for recording sounds.
12	C-53	Articles made from foam rubber or plastic foam.
13	C-54	Furs and articles made therefrom.
14	C-55	Gold and silver filgree.
15	C-55A	Gramophones.
16	C-56	Metal furniture.
17	C-58	Motor vehicles.

TABLE 6—*contd.*

Serial No.	Entry No.	Broad description of the entry
18	C-59	Pile carpets.
19	C-60	Refrigerators and mechanical water coolers.
20	C-62	Sound transmitting equipment.
21	C-63	Tabulating, calculating etc., machines and components thereof.
22	C-64	Typewriting machines, duplicating machines.
23	C-65	Wireless reception instruments.
<i>Schedule D—Luxury goods</i>		
24	D-5	Dried fruits.
25	D-8	Jewellery, precious stones, synthetic or artificial precious stones and pearls, real, artificial or cultured.
26	E-4 (1)	Cakes, biscuits and pastries.
	(2)	Toffees and chocolates.
27	E-5	Floor and wall-tiles.
28	E-10	Clocks, time-pieces and watches.
29	E-11	Ladies hand bags and vanity bags.
30	E-12	Suit cases, attache cases and despatch cases.
31	E-13	Articles made of ivory.
32	E-15	Domestic electrical appliances and fluorescent tubes of all varieties.
33	E-17	Marble and articles made of marble.
34	E-19	Perfumes, depilatories and cosmetics.
35	E-21	Table cutlery.

TABLE 7

16 articles covered by entry 22 of Schedule 'E' which can be specified and which account for 22.08% of the total tax yield

Serial No.	Broad description of the entry
1	Machinery parts accessory and components (excluding those specified elsewhere).
2	Dyes and Chemicals.
3	Drugs.
4	Building material other than specified elsewhere.
5	Wooden articles other than furniture and timber (C-22, 32 and 56 of Schedule-C).
6	Oil Engines (other than those covered by C-58).
7	Professional, scientific and laboratory instruments for measuring, testing and experimenting (except classified elsewhere).
8	Rubber and rubber products.
9	Asbestos cement, hume and spun pipes and other cement articles (other than specified).
10	Toys and sports goods.
11	Metal ores.
12	Books and periodicals excluding under A-4.
13	Insecticides, fungicides weedicides.
14	Ply wood.
15	Coir products including mattings etc.
16	Tarpaulins, tents, sails and other canvas goods.

TABLE 8

List of 35 articles which account for 50.33 % of the total tax yield

Serial No.	Entry No.	Broad description of entry
1	C-37	Vanaspati ghee.
2	D-II-I	Liquors.
3	C-20	Electrical goods including cables wires, Electrical motor and electrical machinery.
4	D-6	Edible oil.
5	D-6A	Milk products ghee butter, etc.
6	D-I-2	Cotton yarn
7	D-II-6	Oilseeds.
8	C-23	Non-ferrous metals.
9	B-II-I	Cotton.
10	C-25	Petroleum products.
11	C-31	Sweets and sweetmeats.
12	C-32	Timber.
13	C-36	Tea/Coffee.
14	C-28	Soaps.
15	E-19-A	Plastic goods.
16	B-I-03	Iron and steel.
17	C-24	Paper.
18	C-35	Cement.
19	C-38	Ice.
20	C-39	Paints etc.
21	C-14-A	Kerosene.
22	C-02	Silk Yarn.
23	E-06	Foodstuffs in sealed containers.
24	E-21A(C)	Utensils (non-ferrous).
25	E-12A	Steel trunks.
26	D-7	Spices.
27	E-20	Stainless steel articles.
28	C-33	Aerated waters.
29	C-07	Lubricants.
30	C-21	Foot-wear.
31	E-07	Toilet Articles.
32	C-17	Bricks and roofing tiles.
33	C-34	Bicycles.
34	C-03	Betel nuts.
35	E-01	Bullion and species.

TABLE 9

Statement showing number of dealers, their total sales and taxes paid by them and average sales and taxes per dealer according to type of business during the year viz. 1964-65 in Maharashtra State

(Rs. in lakhs)

Serial No.	Type of business	Total No. of dealers	Total sales	Total Taxes paid	Average sales per dealer	Average taxes paid by the dealer
1	2	3	4	5	6	7
I (1)	Wholesalers who were Manufacturers and Exporters.	6,517 (8·36)	1,58,440 (36·22)	1,88,576 (51·34)	2,431	28,936
(2)	Wholesalers who were Manufacturers but not Exporters.	3,700 (4·76)	29,605 (6·77)	20,978 (5·71)	798	5,656
(3)	Wholesalers who were Exporters	8,155 (10·46)	1,00,532 (22·98)	84,974 (23·14)	1,233	10,420
(4)	Wholesalers who were Commission Agents ..	1,250 (1·60)	25,649 (5·86)	9,496 (2·59)	2,052	7,597
(5)	Wholesalers who were other than those specified in 3 and 4. Others (i.e. not included in 3 to 4 of I).	9,644 (12·37)	84,871 (19·40)	36,531 (9·95)	880	3,788
	Sub-total I (items 1 to 5) ..	29,275 (37·55)	3,99,097 (91·23)	3,40,555 (92·73)	7,394	56,397

II Other than wholesalers—					
(1) Jobbers i.e. printing presses, dyeing and printing establishments doing similar jobs.	1,122 (1·44)	1,644 (0·38)	2,485 (0·68)	147	2,215
(2) Restaurants, hotels, bars, taverns and other eating places.	4,734 (6·07)	3,359 (0·77)	1,867 (0·51)	71	394
(3) Petty Manufacturers	14,426 (18·50)	9,788 (2·24)	10,239 (2·79)	68	710
(4) Other Retailers	27,825 (35·69)	23,250 (5·32)	11,670 (3·18)	84	419
(5) Contractors and other individuals engaged in the purchase of goods only.	584 (0·75)	299 (0·07)	465 (0·13)	51	796
Sub-total II ..	48,691 (62·45)	38,340 (8·77)	26,726 (7·28)	79	549
Grand Total ..	77,966 (100·00)	4,37,437 (100·00)	3,67,281 (100·00)	561	4,711

N.B.—Bracketed figures are percentages to column totals.

Source.—Table No. 2.23 and R-7.1 of the Report of the Sales Tax Survey in Maharashtra 1964-65 of Directorate of Economics and Statistics, Bombay.

TABLE 10

Number of dealers and total taxes paid by them according to range of sales during 1964-65

Total sales of the dealers in Rs. '000'	Dealers		Total taxes paid by dealers under B. S. T. Act	
	Number	Per cent	Rs. in '000'	Per cent
1	2	3	4	5
Upto 29	18,194	23·34	2,250	0·61
30 to 49	8,791	11·28	2,783	0·76
50 to 99	13,423	17·22	7,530	2·05
100 to 199	12,212	15·66	14,379	3·92
200 to 299	5,987	7·68	11,840	3·22
300 to 499	6,368	8·17	19,706	5·37
500 to 999	5,991	7·68	31,908	8·69
1000 to 1999	3,560	4·57	36,345	9·90
2000 to 4999	2,189	2·80	48,031	13·08
5000 to 9999	719	0·92	42,271	11·50
1 Crore and above	532	0·68	1,50,239	40·90
Total	77,966	100·00	3,67,282	100·00

Source.—Sales Tax Survey in Maharashtra 1964-65.

APPENDIX I

Sales Tax Enquiry Committee:
Appointment of —

GOVERNMENT OF MAHARASHTRA

FINANCE DEPARTMENT

Resolution No. STA. 1075/4/M-1

Sachivalaya, Bombay-32, 10th July 1975.

RESOLUTION

The Sales Tax Advisory Committee, in its deliberations on the scheme of a simplified system of Sales Tax, prepared by Shri S. D. Kulkarni, Deputy Commissioner of Sales Tax, felt that the changes suggested were of a fundamental nature and that the appropriate forum for considering their pros and cons and making recommendations thereon would be a Commission or Committee of Enquiry with which the representatives of the trade and industry could also be associated. In view of the importance of the problem of avoiding evasion of sales tax and in the context of developments since the introduction of the Bombay Sales Tax Act, 1959 with effect from 1st January 1960, based on the Report of the Sales Tax Enquiry Committee, 1957-58, the Sales Tax Advisory Committee has recommended to the Government immediate appointment of a Committee of Enquiry to report in the matter as also on such other items including reforms made by other States in their sales tax system and to make recommendations to Government as quickly as possible.

2. Government has accepted the recommendation of the Sales Tax Advisory Committee and decided to constitute the Sales Tax Enquiry Committee with the following personnel:—

- | | | | |
|------------------------------|----|----|-------------------|
| (1) Shri M. R. Yardi | .. | .. | Chairman |
| (2) Dr. V. R. Pandit, M.L.C. | .. | .. | Member |
| (3) Shri V. K. Tembe, M.L.A. | .. | .. | Member |
| (4) Prof. D. T. Lakdawala | .. | .. | Member |
| (5) Shri A. K. Bhimani | .. | .. | Member |
| (6) Shri V. B. Haribhakti | .. | .. | Member |
| (7) Shri M. P. Chitale | .. | .. | Member |
| (8) Shri P. D. Dalal | .. | .. | Member |
| (9) Shri R. V. Patel | .. | .. | Member |
| (10) Shri A. V. Deshmans | .. | .. | Member |
| (11) Shri H. B. Munshi | .. | .. | Member |
| (12) Shri S. Ramamoorthi | .. | .. | Member |
| (13) Shri W. G. Joshi | .. | .. | Member |
| (14) Shri S. D. Kulkarni | .. | .. | Member-Secretary. |

3. The terms of reference of the Committee are as below:—

(i) To review the present system of sales tax in the State generally in the light of the systems prevailing in comparable States like Gujarat, Tamil Nadu, West Bengal and Karnataka and with particular reference to—

(a) the scheme of simplified sales tax system prepared by Shri S. D. Kulkarni, and

(b) the need for continuance or otherwise of the concession of set off of sales tax at two stages prior to the sale in the course of export,

and to make their recommendations on the most suitable system and structure of sales tax with due regard to the revenue requirement of the State; and

(ii) To examine the system of administration of the Sales Tax Law and to suggest improvements therein so as to simplify procedure for assessment of sales tax, ensuring at the same time, avoidance of evasion of tax.

4. The Committee may consult various interests in the State affected by the operation of the Sales Tax Laws. Every cooperation shall be extended to the Committee by the Sales Tax and other departments of Government.

5. The Committee shall have the status of a State Level Committee as laid down in Appendix XLII-A of Volume II of B. C. S. Rules Manual. The travelling and daily allowance of the non-official members of the Committee who are not Members of the Legislature will be in accordance with Scale I in Rule 1(1) (b) in Section I of Appendix XLII-A of B. C. S. Rules Manual, Volume II. The travelling and daily allowance of the Members of the Committee who are Members of the State Legislature will be in accordance with the law relating to the allowances of Members of the Maharashtra State Legislature for journeys undertaken for the purpose of transacting any business connected with their duties as Members of the Legislature. The Local members of the Committee who are not entitled to T.A./D.A. for attending the meeting shall be paid actual conveyance charges upto a sum of Rs. 6 for each meeting. The headquarters of the Committee will be at Bombay. The Secretary of the Committee shall be the controlling officer in respect of bills for travelling and daily allowance of the Chairman and the non-official members of the Committee.

6. The Committee shall submit its report to Government before 31st December 1975.

7. The expenditure should be debited to the Head of Account "240, Sales Tax — C-Other Expenditure—Sales Tax Enquiry Committee" and should be met from the sanctioned grants for the current year.

By order and in the name of the Governor of Maharashtra,

(Signed) V. SUBRAMANIAN,
Secretary to the Government of Maharashtra,
Finance Department.

APPENDIX II

Questionnaire issued by the Committee

OFFICE OF THE MEMBER-SECRETARY,
SALES TAX ENQUIRY COMMITTEE,
VIKRIKAR BHAVAN, SIXTH FLOOR,
MAZGAON, BOMBAY 400 010.

No.

30th August 1975

Sarvashri

Subject.— Sales Tax Enquiry Committee.
Replies to the Questionnaire.

Dear Sir,

Under the Government Resolution, Finance Department, No. STA. 1075/4/M/1, dated 10th July 1975 the Government of Maharashtra have proposed the following terms of reference:—

(i) To review the present system of sales tax in the State generally in the light of the system prevailing in comparable states like Gujarat, Tamil Nadu, West Bengal and Karnataka and with particular reference to:

(a) the scheme of simplified sales tax system prepared by Shri S. D. Kulkarni,
and

(b) the need for continuance or otherwise of the concession of set-off of sales tax at two stages prior to the sale in the course of export, and to make their recommendations on the most suitable system and structure of sales tax with due regard to the revenue requirement of the State; and

(ii) To examine the system of administration of the Sales Tax Law and to suggest improvements therein so as to simplify procedure for assessment of sales tax, ensuring at the same time, avoidance of evasion of tax.

A brief sketch of the systems of sales tax prevalent in this State and in some other States in the Indian Union is appended as Annexures I and III.

The Scheme of Sales Tax system prepared by Shri S. D. Kulkarni, Additional Commissioner of Sales Tax, Maharashtra State, Bombay (hereafter referred to as "The Scheme"), claims to simplify the tax-procedure at the same time putting complete curb on the evasion of tax on recorded transactions. An outline of his Scheme with clarificatory notes is appended as Annexure II at the end.

In view of the terms of reference, the following questionnaire is prepared. Please read the three notes carefully before giving replies. Please give reasons in support of your replies.

Any person who desires to send his replies to the questionnaire can, if he so desires, get clarifications from the Member-Secretary, on any point of interest to him including the Scheme.

It is not necessary for anybody or for any association or institution to submit replies to all questions put in this questionnaire. He may select any subject which specially interests him, but he should please quote the caption and the question number.

Replies may please be sent in duplicate. Where the replies are printed or mechanically duplicated, it will be appreciated, if 30 copies are made available to the Committee.

Nothing contained in the questionnaire or the notes on the present system or the Scheme should be construed as representing the view of the Committee or of Government.

Replies should reach this office on or before 30th September 1975.

Yours faithfully,
(Signed) S. D. KULKARNI,
Member-Secretary.

SALES TAX ENQUIRY COMMITTEE QUESTIONNAIRE

Introduction

1. Any person, submitting the replies to the Questionnaire, will please give his name and address and a brief note introducing himself.
2. If he is giving his replies in a representative capacity, in addition to the name and address of the institution or the association he represents, he may please give a note in brief regarding its objects and activities.

PART I

PRESENT SYSTEM AND STRUCTURE OF TAX

The system of taxation

1.1. (a) Do you consider that the present composite system of tax, as it stands today, is suitable for the State of Maharashtra?

(b) Have you any improvements to suggest in this system?

1.2. In the light of varying systems of sales tax prevalent in other States, which of the following systems do you think is suitable for this State:—

- (a) Single-point system.
- (b) Double-point system.
- (c) Multi-point system.
- (d) Any combination of (a) to (c).

If so, please outline the system of tax you favour most, with supporting reasons for its adoption.

If you favour (d), what kind of goods should be subjected to a single-point tax, a double point tax and multi-point tax?

1.3. What are your views on the system of sales tax as outlined in The Scheme?

1.4. If you have in view any other alternative system of sales tax, please give a self contained note of the same.

Multiplicity of rates

1.5. Do you think that the multiplicity of rates for different goods makes the working of the Act complicated? If so, what are your suggestions for rationalization of the structure of sales tax, keeping in view the objectives of simplicity, equitable incidence of tax, control of evasion and revenue requirements of the State.

Rates of tax on the basis of prices

Different rates have been provided in regard to certain commodities depending upon the prices at which they are sold (e.g. entries A-17, A-24, C-14, C-44, C-21 etc.) in order to provide relief to the poorer sections of the society through lower incidence of tax on them.

1.6. (a) Do you think that this rate differentiation has served the purpose of benefiting the poorer sections of the society?

(b) If not, do you think that there should be no rate differentiation on the basis of prices?

(c) Have you any other suggestions to make for simplification in this regard?

Tax-free goods

Schedule A appended to the Bombay Sales Tax Act, contains the list of goods, the sales and purchases of which are free from all taxes, subject to certain conditions and exceptions, described there-against.

- 1.7. Do you think that the list contains any goods which need not be tax-free?
- 1.8. What should be the criteria for exempting certain goods from the levy of Sales Tax?
- 1.9. Do you agree with the suggestion made in The Scheme that only five items should be tax-free?

Exemption to products of village industries

Under the Bombay Sales Tax Act, sales of products of village industries, as defined in the Khadi and Village Industries Commission Act, 1956, and the Bombay Khadi and Village Industries Act, 1960, and sales of Khadi and ready-made garments and other articles prepared from Khadi are free from tax.

- 1.10. What types of products of village and cottage industries do you think should be exempted?
- 1.11. If not, do you think that it is better to give direct cash benefits to the deserving industries than to give indirect benefits through tax exemption?

Power to exempt

Under the Act, the State executive has been empowered to exempt by notification any specified class of sales or purchases from payment of the whole or any part of tax, if it thinks necessary so to do in the public interest. Such exemptions are made by notification published in the Gazette and do not require an amendment of the Act and as such are within the exclusive executive competence of the Government.

- 1.12. Do you think that this power of exempting should be vested in the executive or would you recommend exemptions/reductions should be by legislative amendment only?

Retail Sales Tax

At present retail sales tax is being levied on sales of goods listed in the Schedule E at the retail stage at which stage sales tax or general sales tax is not leviable.

- 1.13. Do you think that this retail sales tax should be abolished or should it be extended to some more commodities other than the declared goods?
- 1.14. Do you agree with the suggestion contained in The Scheme that the sales tax may be levied at the first stage and the retail sales tax at all the subsequent stages of sales?

Purchase Tax

At present purchase tax is levied in the following cases:—

(i) When a dealer purchases taxable goods from a person or any Government which is not a registered dealer provided the goods so purchased are not resold (section 13).

(ii) On the purchase price of the goods purchased under a certificate and are used or resold contrary to the recitals of such a certificate (section 14).

(iii) On the purchase price of taxable goods in stock purchased against a certificate either from the Government or unregistered dealer (section 15).

- 1.15. What modifications would you suggest in the levy of purchase tax?

Definitions

1.16. Do you find the definitions of words used in the Bombay Sales Tax Act satisfactory? If not, what amendments would you like to suggest?

Works contract

1.17. Would you advise the State Government to move the Central Government to consider necessary amendments to the Constitution to empower the State Government to tax the transactions involving service or works contract?

Liability of importers, manufacturers and others

1.18. Do you think that the turnover limits prescribed for liability for registration under the Act need revision? If so, what should be the limits in your opinion?

Liability of Hoteliers

In the Scheme it is proposed to tax hoteliers on slab basis to save complications in computing taxable turnover.

1.19. Do you think that this is a better method of assessing these dealers than the present one?

1.20. If not, what alternative method would you suggest for assessing these dealers?

System of documents, namely, recognition, licence, authorisation and permit

1.21. Do you feel that the present system needs any change? If so, what changes would you suggest?

1.22. Do you think that this system of documents has been a principal factor in the emergence of bogus dealers and evasion of sales tax through bogus transactions? If so, what are your suggestions to deal with this problem?

1.23. Do you think that section 19 of the Act should provide that the registration certificate and documents issued to the transferor be transferred by merely amending them in favour of the transferee?

1.24. What are your views on the proposal in The Scheme which substitutes the 'payment verified lists' of sales or purchases as proof for claiming exemption from a first stage sales tax or a concessional rate of tax or a tax-free purchase?

Liability of dealers registered under the Central Sales Tax

A dealer registered under the Central Sales Tax Act but not registered under the Bombay Sales Tax Act is liable to pay the tax under certain circumstances and for that purpose he is deemed to be a registered dealer.

1.25. Have you any suggestion to make regarding the present provisions?

General

1.26. Have you any other suggestion to make regarding rationalisation of the structure of the Sales Tax Act?

PART II

ADMINISTRATION, APPEALS AND REVISIONS

Registration

2.1. Do you think that the procedure laid down for registration, its cancellation and amendment is satisfactory? If not, what modifications would you suggest?

2.2. Do you think that the present procedure for obtaining documents, namely, licence, authorization, recognition etc., is satisfactory? If not, what changes would you suggest?

2.3. What are your views on The Scheme which dispenses with the system of such documents and provides for furnishing of payment verified dealer-wise lists of purchases and sales for claiming tax exemptions or concessions?

2.4. Have you any alternative to suggest for claiming exemptions or concessions?

2.5. What modifications do you suggest in the matter of filing returns—monthly, quarterly, annually?

2.6. What difficulties, if any, do you experience in filing the returns according to present procedure?

2.7. What modifications do you suggest in the matter of payments procedure?

Books of accounts

2.8. Have you any suggestion regarding minimum requirements for the maintenance of books of accounts by registered dealers?

Assessment procedure

2.9. Is the present procedure of verification of accounts by inspectors and officers for the purpose of assessments conducive to quicker and better disposal? If not, what changes would you suggest?

2.10. Would you advocate a system of compounding of tax liability in the case of small dealers by payment of a prescribed lump-sum related to the turn-over of the dealer?

2.11. Do you think that if The Scheme is accepted, assessment would become simpler as claimed in The Scheme?

Inspection and audit

2.12. What are your views in regard to the procedure of inspections and audit carried by the department?

Time-limit

2.13. Do you think that a time-limit should be fixed for completing assessment? If so, what should be the time-limit?

Appeals

2.14. Do you consider that the appellate authorities should be under independent control? If so, under what authority?

Section 55 contains provisions for part or full payment of tax and penalty before the admission of appeals.

2.15. Do you think that these provisions are necessary and adequate? If not, what suggestions have you to make keeping in view the interests of revenue?

2.16. Have you any modification to suggest about the present time-limit of 60 days prescribed for filing an appeal?

Revisions

2.17. Have you any modification to suggest in the present provisions relating to revision?

Power for cancellation of ex-parte orders

2.18. Do you think that there should be a provision for cancelling an *ex-parte* order as provided under section 146 of the Income Tax Act? What are your specific suggestions in the matter?

Tribunal

2.19. Have you any suggestion to make about—

(a) the constitution of the Tribunal.

(b) the qualifications of the President and the members, and

(c) the functioning of the Tribunal?

Appearance through practitioners and agents

2.20. Do you suggest any amendment to the present provisions relating to the appearance before the sales tax authorities and the Sales Tax Tribunal?

Penalties

2.21. Do you consider that the provisions regarding penalties are adequate and reasonable?

2.22. Would you recommend stiffer penalties to ensure better compliance with the law?

Refunds

2.23. Do you think that the provisions regarding refunds are satisfactory? If not, what suggestions have you to make?

Set-off to manufacturers and inter-state traders

2.24. What are your suggestions for simplifying the provisions for set-off contained in the Bombay Sales Tax Rules?

2.25. What are your views on the suggestion for abolition of set-off in the Scheme, coupled with consequential marginal reduction in the rate of local or Central Sales Tax?

Set-off to exporters

2.26. Do you think that there is any need for continuance or otherwise of the concession of set off of sales tax at two stages prior to the sale in the course of export?

Hardships to the dealers

2.27. Are the charges of the sales tax officers in mofussil areas properly distributed and located from the point of view of the dealer's convenience?

2.28. What are the provisions in the Act or the Rules which cause hardships to the dealers and what remedies or amendments, do you suggest to remove them with particular reference to the following stages:—

- (a) Registration.
- (b) Licence, authorisation and recognition.
- (c) Maintenance of records.
- (d) Maintenance of accounts.
- (e) Submission of returns.
- (f) Payment of tax.
- (g) Claims of set-off.
- (h) Assessment.
- (i) Search and seizure of accounts for verification.
- (j) Demands and penalties.
- (k) Refunds.
- (l) Revisions and rectifications.
- (m) Appeals.
- (n) Simplification of forms and procedure.

Public Relations

2.29. Have you any suggestions to offer for improving the relations between the public and the department and ensuring maximum co-operation between them? Do you think that the institution of "Public Relations Officer" has proved useful? In what manner can its function be improved and enlarged?

2.30. Do you consider that the steps taken by the department in making the public aware of their rights and obligations in regard to tax matters adequate? Have you any suggestions to offer for improving publicity by the department and the publication and distribution of tax literature?

2.31. Do you suggest ways and means by which wide publicity could be given to the amendments in the Act and Rules made under?

2.32. Do you agree with the suggestion in The Scheme that "The Tax Payer Service Unit" under the Public Relations Officer be created to verify tax payment?

PART III

EVASION AND CORRUPTION

Evasion

3.1. What are the lacunae or defects in the existing provisions of the law which in your view lead to evasion of tax? If so, what modifications do you suggest to plug such lacunae or defects?

3.2. Do you think that by adopting The Scheme, this evasion of tax will be reduced? If so, how?

3.3. What are the causes of evasion of the sales tax?

3.4. What are the different modes of evasion?

3.5. What remedies would you suggest to check this evasion?

3.6. Do you think that the differential rates of taxes in the neighbouring States lead to the loss of tax revenue?

It is stated that since no tax is payable on the resale of goods purchased from registered dealers and sales to document holders, against declarations, many bogus persons have obtained registration certificates and documents and are issuing bogus certificates depriving the State of its legitimate revenue.

3.7. Do you subscribe to this view? If so, what remedies would you suggest?

3.8. What measures would you suggest for checking evasion by the method of not recording of transactions such as—

(a) production

(b) imports by rail or road?

3.9. What are your views on the existing machinery for detection and enforcement and the methods employed by it for dealing with problems of evasion?

3.10. Would you recommend establishment of check-nakas by the sales tax department for reducing evasion by rail or road transport?

3.11. Do you consider that appropriate changes in government policies and procedures relating to controls and restrictions would reduce evasion?

3.12. Do you think that the separation of detection work from assessment work would result in greater efficiency and speedy disposal of such cases?

3.13. What other changes would you suggest to quicken the assessments of detected cases without causing harassment to the dealer?

Corruption

It has been represented that corrupt officials take advantage of inadequacy of complexity or discretionary provisions of the law and procedure to exact illegal gratification.

3.14. Do you subscribe to this view? If so, what are your suggestions to deal with this problem?

It has been suggested that a provision on the lines of the Income Tax Act, 1952 of the United Kingdom should be incorporated in the Sales Tax Act, in order to provide a healthy check against malpractices of corrupt officers. Similar provisions exist in section 136 of the Customs Act, 1962 and in Section 22 of the Central Excises and Salt Act, 1944. These are produced in Annexure IV.

3.15. What are your views in this regard?

PART IV

GENERAL SUGGESTIONS

4.1. Any suggestions on any topics covered by the terms of reference but not touched upon in the questionnaire are welcome. Such suggestions should be accompanied with self-contained notes.

ANNEXURE I

The present system of Sales Tax in Maharashtra State

1. The system of sales tax under the Bombay Sales Tax Act, 1959 is a composite system consisting of three kinds of taxes. These are sales tax, general sales tax and retail sales tax. The Act also provides for the levy of purchase tax on certain categories of purchases.

2. The Act contains five different Schedules of goods, Schedule 'A' contains the list of goods which are totally exempt from taxation. The goods specified in Part I of Schedule 'B', and Schedule 'C' are subject only to sales tax which is levied at the point of the first sale of the goods by a registered dealer in the State, the subsequent resales of the said goods not being subject to tax. The goods specified in Part II of Schedule 'B' and in Part I of Schedule 'D' are subject only to general sales tax which is levied at the last stage of sale by the wholesaler to a retailer or to a consumer. The goods specified in Schedule 'E' are subject to both sales tax and general sales tax at the stages explained above. The sales of goods covered by Part II of Schedule 'D' attract general sales tax on the sales of the goods by a registered dealer to a retailer or consumer. The retail sales tax is payable only on the turnover of sales of the goods specified in Schedule 'E' at the hands of a retailer.

3. Purchase tax is payable by dealers in respect of their purchases in the State of Maharashtra of goods specified in Schedules 'B', 'C', 'D' and 'E' from persons who are not registered dealers, if the goods so purchased are not resold.

4. The rates of sales tax, general sales tax and purchase tax are mentioned in the schedule against each of the entries therein. The rate of retail sales tax is one quarter of one per cent of the turnover.

5. Purchase tax is also leviable on a dealer holding documents such as licence, authorisation, recognition and permit who after purchase of goods on the strength of his documents uses them in a manner so as to contravene the recitals of the declarations furnished by him to his vendor while purchasing the goods.

6. In addition to the liability to pay sales tax, general sales tax, retail sales tax, and purchase tax as explained, dealers whose turnover either of all purchases or of all sales exceeded ten lakhs of rupees in any year are liable to pay additional tax at the rate of 6 per cent of the tax payable by them for that year. The dealers are not entitled to collect the additional tax from their vendees.

Liability to pay the tax

7. For the purpose of fixing the minimum turnover of sales/purchases for liability to pay the tax, all dealers are classified into two broad categories, viz., (i) importers and manufacturers and (ii) the dealers other than importers and manufacturers. An importer attracts liability to pay tax on his turnover either of all sales or of all purchases in a year exceeding Rs. 10,000·00 provided that (a) the value of taxable goods sold or purchased by him during the year is not less than Rs. 2,500 and (b) the value of any goods whether taxable or not brought by him into the State of Maharashtra or despatched to him from outside the State during the year is not less than Rs. 2,500.

8. A manufacturer attracts liability to pay tax, on his turnover of all sales or of all purchases in a year exceeding Rs. 10,000 provided that (a) the value of taxable goods sold or purchased by him during the year is not less than Rs. 2,500 and (b) the value of any goods whether taxable or not, manufactured by him during the year is not less than Rs. 2,500.

9. The dealers other than importers and manufacturers attract liability on their turnover of all sales or of all purchases in a year exceeding Rs. 30,000 provided the value of taxable goods sold or purchased by them during the year is not less than Rs. 2,500.

10. Dealer who so becomes liable to pay tax is required to obtain registration certificate under section 22 of the Bombay Sales Tax Act, 1959. The liability incurred by any dealer as per above provisions continue until the dealer's registration certificate is cancelled. The registration certificate is cancelled if the dealer discontinues or transfers his business or his turnover both of sales or purchases in any year fails to exceed the limits prescribed above.

Documents

11. In addition to Registration Certificate, a registered dealer may, if he so desires, obtain any of the following documents provided he fulfills the conditions laid down in the Bombay Sales Tax Act, 1959 or the rules framed thereunder in this behalf:—

- (i) Licence under section 23 of the Act.
- (ii) Authorisation under section 24 of the Act.
- (iii) Recognition under section 25 of the Act.
- (iv) Permit under section 26 of the Act.

A holder of a licence is entitled to make purchases of goods specified in Part II of Schedule 'B', Part I of Schedule 'D' and Schedule 'E', for the purpose of resale inside the State or in the course of inter-State trade or commerce or for export outside India within nine months from the date of purchase, free of general sales tax on furnishing certificate in Form 16.

12. A holder of an Authorisation can purchase any goods free of all taxes on furnishing certificate in Form 14 or 14A as the case may be, for the purpose of resale in the course of inter-State trade or commerce or for export out of India within nine months from the date of purchase by the authorised dealer himself or by another authorised dealer to whom he resells the goods. An authorised dealer can also make purchase of goods at a concessional rate of 4 per cent sales tax for the purpose of resale at his place of business outside the State of Maharashtra for which he is registered under the Central Sales Tax Act, 1956.

13. A dealer holding recognition can purchase the goods specified in his recognition at the concessional rate of sales tax at 3 per cent for the purpose of use in the manufacture of taxable goods in this State for sale or use in packing of any goods so manufactured.

14. A permit, which is granted only to a bonafide commission agent, entitles the holder to make purchases (subject to certain conditions) at the concessional rates specified in case of the three documents above, provided his principal on whose behalf the purchases are made, holds on relevant documents. A permit-holder can (subject to certain condition) also make purchases, on behalf of a principal outside the State at a concessional rate of 4 per cent., provided the principal is registered under the Central Sales Tax Act, 1956.

15. The goods exclusively subject to sales tax at the first stage pass through a comparatively small number of stages before they reach the consumer. The goods exclusively subject to general sales tax at the last stage pass through comparatively more stages and the rates of tax on these goods are comparatively low. With the exception of liquor covered by Part II of Schedule 'D', the last stage at which the general sales tax becomes payable on these goods is a stage where the wholesaler generally sells the goods to retailers. In effect, therefore, the retailer will be left to pay only retail sales tax (if at all he is dealing in Schedule 'E' goods) which he has to pay at the flat rate of 1/4 per cent of his gross turnover of sales of Schedule 'E' goods. The comparatively small amount of tax thus leviable on the retailers is readily absorbed in his profit margin, which is estimated to be 10 per cent in case of retailers.

16. Under the present system retailers who purchase the goods from other registered dealers are not liable to pay sales tax or general sales tax on their resales to consumers and they are also not entitled to claim any set-off in respect of the tax paid on purchases.

ANNEXURE II

*Outline of the Scheme of simplified Sales Tax System prepared by
Shri S. D. Kulkarni, Additional Commissioner of Sales Tax,
Maharashtra State, Bombay, with clarificatory notes*

I. The Scheme

1. *Introduction—Problem of Evasion.*—Apart from evasion of sales tax on “on-money” or black market transactions which are not recorded in the regular books of accounts of the dealers which are maintained and shown to the tax authorities, there is a widespread evasion of sales tax even on recorded transactions either at the first stage or at the subsequent stages. The evasion of sales tax on recorded transactions at any stage is made possible at present because of the statutory recognition given to the declarations for claiming tax-free purchase or purchases at a concessional rate. Shri S. D. Kulkarni’s simplified scheme (hereinafter referred to as ‘The Scheme’) aims at putting a stop to evasion of tax on recorded transactions by abolishing this system of declarations as the mode of proof in support of the claims of exemption from tax. Coupled with this system of declarations, the complicated nature of the present structure of sales tax with so many exemptions and multiplicity in tax rates, also contributes to evasion and consequential corruption.

2. *Incidence and levy of tax.*—Under the present system which is described as ‘composite system’ three taxes are levied: (1) sales tax is levied at the first point of sale of goods by a registered dealer in the State, (2) the general sales tax is levied in the hands of a wholesaler a licensed dealer under the Act at the last stage of his sale either to retailer or to a consumer and (3) retail sales tax is levied at the multi-stage level in the hands of a retailer.

Under the Scheme, however, only two taxes are proposed to be levied, namely: (1) sales tax at the first point of sale in the State and (2) the retail sales tax on the subsequent stages of sales.

3. Rates of taxes—

Under the present system	Under the Scheme
(i) 1/4 per cent on bullion and specie ..	Same as at present.
(ii) 4 per cent on declared goods ..	Same as at present. (Certain other raw materials should also be taxed at this rate.)
(iii) No tax on sugar, tobacco and textile fabrics. (The State Government gets some compensation from the Central Government in lieu of sales tax.)	Same as at present. (But the State Government may examine whether they should get back their powers to levy sales tax.)
(iv) There are as many as eleven rates of taxes on the first point of sale (ranging from 3 per cent to 45 per cent) and 12 rates (ranging from 3 per cent to 45 per cent) at the wholesaler’s (licensed dealers) stage.	Only two rates are proposed at 7 per cent on bulk of the goods and 12 or 15 per cent on few items in the consumption of the affluent sections of the community.
(v) Retail sales tax at 1/4 per cent ..	Retail sales tax at 1/4 per cent.

Multiplicity of rates and rates related to price differentials pose a problem in verification of accounts and gives rise to harassment and corruption. It is felt that price linked tax rates do not in effect give benefit to the consumer, for whom it is meant.

4. *Tax-free goods—*

As many as 51 items are tax-free under the present statute. Only 5 items (1) water (2) electricity (3) stamp paper (4) milk and (5) books and periodicals are proposed to be tax-free under the Scheme.

A large exemption schedule leads to evasion by camouflaging sales of taxable goods under cover of exempted goods, besides causing complication in the structure of the Act. After all sales tax being an indirect tax is a regressive tax. Its main virtue is that by a small rate of tax it brings in large amount of revenue to the State. For this purpose, sales tax has necessarily to be as broad-based as possible with fewer items in the tax-free schedule. The Gadgil Committee appointed in 1947, had suggested only a few items to be tax-free as has been done under The Scheme.

5. *Hoteliers.*—Today, these dealers are assessed on an ad hoc basis according to the best judgement of the assessing officers. Clear cut data for the basis of assessment is not available in regard to the majority of such dealers. Sales upto to a certain rate are tax-free subject to certain conditions. This has given rise to plethora of judgements on what is tax-free and what is not. Again, if certain sales are taxable, set off on corresponding purchases has to be given. All these provisions bring in complications in the assessment of these dealers.

Under The Scheme therefore, it is proposed that the turnover of these dealers be subjected to certain slab rates, say 1 per cent upto 2 lacs turnover, thereafter 1 per cent rise for every lac of turnover the maximum slab rate being 6 per cent without there being any set off. The incidence would not be more than at present at the same time assessments would be rendered simpler.

6. *Tax on cereals and pulses, fresh fruits and green vegetables.*—Under the present statute, the sales of these items are tax-free. Under the Scheme, these are proposed to be taxed at 1 per cent on the first point of sale in the State. The sale by an agriculturist is not taxable.

In no other States except Gujarat, these are tax-free. The incidence of this tax on village level consumer, would not be significant as (1) he either produces these for his own consumption or sales these to other villagers, from out of surplus of his own produce, or as a labourer he gets these as wage goods or (2) he gets these from a village level dealer who is not likely to be above the level of limit-fixed for registration (3) even where the dealer is a registered dealer, if he gets these items through an urban-based dealer he would have paid the first point of tax of 1 per cent, and if the village level consumer is able to bear the transport and handling charges of a village-level dealer, well the incidence of 1 per cent of tax is insignificant as compared to these charges.

Again, even on the urban population the per capita annual incidence of such a tax would not be more than Rs. 4 at the average price of grain at Rs. 2 per kilo. Annual per capita consumption is computed at 200 kg. Urban population is about 31·2 per cent of the total population of the State i.e. 150 lacs out of the total of 504 lacs of population. The tax yield would be Rs. 6 crores. This can be used for providing for rural employment schemes or such other schemes benefiting the poorer sections of the society.

7. *Nature of provisions.*—The provisions described above are for making the structure of tax less complicated and more elastic. Further any simplicity in the tax-structure in itself helps in preventing avoidance or evasion of tax. There is less scope for manipulation of accounts.

The provisions set out below are proposed to put a stop to evasion of tax on recorded transactions.

8. *The mode of proof for claiming tax free, or a concessional rate of purchase.*—At present, the declarations or some sort of certificates are the mode of proof for claiming exemption of tax on a first point sale or a concessional rate or a tax free purchase. These declarations are considered an essential feature of any sales tax system. The

Scheme disputes this proposition. It does away with these declarations as mode of proof. It substitutes the payment-verified lists of sales or purchases as the proof for claiming such exemption.

9. *Submission of Annual Lists.*—Under the Scheme all dealers have to submit annually to their officers of the sales tax department the dealer-wise lists of purchases (one copy) and sales (in duplicate) with their Registration Certificate numbers and the value of the purchases or sales. All sale lists will be submitted with the endorsement by the dealer, that the first point tax has been paid by him on his turnover wherever payable. Similarly all purchase-lists will be furnished with the endorsement that all the purchases have been made by him from a registered dealer, who has paid the first point tax on his purchases to his vendor or vendor's purchases have suffered such tax at the earlier stage. (The purchases from unregistered persons will have been shown in the lists, separately). In proof of payment of the tax, the dealer's advocate or chartered accountant or the practitioner or the tax official will sign after verifying the payment. One copy of such verified list of sales will be forwarded by the sales tax officer to the officer having jurisdiction over the buyer. In the latter office the buyer's purchase list would have been received and the sales tax officer will tally this list with the seller's list received from the other sales tax officer and prepare a note of discrepancy and ask the buyer to reconcile this. In the meanwhile the sellers and the buyers are expected in normal course to exchange lists of purchases and sales made by them from each other and get these reconciled. The dealers continue to submit returns and chalangas monthly or quarterly as they do now. However, the return (see form attached) under The Scheme will be a very simple affair only with half a sheet required for noting the details of sales or purchases. One month after the last quarterly return of the year, the dealer will send an annual return reconciling the figures in the earlier returns filed. Alongwith this annual return the dealer will submit the lists (see form attached) of sales and purchases as detailed earlier. Soon thereafter, he will also furnish a trading account.

10. *The Verification of the Lists.*—The tally of these lists will be made in the sales tax office itself and so the Inspector or the officer of the department will not have occasion to visit any dealer's place of business for cross verification. As the dealer's list of sales and purchases will be tallied and got reconciled in the sales tax office itself, there would not be any necessity for most of the dealers to attend sales tax offices for the purpose of verification of the books of accounts at the time of assessment. The assessments will be made by the officers of the department without requiring the presence of the dealer. In this way about 80 per cent of the dealers will not be called for the purpose of assessment in the sales tax offices. They will, however, be called once in three years to see that the returns submitted etc., are correct and complete.

In respect of the other 20 per cent dealers who would be having the bulk of the business of sales and purchases for the first time in the State and who will thus pay bulk of the first point tax will be called annually in the offices to verify whether the tax has correctly been paid. The manufacturers, exporters and the inter state traders are included in this 20 per cent category and they will be called in the office to verify their claims of set off, if such claims are made. From this category too, the dealers with smaller turnovers would be called once in 3 years, if they have no refunds to claim.

It is assumed in the above discussion that the same concessions as at present will be available to the manufacturers, exporters and the inter-state traders. If, however, set offs are abolished altogether, the assessments will still be made simpler and about 95 per cent of the dealers will not be called by the officers of the department for the purpose of their assessments.

11. *Set-offs to Manufacturers.*—These are proposed to be abolished altogether. The declared goods, which include bulk of the raw materials and certain other raw materials are to be taxed at 3 per cent or 4 per cent. Upto 3 to 4 per cent there is no set off under the present Act. Set offs set in motion the problem of computation. This leads to evasion and corruption. The tax rate may be kept a little lower than at present to off set the payment of taxes on purchases of goods other than declared goods and certain other raw materials used in the manufacture of goods for sale.

If abolition of set-off is not considered desirable for one reason or the other, then set offs would be allowed to be adjusted against taxes payable. Where no tax at all is payable, these would be considered on priority basis and refunds granted promptly. If there is a delay for unavoidable reasons, interest at Bank rate will be allowed.

These claims of set offs will be verified on the basis of the purchase lists submitted by these dealers.

12. *Set-offs to inter-State sellers.*—They would not be able to purchase the goods intended for interstate trade or commerce on a tax free basis against a declaration as they do now, as the provision for furnishing declarations has been dispensed with under The Scheme. However, if they have paid any first point tax on their purchases, it would be allowed to be set off against taxes payable on their local sales. The payment verified endorsement on the dealerwise list of sales or purchases would enable them to prefer the claim for set off of tax paid earlier.

Where there are no local sales (such cases are very rare, almost nil) or because of the preponderance of inter-state sales, such cases result in refund, these would be granted to them by verifying their claims on priority basis. If there is a delay for unavoidable reasons, interest at Bank rate will be allowed.

13. *Set-offs to exporters.*—Under the present terms of reference of the committee, it has to give its opinion as to whether the present two stage (i.e. total) concession of set off of tax prior to the sale in the course of export, should continue or whether these exports are to be treated on par with the inter-state trade or commerce. If the committee comes to the latter conclusion, the provisions for set off would be on par with those set out in para 12 above.

Even if the two stage concession is to continue and if in such cases there would still be refunds after adjustment of set off against taxes payable on local sales, these would be granted on priority basis as described in paras 11 and 12 above.

As the purchases and sales lists will have already been tallied, as described in para 9 and 10 above, the only point to verify, would be to ascertain the total purchases used in the course of export sale. As far as pure exporters who cannot adjust set off against taxes payable, are concerned, their number is likely to be very small. In the sales tax survey for the year 1964-65, conducted by the Director of Economics and Statistics, it has been found that only 1,233 dealers are wholesaler exporters and they also pay on an average Rs. 10,420 a year in taxes. So the cases of pure exporters as stated above are very few and it would be ensured that they would be given refunds within three months from the end of the quarter to which the refund relates and for any delay interest at Bank rate would be allowed.

Ordinarily the list of sales and purchases will be filed annually. However, a special provision will be made to call these every month or quarter, on the request of an exporter. As soon as despatch proofs and payments are verified the refunds will be allowed.

Even now, these taxes are required to be paid by an exporter whenever his document is suspended or cancelled or declarations are not given for one reason or the other. Special provision is made under the present structure to allow in such cases refunds every quarter on verification.

In special hardship cases for established export houses, some provision can be made to allow the purchase tax free for a limited period of one month or so. Such permission can be renewed from time to time.

Even with all such provisions in favour of an exporter, if it is contended that the exporters' tax money is blocked for a limited period, it is felt that such blocking cannot be considered as unreasonable, particularly when the element of tax blocked in such a case, is only a fraction of the total amount blocked in purchases made for export.

14. *The other provisions.*—The other provisions about liability registration etc., may continue as at present, however, the opportunity now available may be taken to recast some of these provisions in the light of the experience gained so far and the circumstances now prevailing.

II. Clarificatory notes

15. *The lists no burden—it is saving in Clerical Labour and Stationery.*—The submission of the dealerwise lists of sales and purchases will not be a burden on the traders. These were compulsory in the erstwhile Madhya Pradesh State and they are the part of the value added tax system now prevalent in European countries. Even now the dealers maintain sales tax registers wherein all details of transactions of sales and purchases are maintained chronologically. Even under the present structure of dealers have to submit the dealerwise information of purchases and sales by identifying the goods when purchased against forms 14 and 14A. Again today the detailed lists of sales over Rs. 5,000 (in mofussil this limit is Rs. 2,500) per transaction are obtained at the time of assessment for cross check. It is necessary for the dealers to submit dealerwise purchases and sales lists to the income tax authorities even now. Under The Scheme the dealers have only to submit the lists of sales and purchases dealerwise when these sales and purchases are between the registered dealers. For other sales lumpsum details given are enough. Similarly, if between the registered dealers only some commodities are being dealt with, and the tax rate is the same, it is enough that the total of such sales and purchases is given in one line in the sales or purchases lists. Again where the purchases are made from the registered dealers, the sellers do not have to show in the purchases lists—details of ratewise purchases as the first point tax will have been paid on their purchase point. Similarly, when the sales are made to consumers, no list is necessary. It is, therefore, clear that in 80 per cent of the semi-wholesaler's or retailer's cases where sales are made to consumers only, no sale list is required to be submitted, as the buyers are not required to pay any tax. It will thus be seen that the burden of writing every declaration for each transaction of sale or purchase and issuing it and preserving it till the assessment is over, is no longer there. This burden in clerical labour and the stationery involved is much greater than the burden in submission of lists. Under The Scheme, every registered dealer will make only 4 copies of the lists of sales made to other registered dealers, one for himself, one for his buyer and two for the department. Similarly, he will make two copies of his purchases lists, one for himself and the other for the department.

Further there is no risk of any declaration being disallowed or any voucher proving bogus with the resultant tax load together with the penalties. Once sale is made and tax is paid, the honest trader's worry is over.

16. *Operation of bogus (Havala) traders—not possible.*—It may be argued that buying dealer may set up a dummy and obtain purchase vouchers from him and also get his accounts written through his place-man and show that the selling dealer has accounted for the sale, and he would thus escape the tax-net. This cannot happen under the proposed system as the lists are endorsed, and tax payment is verified by responsible authorities. Similarly, the seller cannot operate clandestinely in the market for sometime and play the vanishing trick. The buyers will be aware of such persons and they would not have any business dealings with these persons. It is well-known that amongst the wholesalers manufacturers and these big traders the business is mostly on trust and credit is also given for a period of one month or so. It is, therefore, not possible that such persons would get encouragement to operate in the market.

17. *Will the lists-system shift the burden of payment of tax from the first seller to the buyer vicariously?*—No. If for one reason or the other the bonafide first stage seller in the market does not pay the tax, a care would be taken to see that the liability to pay it would not automatically be shifted on to the buyer. For illustration if the first seller does not pay the tax, but approaches the department for instalments and the department after enquiry finds that the seller is carrying on business bonafide and in good faith and has some difficulties in making payments it would grant him instalments. This action of the department would absolve the dealer from the payment of the unpaid first stage tax. Similar enabling provision would be made to protect honest dealers if they prove that they have purchased goods from a bonafide selling dealer who is or was in the business continuously but due to unforeseen difficulties or vagaries of the Dame Fortune, he has not been able to pay the tax along with the returns or after he has been assessed. Again if some dealer becomes involunt the non-payment of tax by such a dealer would not impose liability on the purchasing dealer. In such a situation he would be absolved from the obligation of paying the first stage tax.

If any defaulting seller is assessed to tax, this would also absolve the buying dealer from payment of tax, even if tax is not paid by the defaulting dealer. In short every attempt will be made and every consideration will be shown to the honest dealer. In case, the buying dealer apprehends or is uncertain whether the selling dealer will pay tax he can immediately inform the sales tax department. He may also if he so desires insist on the selling dealer to furnish to him monthly list of sales with payment verified endorsement. Such an enabling provision will be made in the statute.

Under the present structure, the technical proof is in the form of a declaration prescribed under the statute. If it is forthcoming, the claim of deduction is required to be allowed. Under The Scheme only the payment verified lists with chalan numbers and dates have to be furnished and these alone act as proof of the claim from exemption of tax or a concessional rate of tax.

Prior verification of payment of tax, before claim of exemption is allowed to the next dealer in the chain of sellers and buyers, if administratively feasible, is technically valid. So far, it was considered that an administratively verifiable proof of this type cannot be devised. Now that such a proof is devised and it is also found that this can be verified and such verification poses no administrative difficulty, the problem of evasion of tax by *havala* dealers and by other dealers who furnish false declarations (which cannot now be easily detected) can be tackled effectively.

Even today, if declaration furnished is proved to be false, the claim of exemption from payment of tax is disallowed. But to prove that such a declaration is false poses an unsurmountable problem administratively. Under the Scheme, verification of payment endorsed lists of sales or purchases is an easy affair and so if on account of detection of non-payment of tax at an earlier stage through collusion, suppression of sales is detected, then shifting of tax burden from the alleged seller to the buyer cannot be considered vicarious.

Ordinarily, so long as the buying dealer proves that he has purchased goods from a registered dealer who is regularly carrying on business in the market, then the liability of the unpaid first stage tax will still be on the selling registered dealer and it cannot be shifted on to the buying dealer.

Under section 7(3) of the present Act, the term 'tax levied' is interpreted as 'tax actually paid' and under the Punjab General Sales Tax Act on certain types of goods, exemption from payment of tax is not allowed, if it is not proved that tax at an earlier stage has been paid.

Further if a selling dealer gives a certificate in F. 31 under the B. S. T. Rules, 1959, today, and it is proved that if tax is not actually paid by him, the subsequent buying dealer does not get set-off.

The Law and Judiciary Department of Government of Maharashtra has cleared The Scheme and has found that The Scheme does not cast vicarious liability on the dealers.

Under the present system, the seller suffers if the declaration is not forthcoming. The buyers also suffer if F-31 is noted in the earlier para are not forthcoming. Under The Scheme the buyer will suffer if the payment-verified-list is not forthcoming from a seller who absconds or proves untraceable. Some sort of responsibility is bound to fall either the seller or the buyer, under any system. In fact the risk under The Scheme is lesser than as at present, as the buyer has only to be careful to make his purchases from a known dealer with goodwill in the market. If he does not care and makes purchases from a non-dealer i.e. from a person who is put up as a stooge by some real dealer and who simply issues, vouchers in his name after obtaining a registration certificate clandestinely from the sales tax department, the buyer has to suffer in such a case. He does not have to suffer in any other case. In these circumstances the mode of proof prescribed here, cannot be considered unreasonable. Even today, the selling dealer has to suffer total loss, if the buying dealer who has purchased the goods on credit, is unable to pay for the purchases. This becomes a bad-debt and the selling dealer has to write it off. Under The Scheme the liability of the buying dealer is restricted to the element of the first point tax not paid by a stooge or a bogus dealer.

18. *Will a default in submission of lists or making of payments shifts the incidence of tax on to the buyers not possible?*—Under the proposed Scheme about 8 months from the date of filing of the annual returns, the lists will have been tallied and if some dealers prove to be defaulters, their assessments also will be taken up and completed within this period of 8 months so that the other dealers do not have to suffer only because some defaulters have not submitted their lists. Enabling provisions would be made in the statute to give exemption from payment of the first stage tax, if it is proved that the buyer has purchased from a defaulting registered dealer who has been assessed to tax and that such a dealer has been carrying on business in the market. Similarly, if the selling dealer obtains instalment or proves insolvent, the buyer will not be visited with the liability of the unpaid seller. It will thus be seen that no honest trader will have to worry even if there is some default in submission of lists at some stage.

19. *Administrative efficiency being what it is, the department would not be able to cope up with the colossal work of tallying the lists . . . fear misconceived.*—The number of registered dealers in the State is at 1,50,000. The number of registered dealers with whom another registered dealer would have business dealings average to 43. This has been found from the statistics collected in the two wards in Bombay City, namely, B and J to T Wards for a period of about a month. But there are nearly 50,000 dealers whose turnover is less than Rs. 3 lacs and who would be having dealings with a relatively lesser number of registered dealers (here it has to be noted that if the retailer makes sales to the consumers or unregistered dealers he has not to submit sales lists at all). Therefore, the average number of annual lists to be submitted by a registered dealer is expected to be less than 34. (For dealers with turnovers more than Rs. 10 lacs, this average for the whole of Bombay City for one month works out to about 65). In B and J to T Wards of the Bombay City the number of big dealers with variety of transactions and commodities is very large. The average for the whole of the State may therefore be taken at 25. There would, therefore, be 37,50,000 lists of sales to be tallied with the same number of purchase lists. The sanctioned strength of sales tax officers for purely assessment purpose, excluding the sales tax officers attached to the Commissioner of Sales Tax, Deputy Commissioners or in the (Enforcement Branch) is about 300 (289). The lists for tally per officer would, therefore, be $75,00,000 \div 300 = 25,000 \div 250$ working days a year i.e. about 100 lists for tally per officer per day. The number of dealers who file the returns according to the Samvat Year is about 40 per cent., the rest following the other years. Those who follow the other years, other than the financial year, will either give two lists, one from 1st April to the end of the other year and the other from the beginning of that year to 31st March or they would note totals on their lists, separately for these two periods.

The sales tax inspectors' strength today is 1,211. Out of these 750 are available to assist the assessing sales tax officers. Each sales tax officer would have about 2·5 sales tax inspectors to assist him. Per sales tax inspector the lists for tally would be 40·20 sales lists with 20 corresponding purchase lists. Each sales tax inspector will be assisted by a clerk. The sales tax inspectors and the clerks together will tally the lists and draw up the reconciliation memo wherever necessary. The tally of the lists means the tally of the totals of sales lists with the totals of the purchases lists, the endorsements of payments with chalans on records having been verified at the earlier stage on receipt of the sales lists in the sales tax offices. This exercise will have to be done before tallying of lists is done. The verification of the chalans with the endorsements of the payments would be an operation of tallying the totals of chalans given in the annual returns with the endorsements of payments on the sales lists. This is now done at the assessment stage.

It is the experience of the department that the defaults in the case of non-document holders in submission of returns today is about 15 per cent. In the case of document holders whose number is of about 20 per cent of the whole, it is about 5 per cent. Even assuming that the higher figure of 15 per cent would continue to be the defaulters, their number would work out to 22,500. With 300 officers, each officer will have to handle about 75 defaulters. Their assessments would immediately be taken up after issue of notices to them. For one officer, to complete their assessments in about

3 months is a job which is quite within his capacity. Once these defaulter's assessments are completed, the chain of sales and purchases lists would be completed and complete tally of all the dealer's sales and purchases lists, would have also been accomplished. This whole operation is expected to be completed in about 7 to 8 months from the end of the month during which the last list of either sales or purchases is expected in a sales tax office.

Under the Scheme, the first and the most essential function of the sales tax administration is to keep a constant vigil over the defaulters in submission of returns or the lists or in making payments according to the returns or the lists.

20. *Would the reconciliation of lists be an impossible task?*—No. The reconciliation of sales and purchases is only with regards to the transactions made by a particular customer and it should present no difficulty. Even now big dealers do make such sort of reconciliation with their regular customers. Moreover, every dealer closes and adjusts his books of accounts every year and in this process he reconciles all his sales and purchases. This reconciliation under the lists system is, therefore, less bothersome than the present cross-check method.

Further, it has to be noted that the reconciliation under the lists system would assume significance only when the buyer shows more purchases than the seller. In a reverse case, as the seller would have paid the first stage tax on his sales even if the buyer shows less purchases than his seller has shown, that would be a matter for payment of a minor amount of retail sales tax, and so it would not hold up the process of tally of sales and purchases lists. Such cases where the buyer would show more purchases than his vendor would show more purchases than his vendor would be hardly 1 per cent and therefore, would be investigated in detail. In other words, reconciliation would be confined to these 1 per cent cases as in the rest of the cases the sales lists will just be passed on to the other officers, as soon as payment is verified.

It is feared that the cash-method of accounting or the goods returned aspect, gets blurred in this lists system and thus this would prevent the tally of lists. This fear is groundless, in as much in case of discrepancy, the purchasing dealer will have an opportunity of reconciling his list with the corresponding list of the selling dealer.

21. *Tax payer service.*—As under the scheme proposed, the assessments in majority of the cases will be once in three years, there is likely to be some surplus staff. This surplus staff, according to Shri Kulkarni can be deployed for strengthening the enforcement branch and for utilising some staff for opening a section in the department (under the Public Relations Officer) for explaining the provisions of the Act and solving the difficulties of the traders in filing returns, lists, or for obtaining tax-payment endorsements directly from the sales tax officer concerned on a nominal fee of Rs. 10 per visit or endorsement.

The Quarterly Return

Name and address of the dealer

R. C. No.....

Quarter ending

Gross Turnover of sales 1	Exempted goods turnover 2	Export or Inter-State sales turnover 3	Turnover subject to first stage tax rate per cent 4	Tax payable 5
Turnover subject to first stage tax rate per cent 6	Tax payable 7	First stage tax paid turnover 8	Retail tax payable at 1/4 per cent 9	Total tax payable 10

- Less*—(1) Set-off of tax paid on purchases used in the manufacture of goods for sale.
 (2) Set-off of tax paid on purchases used in export and inter-state trade or commerce.
 (3) Set-off of tax paid on purchases specifically allowed under Government Notification.

No. of:

Net tax payable.....

Paid under Chalan No. dated

Gross turnover of purchases	Turnover subject to tax rate per cent		
	Exempted goods	Purchased from first stage seller	Purchased from URD or from outside the State or in imports
1	2	3	4

Turnover subject to tax rate per cent		Turnover from columns 3 and 5 used in (1), (2) or (3) above, if any	Turnover of first stage tax paid purchases (used (1) or (2) or (3) above, if any
Purchased from first stage seller	Purchased from URD or from outside the State or in imports		
5	6	7	8

Place:

Date:

Signature.

Form of Annual Return

Same Quarterly Return but it will show reconciled quarterly figures and the total at the end. It will also give opening and closing stocks after purchase totals. The dealers will be advised to furnish the Trading Account soon after filing the annual lists.

The Annual List of Purchases/Sales

The name and address of the vendor or vendee with R. C. No.

For the accounting year (S.Y./Calendar year/other year beginning from..... and ending on

Serial No. and period	Turnover of first point sales subject to tax		Turnover of tax-free goods (name broadly the commodities)	T. O. of taxable goods the sales of which have borne 1st point tax	Remarks
	Turnover of (name broadly the commodities)	Rate			
1	2		3	4	5

These columns for purchases or sales lists will be common. In the purchases list Col. 2 is not required to be filled in. Those who claim set-offs will have to give certificates of payments to the Vendors on the purchases lists. Now they obtain Vendor's certificates or purchase against declarations if they hold documents. If sales are to consumers, consolidated figures of all such transactions be given. If goods are tax-free, similarly a consolidated figure will be given.

At the end, dealer will give the certificate of payment of tax as "Certified that on the sales amounting to Rs. tax at rate of per cent worked out to Rs. and on sales amounting to Rs. tax rate of per cent worked out to Rs. is paid under chalan Nos. of dates." and in those sales, the sales shown in the list are included.

If first stage tax is not paid or payable a further certificate will be given in the following manner:—

"Further certified that the sales of goods amounting to Rs. have borne first point tax at any or at the earlier stage."

"Borne first point tax" means that the tax has been paid or with reference to such tax instalments have been sought from the Sales Tax Authorities and the Authorities have granted such instalments, or the certifying dealer or the earlier stage dealer has been assessed with reference to such tax.

(If this certificate cannot be given at the time of submission of annual lists, because, the instalments for the last Quarterly payment are in the process of being issued then the above certificate will be given for the earlier three quarters, and for the last quarter explanation about instalments be given).

ANNEXURE III

A brief sketch of the systems prevalent in some other States in the Indian Union

1. Andhra Pradesh

The Andhra Pradesh scheme is a combination of general multipoint and selective single point. Items listed in the First Schedule to the Act provide for a single point tax on 136 items at the rates mentioned therein, which range from 1 per cent to 25 per cent. For goods in Second Schedule, single point purchase tax either at the point of first purchase or at the point of last purchase or such point as may be specified is levied. On declared goods in the Third Schedule, single point tax is levied either at the point of first purchase, first sale or last purchase or last sale. A multiple tax at 3 per cent in the rupee is levied on other goods. An additional tax at the rate of one quarter per cent is levied if turnover of a dealer for a particular year exceeds Rs. 3 lakhs. It is a surcharge as is now being levied in Maharashtra and Tamil Nadu and some other States. In Tamil Nadu and Maharashtra, the rate of surcharge is 6 per cent respectively, but it is on the tax payable if the turnover of a dealer exceeds Rs. 10 lacs a year unlike the Andhra Pradesh surcharge of 1/4 per cent on the taxable turnover itself.

The Fourth Schedule deals with exempted goods. There are 10 items which are exempt, namely, salt, electrical energy, cotton-woollen-artificial silk fabrics, sugar, tobacco, sugarcane and school and college text books, toddy and neera, husk of pulses and tender coconuts. The Andhra Pradesh definition of business includes trade, commerce or manufacture or any adventure or concern in the nature of business whether such business is carried on with or without profit motive. It also takes into account all transactions which are made in connection with or incidental or ancillary to business.

2. Gujarat

Till the coming into force of the Gujarat Sales Tax Act, 1969 with effect from 1st April 1970 the same system as is prevalent in the Maharashtra now was in vogue in Gujarat. By the enactment of the Gujarat Sales Tax Act, 1969, the same system was prevalent before has been continued with the only major innovation, namely the abolition of the levy of retail sales tax.

The other major change not in the system as such, but in the liability of dealers for registration has been introduced by this new Gujarat law. Formerly, in Gujarat as is so now in Maharashtra, the annual turnover limit for registration in the case of importers and manufacturers was Rs. 10,000. It has now been enhanced to Rs. 20,000 in Gujarat.

3. Karnataka

The system prevalent in Karnataka is similar to that in the Andhra Pradesh. Every dealer has to pay tax on his taxable turnover at 3 per cent with some exceptions. On articles of gold and silver the tax is levied at 2 per cent. On cereals and pulses and gur it is 1½ per cent multipoint. There is an additional surcharge of 10 per cent on total tax payable on goods except the declared goods. There are different Schedules specifying the rate and the point at which the tax is to be levied. Manufacturers can purchase raw materials at concessional rates. There is also a single point levy at a specified stage for the goods noted in the different Schedules attached to the Act.

4. Tamil Nadu

The system is similar to that in Andhra Pradesh except that the single point tax is exclusively levied at the first point of sale. The First Schedule contains as many as 127 items which are taxed between 1 per cent to 20 per cent at the first stage. The manufacturers get the goods subjected to first stage levy at a concessional rate of 2 per cent.

On goods subjected to tax at the first stage, there is no multipoint levy. There are a few goods which are exempt from the levy of tax.

All the rest of the goods are subjected to a multipoint levy at 4 per cent except food-grains, milk and fresh vegetables which are taxable at 1 per cent multiple stage. Purchase tax is levied when the taxable goods purchased or consumed in the manufacture of goods for sale or when they are consigned to other states. There is a special scheme for persons having turnover between Rs. 50,000 to Rs. 1 lakh. Those persons having turnover between Rs. 50,000 and Rs. 55,000 have to pay a lumpsum levy (called composition) of Rs. 850 per year. This levy rises upto Rs. 3,000 on turnovers between Rs. 95,000 to Rs. 1 lakh.

5. West Bengal

In West Bengal tax is levied at a single point at the last stage of sale to an unregistered dealer or consumer under the Bengal Finance Sales Tax Act, 1941. Further tax on notified commodities is levied at single point first stage under the West Bengal Sales Tax Act, 1954.

There is a multi-stage levy at 1 per cent when sales are between registered dealers except manufacturers who pay tax at 2 per cent when they purchase these goods from a registered dealer for use in the manufacture of goods for sale.

The goods are broadly divided into luxury goods and other goods. The luxury goods are chargeable to tax at 15 per cent and other goods are liable to tax at 6 per cent. Declared goods are liable to tax at 4 per cent and items like fertilizers, tractors and power tillers are liable to tax at 2 per cent.

ANNEXURE IV

The Income Tax Act of 1952 of the United Kingdom

Section 13.3.—“An inspector or surveyor who—

- (a) wilfully makes a false and vexatious surcharge of tax; or
- (b) wilfully delivers, or causes to be delivered, to the General Commissioners a false and vexatious certificate of surcharge, or a false and vexatious certificate of objection to any supplementary return in a case of surcharge; or

(c) knowingly or wilfully, through favour under charges or omits to charge any person; or

(d) is guilty of any fraudulent, corrupt or illegal practices in the execution of his office, shall, for any such offence, incur a penalty of one hundred pounds, and on conviction shall be discharged from his office."

Section 7(7).—A Clerk or Clerk's assistant who—

(a) wilfully obstructs or delays the execution of this Act; or

(b) negligently conducts or wilfully miscounts himself in the execution of the Act, shall incur a penalty of one hundred pounds, and shall be dismissed from his office, and be incapable of again acting as clerk or clerk's assistant.

Section 50(i).—Save where expressly authorised by this Act, the General Commissioner shall not alter any assessment before the time for hearing and determining appeals, and then only in cases of assessments appealed against, and in accordance with their determination; if the clerk to the Commissioners or any other person makes, causes or allows to be made, in any assessment, any unauthorised alteration he shall incur a penalty of fifty pounds.

Customs Act, 1962

Section 136.—(1) If any officer of customs enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals, or connives at any act or thing whereby any duty of customs leviable on any goods, or any prohibition for the time being in force under this Act or any other law for the time being in force with respect to any goods is or may be evaded, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(2) If any officer of Customs—

(a) requires any person to be searched for goods liable to confiscation or any document relating thereto, without having reason to believe that he has such goods or document secreted about his person, or

(b) arrests any person without having reason to believe that he has been guilty of an offence punishable under sections 135, or

(c) searches or authorises any other officer of customs to search any place without having reason to believe that any goods, documents or things of the nature referred to in section 105 are secreted in that place, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both.

(3) If any officer of customs, except in the discharge in good faith of his duty as such officer or in compliance with any requisition made under any law for the time being in force, discloses any particulars learnt by him in his official capacity in respect of any goods, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Central Excise and Salt Act, 1944

Section 22—Vexatious search, seizure, etc. by Central Excise Officer.—Any Central Excise or other officers exercising powers under this Act or under the rules made thereunder who—

(a) without reasonable ground of suspicion searches or causes to be searched any house, boat or place:

(b) vexatiously and unnecessarily details, searches, or arrests any person.

(c) vexatiously and unnecessarily seizes the moveable property of any persons or searching for any article liable to confiscation under this Act.

(d) commits, as such officer, any other act to the injury of any person, without having reason for believe that such act is required for the execution of his duty; shall, for every such offence, be punishable with fine which may extend to two thousand rupees.

Any person wilfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall be punishable with fine which may extend to two thousand rupees or with imprisonment for a term which may extend to two years or with both.

APPENDIX III

Supplementary Questionnaire

The Organisational set-up and Administrative Procedure

S.Q. 1. Does the present organisation of the sales tax department require any change in order that it can discharge its functions more efficiently?

S.Q. 2. Is the strength adequate for the purpose?

S.Q. 3. Would you suggest any change in the charges of the divisions or ranges so as to bring about more efficiency in their working?

S.Q. 4. Would you suggest any principles which should govern the distribution of work among the officers of the department?

S.Q. 5. Would you suggest any change in the functions and duties of Assistant Commissioners and other officers of the department?

S.Q. 6. Do you think that the work of assessment of big and complicated cases should be entrusted to Assistant Commissioners with a view to improve the quality of assessment?

S.Q. 7. (a) Do you think that the representation before the Tribunal should be by officers in the Cadre or scale of Assistant Commissioners of Sales Tax?

(b) Do you consider that a senior advocate should be appointed as a retainer to handle important and complicated matters before the Tribunal?

S.Q. 8. Are the transfers of officers effected with a view to giving them experience in various branches and duties of the department?

S.Q. 9. Do you think that the transfers should be governed by the principles of career-planning?

S.Q. 10. At present the work of sales tax officers and appellate Assistant Commissioners is evaluated on the basis of number of Ps. and appeals respectively, due weightage being given to the cases of document holders and other dealers with turnovers above Rs. 50 lacs and Rs. 1 crore.

Do you think that this approach is satisfactory? or would you suggest certain modifications? What quantitative targets would you suggest for various categories of officers? How do you propose to assess the quality of work of these officers?

Inspection and Audit

S.Q. 11. Is the present procedure of inspection and audit conducive to exercising adequate supervision and control over the sub-ordinate officers?

S.Q. 12. Do the inspections tend to be of a routine nature, dealing with forms and procedures rather than exercising adequate control over assessments and recoveries?

S.Q. 13. Does the present method of audit of assessments and appeals enable the supervising officers to detect mistakes committed by the dealers in maintaining accounts?

Registration

S.Q. 14. Do you consider that if the registration certificate numbers are assigned on topographical basis, it would facilitate survey work and service of notices and orders and would also reduce the area of supervision?

S.Q. 15. Since the registration certificate numbers are required to be cancelled on closure and discontinuance of business, would you favour renewal and re-numbering of registration every three or five years?

Enforcement Work

S.Q. 16. Is the present machinery of enforcement adequate to deal with detection of evasion? If not, what are your suggestions?

S.Q. 17. Do you think that the detection work should alone be done in the enforcement branch, leaving the assessments of such cases to the Ward officers?

S.Q. 18. Is the system of rewards to the "informants" working properly? If not, what modifications would you like to suggest?

S.Q. 19. Do you think that the system of departmental "intelligence" would be more paying than the system of outside informants?

S.Q. 20. Do you think that the departmental officers, who bring intelligence and which proves revenue-yielding, should be rewarded?

S.Q. 21. Will it be in the interest of revenue to depute the sales tax officers to various other States for completing assessments of non-resident dealers?

S.Q. 22. Do you think that the enforcement branch, should set up a cell to study the current market conditions of important trades, the pattern of goods imported, the specific goods attracting premium, etc. so as to locate the areas for further deep probes by visits and searches?

S.Q. 23. Do you think that if powers for the settlement of dues are given to the Commissioner, it will help to complete big cases involving considerable revenue quickly and will serve the purpose of revenue by avoiding protracted litigations?

Returns and Recoveries

S.Q. 24. Do you think that centralised system of accepting returns tend to delay the action against defaulters? If so, what suggestions have you to make for modifying this system?

The procedure of tax payment

S.Q. 25. Can arrangements for receiving cheques or cash from the dealers, along with the returns be made in the sales tax office itself for the convenience of the dealers? If not, what are the difficulties?

S.Q. 26. If this procedure is adopted, do you think that this can save one further step, namely the verification of chalangis with the Bank-crolls?

The recovery of tax is referred to the revenue authorities functioning under the Additional Collectors who are the departmental Deputy Commissioners. It has been represented that owing to this dual authority, cross reference and reconciliation between these two authorities has become a time consuming and frustrating affair, affecting the actual work of recovery.

S.Q. 27. Do you subscribe to this view and if so, would you favour concentration of recovery work in one authority i.e. sales tax department? Please give

S.Q. 28. What suggestions have you to make to speed up recovery without avoidable inconvenience to the dealer?

Collection of Statistics and Research

S.Q. 29. Would you favour collection of statistical data based on some standardised proforma?

S.Q. 30. If yes, what data and with what end in view should it be collected? What should be the method of collecting it? What proforma would you suggest for the purpose?

S.Q. 31. Do you think that the sales tax department should have a section to carry on research incidence of tax and allied matters? If yes, give a detailed self-contained note.

Training

S.Q. 32. Does the present method of training of newly recruited staff and conducting refresher courses, meet the requirements of the department?

S.Q. 33. What methods do you suggest to improve the quality and efficiency of the personnel in the Department?

S.Q. 34. What are the present provisions for imparting training and information to the Gazetted Officers. Are these adequate? Have you any suggestions to improve upon them?

APPENDIX IV
List of Replies Received

Serial No.	Name of the sender
1	Shri S. S. Gandhi, Nagpur.
2	Shri B. V. Patil, (M.P.), Ahmednagar.
3	*The Poona Steam Coal and Coke Association, Poona.
4	Shri D. D. Shah, Bombay.
5	Rotary International, Akola.
6	Assistant Commissioner of Sales Tax (Adm.-cum-Appcal), Central Division, Range-III, Sangli.
7	Shri N. D. Shah and Co., Sangli.
8	*Nasik Wholesale Cloth Merchant Association, Nasik.
9	*Pune Khadya-pey Vikreta Sangh, Poona.
10	Shri M. P. Rege, Bombay.
11	*Maharashtra Khandari Association, Bombay.
12	Assistant Commissioner of Sales Tax (Adm.-cum-Appcal) Central Division, Range-II, Poona.
13	Shri S. S. Gandhi, Nagpur.
14	Shri L. M. Mahurkar, Nagpur.
15	Richardson and Cruddas, Bombay.
16	New Era Pipe Co., Bombay.
17	Shri C. M. Mehta, Bombay.
18	U. K. Agency, Bombay.
19	Shri A. C. Israni, M.L.A., Bombay.
20	*Dhulia Merchant and Commission Agent Association, Dhulia.
21	Income Tax and Sales Tax Practitioners Association, Nanded.
22	Shri M. H. Painter, Bombay.
23	Shri M. V. Rajapurkar, Bombay.
24	Deputy Commissioner of Sales Tax, (B.C.D.) Appeal-I, Bombay.
25	Kohinoor Electric Stores, Poona.
26	*Chambers of Commerce, Sangli.
27	*Vidarbh Kshatriya Khadya Peya Vikreta Mandal, Nagpur.
28	Khadya Peya Vikreta Sangh, Sangli.
29	*Messrs. India Oil Corporation. Messrs. Burmashell. Messrs. Caltex. Messrs. Hindustan Petroleum.
30	Messrs. Vilayati Manufacturing Co., Bombay.
31	*Office of the Deputy Accountant (Ren) Municipal Head Office.
32	*Shri Mehendale Manohar, Bombay.
33	Shri G. M. Khetani, Bombay.
34	Shri Bhanu Kamdar, Bombay.

Serial No.	Name of the sender
35	Asian Cable Corporation Ltd., Bombay.
36	*The Grain Rice Merchants' Association, Bombay.
37	*The Bombay Hessian Gunny Merchants' Association, Bombay.
38	*Grain Kirana Retailer's Association, Nasik.
39	Retail Grain Dealer's Federation, Bombay.
40	Shree Industries, Satara.
41	Igatpuri Vyapari Bandhu, Igatpuri.
42	Scientific and Surgical Instruments.
43	Maharashtra State Board All India Mfg. Association, Bombay.
44	*The Bombay Hotel Owners' Association, Bombay.
45	Shri C. P. Vyas, Bombay.
46	The Bombay Mineral Merchants and Manufacturing Association, Bombay.
47	*Chemical and Alkalis Merchants Association, Bombay.
48	Shri C. C. Anajwala, Bombay.
49	Shri P. K. Patil, Deputy Commissioner of Sales Tax (V), Bombay.
50	Shri G. P. Damle, Jalgaon.
51	*Shri Rajkaran C. Golecha, Chandrapur.
52	*Lokmanya Panbazar Association, Bombay.
53	*Maharashtra State Hotel Federation, Bombay.
54	*Shri Vinayak P. Kashikar.
55	Shri K. M. Shindore, Nasik.
56	*Income Tax and Sales Tax Bar Association, Amravati.
57	Vidarbha Chambers of Commerce and Industry, Akola.
58	*Bombay Kariana Colour, Chemical Merchant's Association, Bombay.
59	Deputy Commissioner of Sales Tax (Adm.) III, Bombay.
60	Deputy Commissioner of Sales Tax (Adm.) II, Bombay.
61	Deccan Manufacturers' Association, Sangli.
62	*Kumkum Manufacturing Association, Amravati.
63	Igatpuri Kirana Bhusar Vyapari Association, Igatpuri (Nasik).
64	*Tax Practitioners' Association (Sales Tax), Nasik.
65	*The Wholesale Gram Merchants' Association, Bombay.
66	Easun Engineering Co., Bombay.
67	Shri R. K. Mhalgi, Poona, Member of Public A. Committee.
68	*Deputy Commissioner of Sales Tax (Legal), Smt. Advani, Bombay.
69	Gokhale Institute of Politics and Economics, Poona.
70	*The Immitation Jewellery Manufacturers and Dealers' Association, Bombay.
71	*Sales Tax Practitioners Association, Bombay.
72	Buldhane Zilla Mudrak Sangh, Buldhana.
73	Letter in Gujarati, Sender's name is not known, Bombay.
74	United Potteries, Bombay.

Serial No.	Name of the sender
75	Sangli City Congress Committee, Sangli.
76	The Bombay Cotton Waste Merchants' Association, Bombay.
77	Shri G. A. Bandekar, Bombay.
78	*Shri Sureshchandra, Deputy Commissioner of Sales Tax, Enforcement, Bombay.
79	Shri B. L. Agnihotri, Nasik.
80	Star Selt a Electricals, Bombay.
81	*Maharashtra Bar Council, Bombay.
82	Shri Manik Moto.
83	*Shri M. G. Sabnis, Additional Commissioner, Bombay.
84	Navnctbhai Barshikar.
85	*The Paper Traders Association, Bombay.
86	*The Brass and Copper Merchants Association, Limited, Poona.
87	*All India Importers Association, Bombay.
88	*The Sales Tax Practitioner's Association, Bombay.
89	*Maratha Chamber of Commerce and Industries, Poona.
90	*Shri M. S. Waray, Nasik.
91	*Shri S. N. Bhimani, Bombay.
92	American Products Depot, Bombay.
93	*Retail Kirana Association, Aurangabad.
94	*Sales Tax Practitioner's Association, Bombay.
95	Federation of Associations of Small Industries of India, Bombay.
96	Onward Trading Co., Madras.
97	SIEMENS India Ltd., Bombay.
98	Arun L. Chandranpurkar, Bombay.
99	Harishchandra Hiralal Shah, Bombay.
100	The Nagpur Samyukta Bunkar Powerloom Association, Nagpur.
101	Sales Tax Officer, Kolhapur.
102	Mewamithai Utpadak Sahakari Society, Pandharpur.
103	*Perfumes and Flavours Association of India, Bombay.
104	*Maharashtra Sales Tax Gazetted Officers Association, Bombay.
105	*Principal, T. C. College, Baramati.
106	*V. H. Gore, Member, M.S.T. Tribunal, Bombay.
107	M and J Patel and Co., Bombay.
108	Steel Chamber of India, Bombay.
109	*Philips Light dealer's Association, Bombay.
110	The Bombay Stationer's Association, Bombay.
111	Sun Shine Electric Co., Bombay.
112	*The Mattresses and Pillows Manufacturer's Association, Bombay.
113	*Nag-Vidarbha Chambers of Commerce, Nagpur.
114	*Kolhapur Zilla Farsan Vikreta Vyapari Sanghatana, Kolhapur.

Serial No.	Name of the sender
115	*Sales Tax Bar Association, Nagpur.
116	Mill Gin Stores.
117	*Shri M. B. Godbole, Bombay.
118	*The Fruit and Vegetable Merchant's Association, Bombay.
119	Kolhapur Engineering Association, Kolhapur.
120	Shri S. A. N. Iyer, Bombay.
121	Commissioner of Sales Tax, Bombay.
122	Shri V. R. Ghenani, Bombay.
123	All India Stainless Steel Association, Bombay.
124	Shri Naik (details not known).
125	Deputy Commissioner of Sales Tax, Central Division, Poona.
126	*Maharashtra Rajya Khadya Mandal, Bombay.
127	The Bombay Trunk Merchant's Association, Nagpur.
128	*Mahavidarbh Chambers of Commerce and Industry.
129	*The Nagpur Itwari Kirana Merchant's Association, Nagpur.
130	Jaywant M. Waykar, Bombay.
131	Maharashtra Rajya Bakers Federation, Poona.
132	*Mumbai Kirkol Bidi Tambakoo Vyapari Sangh, Bombay.
133	*Study Circle, Nasik.
134	*Fruit Association, Pune.
135	The Powerloom Marketing Co. op. Society Ltd., S. P. Nagpur.
136	*Shri M. S. Deora, Bombay.
137	Shri L. K. Shetye, Deputy Commissioner of Sales Tax, Bombay.
138	All India Cotton Waste Exporters Association,
139	*Shri K. J. Mehta, Bombay.
140	Shri J. P. Kher, Dharwar (Karnataka).
141	*The Indian Merchants' Chamber, Bombay.
142	Alexandra Engineering Works Pvt. Ltd.
143	*The Bombay Retail Baneras and Silk Merchants' Association, Bombay.
144	Gujarat Chamber of Commerce, Ahmedabad.
145	Gujarat Sales Tax Bar Association.
146	Gujarat Chamber of Commerce and Industry.
147	Gujarat Chamber of Commerce and Industry.
148	Solapur Zilla S. T. Vyapari Sangh, Solapur.
149	The Bombay Shroff Association, Bombay.
150	Commissioner of Sales Tax, Gujarat State.
151	Shri Y. N. Dhatrus, Kolhapur.
152	Shri K. N. Deshpande, Bombay.
153	*Sangamner Merchants' Association.
154	*Bombay Baker's Association, Bombay.
155	Winding Wires Manufacturers Association, Bombay.

Serial No.	Name of the sender
156	*Shri G. D. Sharma, Poona.
157	Shri Shahnanji Nagasi, Nagpur.
158	*Khadye Peya Vikrita Sangh, Poona.
159	The Chemists Drugists Association, Bombay.
160	Shri Raisuddin, Poona.
161	Krishnaswami and Co., Sholapur.
162	The Bombay Kariana and Chemical Merchants' Association, Bombay.
163	*Nasik Road Devlali Merchant's Association, Nasik.
164	Prahlad Mehta, Bombay.
165	*The All India Plastic Bengal Manufacturers Association, Bombay.
166	Shri J. N. Rajput, Bombay.
167	*S. G. Zavar, Bombay.
168	*The Bar Council of Maharashtra.
169	Kerala State.
170	*Joint Secretary, M. S. Tax Staff Association.
171	Shri V. L. Gidwani, New Delhi.
172	Eastern (U. P. Chamber of Commerce, 5 Prayag Street, Allahabad.
173	Shri Biharilal Goyal, Lucknow.
174	Biharilal Goyal (Copy in Hindi).
175	Kashi Vyapari Pratinidhi Mandal, Varanasi.
176	Uttar Pradesh Udyog Vyapari, Pratinidhi Mandal.
177	Commercial Taxes Bar Association, Calcutta-15.
178	Shri R. B. Joshi, Bombay.
179	Satara Zilla Bakery, Owners Association, Satara.
180	U. K. Agencies, 2/216, Western India House, Bombay-1.
181	Shri M. B. Godbole, Bombay.
182	Shri K. C. Balaganga, Assistant Commissioner, Special Circle, Palghai.
183	*Shri S. M. Mokashi, Assistant Commissioner of Sales Tax (Legal).
184	*The Indian Merchants' Chamber, Bombay.
185	*The Bombay Chamber of Commerce, Bombay.
186	*The Maharashtra Chamber of Commerce, Bombay.
187	*Nasik Zilla Bakers Prod. Co-operative Society Limited, Nasik.
188	*Poona District Bakers Association.
189	*Sholapur Bakery Owners Association.
190	*Nutan Bakery Owners Association, Amravati.
191	*Vidarbh Dal Millers Association.
192	*Shri Sudhir Mehta, Chartered Accountant.
193	*The Institute of Chartered Accountants.
194	Vyapari Sanghatna, Khed, District Ratnagiri.
195	Powerloom Industries Association, Bombay.
196	The Bombay Gas Co., Ltd.

Serial No.	Name of the sender
197	*Smt. Chitkala Zutshi, Deputy Commissioner, Eastern Division.
198	Sangli Zilla Bakers Association.
199	Dr. M. C. Purohit, Hon. Consultant, Ministry of Finance, Delhi.
200	Sales Tax Bar Association, Nagpur.
201	Shri P. N. Rath, Additional Commissioner of Commercial Taxes, Cuttak.
202	Shri C. H. Bhabha, 49, Cuffee Parade, Colaba, Bombay-5.
203	Secretary, Akola Zilla Bakers Co-operative Society Ltd., Akola.
204	Sawantwadi Bakers Owners Association.
205	President, Nasik Tea and Coffee Merchants' Association.
206	Vengurla Bakery Owners Association.
207	Dakshin Maharashtra Bakers' Kolhapur.
208	Kolhapur Zilla Bakers Co-operative Ltd.
209	*Chopda Shahar Retail Kirana Vyapari Sangh, Chopda, District Jalgaon.
210	*Dhanya Kirana Kirkol Vyapari Sangh, Nasik.
211	*Kirana Vyapari Sanghatna, Nasik.
212	Nasikroad Wholesale Vyapari Association.
213	*Nasik Timber Merchants' Association.
214	Chairman, Malvan Bakers Association, Malvan.
215	Secretary, Nagpur Fabricator Loha Association, Nagpur.
216	Shri A. S. Joshi, General Merchant, Jalgaon.
217	Bakers' Association of Kolaba District.
218	The Umbrella Traders Association, Bombay.
219	The All India Mfgr. Organisation, Bombay.
220	Manufacturers of Geometry Boxes, Bombay.
221	S. T. P. Association, Pune.
222	S. T. P. Bar Association, Aurangabad.
223	Aurangabad Bakeries Co-operative Industrial Society Limited.

APPENDIX V

DIRECTORATE OF ECONOMICS AND STATISTICS

Note on a proposal for collection of commoditywise information relating to Sales Tax

1. Resume of the work done so far in Maharashtra

1.1. During the initial period of ten years of statistical work relating to Sales Tax, the data collection was restricted to the information supplied by the dealers in their quarterly returns filed with the Sales Tax Officers. On the basis of this data which was collected for all the registered dealers in any particular year, the aggregates of total turnover, taxable turnover and other categories of turnover could be built up for different types of dealers, classes of dealers according to turnover range, by their area of registration and by the classification according to the major commodities dealt in. It was also possible to build up the estimates of turnover according to various rates of taxes.

1.2. As the utility of the above statistical efforts was progressively realised by the Government, greater demands were made on it chiefly for building up of estimates of turnover and taxable turnover relating to particular commodities or commodity groups. With the data collected from Sales Tax returns filed by dealers it was only possible to classify the dealers by major commodities in which they dealt. After obtaining the aggregates of taxable or other turnover for different groups of dealers according to the major commodities in which they dealt, only through an exercise of subjective judgement it was possible to arrive at a rough figure of taxable and other turnover for specified commodity groups. Admittedly, such an effort was not only approximate, but also defective in as much as it rested purely on the judgement of the person making these estimates. The Government of Maharashtra, therefore, required that the Directorate of Economics and Statistics (DES) should evolve a scheme by which Sales Tax data could be collected in such a manner that valid and sufficiently reliable commoditywise estimates of various relevant turnover figures would be available to the Government.

1.3. Even in 1964-65, the number of Registered Dealers was very large, in the neighbourhood of 80 thousand. It was well nigh impossible to collect data on such a detailed item as commoditywise turnover in respect of such a large number of dealers. Further, in order to keep the cost of statistical effort as low as possible, it was initially thought that the basic information should be collected from the dealers in a manner similar to that in which the normal data about Sales Tax was used to be collected up till then. A set of forms were prepared by the DES and the system proposed required that the dealers covered in the sample, specifically selected for this purpose, would file additional returns in these forms and the data so filed by them would be used for the purpose of estimation of commoditywise turnover statistics. The method proposed by the DES thus combined the economy at both the levels by taking a sample of dealers for the purpose in question and further cutting down the cost of collection by asking the dealers to furnish the data.

1.4. Had the dealers not raised any objection to this method, the Maharashtra Government would have had established a method of commoditywise data collection which would have produced commoditywise statistics, for last ten years. But as things turned out, the representatives of the dealers in the Sales Tax Advisory Committee clamoured against the introduction of the system. Their main argument was that it would require dealers to keep many more records than they used today and to undertake a massive statistical exercise in order to be able to file the new returns. After discussion in a few meetings of the above committee, a clear cut policy emerged. The Government maintained the stand that commoditywise data was absolutely essential and the dealers will have to furnish them while it conceded the reasonableness of the equally resolute stand taken by the dealers' representatives that the system cast unduly heavy burden on the dealers. It was, therefore, decided by the Government that the DES should give a second thought to the entire question and come up with a scheme

which will produce commoditywise statistics without requiring dealers either to change their system of keeping records or to prepare summary statement from its records. To meet this demand of the Government the system of commoditywise survey was prepared by the DES and executed in a 'pilot' manner in 1968 and a fullfledged manner in 1968-69. The details of the methodology adopted are given in the annexure I to this note. The basic elements which characterised, this unique scheme were as follows:—

1.4.1. The survey was undertaken by combining the expertise in the fields of statistics and Sales Tax assessment procedures. The survey was designed by the DES and the field staff appointed was from the Sales Tax Commissioner's office. An assurance was given to the dealers that the survey was purely for statistical purposes and the data given by a dealer will not be passed on to the Sales Tax Commissioner for that particular dealer's assessment. It must be mentioned that there was full co-operation from the dealers and practically no non-response in this survey.

1.4.2. The schedule prepared for this survey was a simple one which treated a single transaction as a result of observation and classified it in a number of possible ways relevant for the purposes of making an assessment. The further unique feature of the survey was that two sample periods of one month each were selected for the selected dealer and only the transactions in which he entered during the two periods were separately recorded. The survey thus combined sampling procedure not only in the selection of dealers but also in the element of time.

1.4.3. The basic sample design was such that the larger dealers (having taxable sales of Rs. 8 lakhs and above) were covered on a 100% basis while only a sample of thousand dealers was taken of the remainder of about one lakh four thousand dealer. The survey took a period of one year and the data was processed on an Electronic Computer.

1.5. It can be said that the survey has conclusively established the effectiveness and the efficacy of the sample survey method in the collection of this intricate data. The preliminary report of the survey has already been prepared.

1.6. There is one important point which requires to be mentioned at this stage. It is that apart from providing estimates of commoditywise sales tax data, the survey method followed is a potential tool for getting some important data, without additional cost, on a number of facets of trading in different commodities. For example, for the first time perhaps, it is possible to estimate the turnover for different commodity groups by types of turnover that is to say from manufacturers to wholesalers, wholesalers to retailers, etc., etc. Further by a small addition to the points of information that is collected, it is possible to build estimates of flows of commodities from area to area. In fact, the survey can produce data which would be useful to the Government in a variety of manner (see Annexure II). The point that is sought to be made is that the survey tool is a versatile one.

1.7. In addition to the important statistical gaps that can be filled by such a survey, there is an important fact of it which may appeal to the administrator. What the survey do is to cut across the entire administrative procedures and to build up an estimate, albeit only an estimate, of the important single measure of the efficiency of the Sales Tax administration viz., the amount of tax that it ought to collect in a particular reference period. It is true that the survey will produce these estimates for a specified reference period while the practice followed by the Sales Tax administration does not provide data for such a reference period. The latter takes place because the assessments are done according to the accounting years followed by the dealers. Nevertheless, the difference due to the non-correspondance of the periods would not become materially important if the figures are viewed as a series over a period of time. It can, therefore, be said that the survey methodology, apart from producing commoditywise Sales Tax data for which it is developed, can produce a short of control data for the operations of the Sales Tax.

1.8. Admittedly the system of collection of data through sample surveys should be recommended only as a last resort because of the expensiveness of survey operations. The survey technique should be used only if other efforts fail. It is, therefore, suggested that the entire question of obtaining the required information directly from the dealers may again be reconsidered.

1.9. It is, however, necessary that proper care is taken not to lose sight of original objectives while introducing the system of data collection by asking the dealers to file the information. It is quite possible that one is carried away by the inexpensiveness in terms of cost of this system and tempted to make compromises on certain points which run counter to the very need for which the system was introduced. It would be, therefore, opposite to review the systems introduced by a few States in India.

2. The present statistical system for commoditywise Sales Tax statistics in some States in India

2.1. The Director of Economics and Statistics had an opportunity of studying the system of sales tax data collection in Kerala and Tamil Nadu when he visited the two States along with the Sales Tax Inquiry Committee in October 1975. He had also studied the material available in the case of the system followed in Karnataka. The following paragraphs are based on this study.

2.2. Kerala

2.2.1. The commoditywise sales tax data (estimates) are collected at the time of the assessment. Conventionally for certain items of Schedule I of the Act which mainly enlists hill products, the dealers are supposed to keep commoditywise accounts. By and large, in the case of other goods, though the dealers are supposed to file returns commoditywise, mostly they file them according to commodity groups which fall under the same rate of tax. Except for a certain group of 30 commodities, rest of the data is required to be asked from the dealers at the time of assessment and the estimates are arrived at by a process of discussion with the dealers and the figures are prepared on the basis of the judgement of the assessing officer.

2.2.2. It was reported that a lack of interest is generally shown by the dealers in producing the commoditywise data. Further, there is considerable delay in the process and the data so obtained is also not satisfactory. The most important point is that the data does not have a specific time reference. For example, the data published in the 1971-72 Administration Report merely refers to the commoditywise data arrived at for the dealers who were assessed during that year. It is obvious that such data would not have any specific time reference and its utility is questionable.

2.3. Tamil Nadu

2.3.1. The Tamil Nadu Government has a very elaborate system of preparing estimates of turnover, taxable turnover and sales tax collected according to commodities which number nearly 500. The system has been developed for computerisation and detailed instructions have been prepared under their booklet "Modern Management Information System". The data for 1972-73 has been already processed and the output from the computer was available in July 1975. The data for 1973-74 is presently under processing and the output is expected by January 1976.

2.3.2. It took the Government nearly four years to develop the system to produce the first series of results. The work on the system started in February 1971 and as mentioned above, the first set of results became available in July 1975.

2.3.3. The system is based on collecting information at the time of assessment of the dealer. Unlike Kerala, however, the system has a definite time reference namely the financial year and because there are no arrears of assessment carried over from year to year, the system almost produces statistics relating to a specific financial year.

2.3.4. In the case of scheduled goods, the dealers are expected to keep commoditywise data. But in the case of other goods, even though the form of return requires of them to show commoditywise data, they rarely do so. As it happens in Maharashtra and Kerala, they generally combine all the commodities which bear the same rate of tax under one group and show their turnover and other data together. At the time of assessment it was reported that it was possible for the assessing officer to arrive at a breakup of such figures. This was possible, reportedly, due to the fact that in any case, most of the dealers dealt with few commodity groups and where they dealt with

more, there was a considerable probability for such commodity groups to fall under different rates of tax and the data would then be required to be built up for a few groups falling under the same rate of tax. A subjective element does enter into the building up commoditywise data out of the aggregate statistics shown by the dealer.

2.3.5. It was, however, reported that big dealers, as in Maharashtra, do keep commoditywise accounts. But barring this few, in most of the cases, commoditywise statistics are arrived at by discussions with the dealer and on the basis of the subjective assessment of the assessing officer. In this, he is helped by his experience of assessing the particular dealer in the past. It was also reported that not much difficulty has been experienced in getting these figures. (Though there are about 1,80,000 registered dealers, about a lakh of them having a taxable turnover exceeding Rs. 25,000 are only assessed. Thus limit has now been raised to Rs. 50,000 but has not resulted in the reduction in the number of assesseses).

2.3.6. In this process, it is obvious that certain commodities may be small enough in terms of their turnover for a particular dealer and he may group them together under "Other". When aggregated, a large enough proportion of the total turnover of a particular commodity will be found to be unreported separately. It was reported that this did not result in under estimation of more than 20 to 25 per cent.

2.3.7. As mentioned earlier, only the output for the year 1972-73 is available. The results for the subsequent years are not available and it is not, therefore, possible to ascertain the efficacy of this procedure. It is, however, obvious that the success of this approach depends on the capacity of the dealers and the assessing offices to come to an agreed estimate of the turnovers of the different commodities and it rests on the following assumption:—

- (a) By and large, the dealer does not deal in a large number of commodities.
- (b) In case he does, he, at least, does not deal in a large number of commodities under a single rate of tax (taken separately).
- (c) And, even if the above is so, the number of commodities under the single rate of tax hardly exceeds two or three and
- (d) By combination of classification of a dealer by major commodities that he deals in and the rate of tax under which he pays the sales tax, it is possible to arrive at an estimate in each individual case of the commoditywise turnover.

2.4. *Karnatak*

2.4.1. Karnatak Government had originally specified 688 commodity classifications according to which the dealers were to submit turnover data in their monthly statements and annual returns. This number was subsequently reduced to 286. The dealers were instructed to report separately turnover data according to only 12 classifications pertaining to major commodities, in case of difficulties and club the turnover of minor commodities with the turnover of major commodities which are similar and have identical tax rates. The major and minor commodities were to be decided by the dealers themselves depending upon the turnovers of the commodities during the period of report. The dealers whose turnover was less than Rs. one lakh were not required to give commoditywise classification.

3. System for Commoditywise Sales Tax Statistics in Maharashtra State

3.1. It would be seen from the foregoing section that by and large the States have followed the approach of collecting the necessary data by asking the dealers to supply the same and, therefore, the system involves only marginal additional cost for the operation of collection of data. However, because of the difficulties experienced by the dealers, compromises have been made in respect of the details of commodity group specifications which have, in the opinion of this office, come in the way of producing valid estimates of aggregates for which the system was developed. In some States, the data is based on the 'assessment' of the assessing officer and to that extent, the system would produce results which will be subjective estimates. It is, therefore, proposed that in Maharashtra also, attempt may now be made to introduce similar system which will be free from the above limitations.

3.2. The number of registered dealers in Maharashtra is very large, and the attempt should not be to collect commoditywise data from *all* of them. This is suggested for two reasons. *One*, the smaller among them deal in a large number of commodities and it will not be fair to ask them to furnish these details. It is feared that this will be good cause for the dealers as a group to resist the reintroduction of the system. *Two*, the very largeness of the unit from which data will be collected will affect adversely control over the quality of the data. What is therefore, proposed below is a judicious combination of two systems: one, in which the dealers are asked to file commoditywise returns and *two* the sample survey in respect of rest of them.

3.3. The commodity groups for which data will be required should be clearly specified, and the dealers who will be required to file the returns commoditywise should be asked to give details according to this list of commodity groups whenever they deal in one or more of them. The dealers should not be allowed the concession of clubbing the data for more than one commodity group together in the returns that they would file.

3.4. Most of the large dealers, it is felt, do keep account by the major Commodity groups and have a system of their own for obtaining the commoditywise information for their use. The aggregate of registered dealers should, therefore, be divided into two groups. The large dealers— large dealers being suitably defined should be required by an Act to file a new return suitably designed to give commoditywise data atleast at an interval of one year.

3.5. All the other registered dealers (i.e. small dealers) will not be asked initially to file the new commoditywise returns. A suitable sample survey on the lines carried out by the DES earlier should be organised to cover this group for estimating the various types of turnover according to commodity groups. Because of the considerably reduced size on which this sample survey can be taken, its cost would be much less (less than half) than the cost that would have to be incurred if *all* dealers are to be covered by a sample survey. Thus, the total sphere of commoditywise statistics would be divided into two parts: the first of large dealers to be covered by the first method of asking the dealers to file returns and the second of small dealers to be covered by a sample survey. For every commodity group, the corresponding statistics generated by the two systems from the two groups respectively would be aggregated to give the estimate of total relevant to it.

3.6. Because of the expensiveness and the other demands that the survey technique makes, after the initial survey, a review should be taken whether the survey operation should be continued every year. This smaller question is entangled with the larger question whether commoditywise statistics would be required to be collected every year. If they are required every year it is possible, after the necessary analysis of the data, to come to the conclusion whether the small dealers account for a substantial proportion of the total turnover (by types) of different commodities. If this is so, it would be necessary either to continue the survey operation or to prevail upon the small dealers to furnish commoditywise statistics in the same manner as the large dealers. It is, also possible that even among the small dealers, the larger among them account for quite a large proportion of the commoditywise turnover. If this is so, these dealers may be brought under the fold of the first group (large dealers) who are asked to file commoditywise returns, while the second group may either be covered by the sample survey or be ignored for practical purposes, if their turnover form insignificant proportion. The latter will not probably be the case, and a sample survey will be necessary. The attempt will continually be to reduce the sample sector and the sample survey particularly to as small a size as possible.

3.7. The survey technique developed by the DES is capable of being transformed as an instrument of assessment so that no special resources have to be spent for carrying out the survey. If the Sales Tax Inspector fills, for example, every month one schedule developed by the DES on a random sample basis for one dealer by a suitable sample design from among the small dealer in his charge a large sample of dealers would be covered in a period of a year. Past experience has shown, that the Sales Tax Inspectors can easily understand and develop expertise in methods of collecting the data in these schedules. In fact, the survey methodology has been so evolved that the technique

can be made an operational part of the routine assessment carried out by the Sales Tax authorities. What will be required will be for the Sales Tax Inspectors to visit the shops of dealers and copy down in the schedule the data, transactionwise from the sampled dealers' records/vouchers. If the suggestion to make the application of the survey technique a normal part of the assessment procedure is put in practice with the system of asking the larger dealers to file commoditywise return the Maharashtra State would have the most economic and efficient system of collection of commoditywise Sales Tax data.

ANNEXURE I

Sample survey of commoditywise Sales Tax data

1.0. From the usual Sales Tax Survey, though the information about the taxable Sales according to different rates of taxes is available, information for the individual commodity groups cannot be built up since such information is not available in the returns filed by the dealers nor the dealers are expected to keep commoditywise records of their sales and purchases. So far, no survey of commoditywise sales tax data in this State had been undertaken in this field. In view of this, the commoditywise information had to be collected from the sales and purchase vouchers of the dealers by visiting their places of business. For the first time, the Directorate of Economics and Statistics undertook a sample survey of commoditywise sales tax data under the Bombay Sales Tax Act, 1959, in Maharashtra State for the reference year 1968-69.

1.1. *Object.*—As pointed out, the usual Sales Tax Census was incapable of giving commoditywise turnover data in the State which is valuable for framing the tax policy and for improving the tax administration. This may also give some information which is significant from the economic point of view, for example, total consumption of different commodities in the State, export etc. This information is often required by the Government. The Fourth Finance Commission also recommended that the commoditywise sales tax data should be collected. In view of this, the main object of the survey was to obtain the estimates of taxable sales and taxes payable of different commodities under the Bombay Sales Tax Act, 1959, as well as Central Sales Tax Act, 1957 in the State on the basis of the sales and purchases vouchers of the dealers by visiting their places of business.

1.2. *Scope and coverage.*—In geographical terms the survey covers the entire State and information was collected for 265 commodity groups which were further classified into 17 major groups. These 265 groups were formed by considering commodities falling under different schedules of Bombay Sales Tax Act, 1959. In some cases the commodities mentioned in the schedule were split and more groups of commodities were formed. For example 'Tea and Coffee' are mentioned as one entry in Schedule 'C' but these were split into two different commodities i.e. 'Tea' and 'Coffee'. Another example is that of entry 22 of Schedule 'E'. Many commodities which are treated as coming under entry 22 of 'E' Schedule were grouped separately and classified under 17 major groups. The excisable commodities were also considered and classified in 17 major groups.

It may be mentioned here that in this survey the commoditywise estimates of sales tax, general sales tax and central sales tax are built up. However, the estimates in respect of Purchase Tax, Retail Tax and set off are not calculated as they were not considered in this survey.

1.3. *Pilot Survey.*—With a view to testing the suitability of the schedule, amplifying the instructions prepared for canvassing of the schedule and also studying the feasibility of conducting the full-fledged survey for building up the commoditywise estimates of total as well as taxable turnover, the main field work of the survey was preceded by pilot survey conducted during December 1967 to January 1969 in one of the wards of the Bombay City.

The experience gained from the pilot survey was encouraging on account of the good response from the dealers. It was also found that the sampling method adopted would give reasonable estimates of turnovers and taxes of taxable goods.

1.4. *Period of the Survey.*—The field work of the full-fledged survey was commenced in the month of March 1970 and was completed by the end of September 1971. Thus, the field work was carried out in 19 months.

1.5. *Design of the survey and sample size.*—A list of all the dealers numbering about 1,08,436 registered under Bombay Sales Tax Act, 1959 for the period ending March 1969 along with other particulars such as total turnover, taxable sales, the broad groups of commodities dealt in was prepared. These were further grouped into 80 sub-groups according to commodities dealt by them. This classification of dealers into dealer groups or sub-groups was the same as was followed in the periodical sales tax Survey data collected on census basis. In order to have better estimates of taxable sales and taxes payable of each of the commodity groups, the basis for selecting the dealer was taken on taxable sales. For this, the taxable sales under sales tax, general sales tax, Central sales tax of the dealers were clubbed. Then all these 80 sub-groups were classified in different ranges of taxable sales. From all the 80 sub-groups, the dealers having taxable sales of Rs. 8 lakhs and above were covered on census basis (census dealers). These dealers numbering about 4,008 were removed from rest of the dealers. The remaining dealers were arranged in the ascending order of their turnover in each sub-group of commodities and a sample of 926 dealers was drawn from 80 sub-groups after determining the number of dealers to be selected from each group on the basis of taxable sales. These dealers from each of the 80 sub-groups were selected with probability proportional to size (i.e. in this case taxable sales) and with replacement. In addition to these 926 dealers, 100 dealers were selected on simple random basis (S.R.B.) from about 20,336 dealers for whom turnover particulars were not available.

The reference year for the survey was the financial year 1968-69. Out of twelve months of the reference year viz., 1st April 1968 to 31st March 1969, it was decided to collect information for two months of the reference year. Six pairs of twelve months were formed in such a way that the time interval in between the two months of each pair was of six months. For every selected dealer, a pair of two months was selected by applying the principal of randomization with the help of random number table. Selection of a pair of two months was made independently in respect of each selected dealer. This technique of randomization over time i.e. selection of one pair of two months at random introduced an equal chance of selection for any one of the six pairs of two months and thus, it was possible to build up yearly estimates of different types of sales and taxes payable by each selected dealer without bias with respect to variations prevailing in sales and taxes payable in different months of the reference year.

1.6. *The Schedule of the Survey.*—Appropriate schedule to cover all aspects of sales tax data and to build up taxable sales of different commodities was framed. The most important aspect of the schedule is that all types of transactions that are important from the sales tax Act point of view have been listed and classified into mutually exclusive categories. These transactions have been given appropriate codes. These codes reflected the nature of the transactions whether taxable or exempted or subject to concessional rates etc.

1.7. *The type of field agency.*—Since the information required is such that the estimates of taxable sales and different types of sales relevant to the Sales Tax Act are to be collected, it was necessary to bring on deputation the Sales Tax Inspectors from the office of the Commissioner of Sales Tax, Bombay for the field work. This was necessary because the field staff was expected to know, not only the various provisions of the Sales Tax Act but also had to be conversant with the different types of records of the sales/purchases by different dealers. The work of the field staff was virtually assessment of every individual transaction of dealer as it was recorded. This was reflected in the codes given to each transaction in the schedule.

1.8. *The method of data collection.*—In order to conduct the field work of the survey, 33 Sales Tax Inspectors (i.e. Investigators) and 4 Sales Tax Officers, who supervised the field staff were drawn from the office of the Sales Tax Commissioner, Bombay. Each selected registered dealer was contacted by an Investigator who examined all the transactions of purchases and sales made by the registered dealer during the reference period

viz., 1968-69. During the field work, the field staff was expected to copy down datewise particulars of sales and purchases for all commodities from the records of the dealer for prescribed two months selected with an interval of six months. Thus, the method of collection of data was a sort of interview method and schedules were completed by the Investigator and not by the dealer. All that the dealer was expected to do, was to make all the relevant records available and accessible to the field investigator at the place of his business on the data and time informed to him earlier. Since no burden regarding compilation or tabulation was cast on the dealer, the dealers were found to be co-operative and helpful in the smooth conduct of this survey. In the directorate, the work was supervised by one Deputy Director assisted by one Research Officer and four Research Assistants in the head office.

ANNEXURE II

Use of commoditywise sales tax data

Various types of uses to which the commoditywise turnover and tax data can be put are enumerated below:

(i) *Tax policy and rate structure.*—Availability of commoditywise turnover and tax data will help a good deal in formulating rational, progressive and equitable tax structure, particularly regarding sales tax in the State.

(ii) *Help for tax administration.*—Such information will also help a good deal for the tax administration in the State.

(iii) *Detailed picture of the economy of the State.*—The commoditywise turnover data will enable to build up the detailed and elaborate picture of economy of the State because it will provide information about production, consumption, import and export of the important commodities. This will also throw light on the extent of self sufficiency or otherwise of the State in respect of important articles.

(iv) *Inter-regional flow of commodities.*—The analysis of commoditywise turnover of data from dealers in different regions will also help together some idea about the movement and flow of commodities in different areas of the State. This will also throw considerable light on the economy of different regions of the State and help in formulating a development programme for ensuring regional balances.

(v) *Incidence and impact of the commodity taxation.*—Information regarding commoditywise sales tax is likely to be useful for the study of commodity taxation such as Sales Tax, excise duty, etc., in the State and its impact on production, consumption, export and import of these goods.

It is generally felt that the different types of commodity taxes such as sales tax, excise duty etc., levied by different administrative units such as Central Government and State Government are competitive in nature and require closer co-ordination. This is possible if the estimate of these commoditywise taxes in the State are available for different commodities.

In addition to the impact of these commodity taxes on the general economy, the incidence of these taxes on different types of consumers such as household consumers and manufacturers also can be studied.

At present, detailed household consumption data is collected through N.S.S. rounds and estimates for different areas for different sectors like different levels of consumer expenditure groups in urban and rural areas are available. The commoditywise tax data would be useful in building up precise estimates of the incidence of these taxes on these consumers in the State.

Some of the commodities subject to Sales Tax are either of the nature of raw materials or of intermediate products which are used by the manufacturers for further processing. The incidence of these taxes on such commodities is also likely to present the estimate of the tax burden on different industries in the State.

(vi) *Improvement in State Income estimates.*—One of the important gaps in building up State Income estimates is the inadequacy of the information about the income generated by the distributive trades. The commoditywise turnover data can be indirectly used for estimating these incomes and to that extent help to improve the present State Income estimates.

One of the methods of building up the State Income figure is to adopt expenditure approach which is presently not possible for lack of different types of information. The availability of the data regarding import, export and consumption of different commodities in the state may also prove to be useful in building State Income estimates by expenditure approach.

(vii) *Social accounting estimation.*—At present State Income figures are built up by estimating the income generated within the geographical boundaries of the State and hence no precise idea about the income accrued can be had for lack of reliable information about the inter-state trade and balance of payments data. Some what more detailed and precise information about the import and export of different commodities from the State is likely to be useful in this respect as well. These data may also prove to be useful for building up a preliminary social accounting model for the State.

(viii) *Input and output analysis.*—The available data may also prove somewhat useful in initiating the studies in building up inter-industry analysis or input-output tables for the State. It is not professed here that this would be possible only with the help of this data but it is felt that this type of information is likely to be of some use in initiating such studies.

(ix) *The development of organised marketing for certain commodities in the State.*—The information will incidentally throw light on the extent or otherwise of the development of organised markets for different commodities in the State.

It will also help in evolving a clear picture of the composition and the functions of different agencies at different stages in the distributive channels of the trading operations in selected commodities.

It might be of use in evolving suitable supply and distribution policy for the commodities which are of strategic nature and which may be in short supply from time to time.

(x) *Transport requirements.*—As the information regarding the flow of different commodities within and without the state is likely to be available, the volume and value of the commodities so moving could also be estimated. This may indirectly help in estimating the transport requirements of the State.

APPENDIX VI

Note on a proposal for creation of a statistical cell for collection and analysis of data relating to Sales Tax

1. In the Maharashtra State, the Sales Tax levied under the Bombay Sales Tax Act, 1959, is the most important source of revenue contributing according to the 1975-76 budget about 37 per cent of the total revenue receipts of the State and 64% of taxes collected by the State. As in the other States of India, it owes its special position not merely to the size of its yield but also to the expansiveness which its inherent elasticity and wide coverage impart to the fiscal structure of the State.

2. *Present position of Sales Tax Statistics.*—2.1. The importance of continuous collection and analysis of data relating to such an important tax for its efficient administration and the timely formulation of policies and measures relating to it cannot be over emphasized. Further, the data furnished by the dealers in their returns filed with the Sales Tax Officers are at present almost the only source of economic statistics in respect of the trading activity. Recognising this importance of the Sales Tax Statistics, the then Government of Bombay sanctioned a scheme in March 1955 under which a statistical cell was established in the Directorate (then Bureau) of Economics and Statistics (DES). Under this scheme, during the first few years, data were collected for alternate years, in the forms prescribed by the Directorate, on the basis of the returns filed by the Registered dealers covered under (i) the Bombay Sales Tax Act, 1959 (ii) the central Sales Tax Act, 1957 and (iii) the Bombay Sales of Motors Spirit Taxation Act, 1958 to the concerned Sales Tax Officers. The work of filling in the forms was done by the Statistical clerks appointed for the purpose in the Sales Tax Department. The purpose of the analysis of these forms was mainly to give estimates of (i) total turnover of sales (ii) taxable turnover of sales and (iii) tax payable according to the rates of taxes and classification of dealers by size, type, main commodities dealt with and area.

2.2. *Progress of work done.*—Under this scheme, the surveys with the reference years 1957-58, 1958-59 and 1960-61 had been carried out and their reports published in the quarterly Bulletins of this Directorate. For the year 1962-63, a survey was carried out, its results and report were presented to the Government but the report was not published. Similarly for the reference year 1964-65 data were tabulated (on computer) and report prepared. After 1964-65, the reference year was taken as 1968-69 and information was collected on partly census and partly sample basis. The analysis and tabulation of these data are in progress with the help of computer.

2.3. *Commoditywise Sales Tax Data.*—The above scheme for collection of statistics relating to Sales Tax did not provide estimates separately for each commodity. However the need for obtaining data of turnover and taxable turnover for various commodities was increasingly felt by the Government. To obtain them an attempt was first made to ask the dealers to show such data in their quarterly return, but this attempt was resisted by the dealers. Consequently therefore the Government asked the DES to prepare a scheme for collection of these data by a suitable technique. The DES, after a pilot survey, submitted a scheme for a sample survey for estimation of the commoditywise Sales Tax data which was sanctioned by the Government. Under this scheme a sample of 5000 dealers was selected and commoditywise information for the year 1968-69 mainly relating to turnover of sales, sales subject to taxes and tax payable was collected for two sample periods. The draft report on this survey has been prepared. Since the information was to be compiled from the records maintained by the dealers, familiarity with these records was necessary and therefore Sales Tax Inspectors and Sales Tax Officers were appointed in this survey as investigators and supervisory officers.

3. *Need for a full-fledged Statistical cell.*—3.1. Nearly twenty years have passed since the attempts to collect the Sales Tax data began and it is only opposite that a complete review of the statistical system of sales tax is taken as a part of the work of the Sales Tax Enquiry Committee. The following paragraphs give suggestions in this regard on the various aspects of the statistical system that can be envisaged for sales tax.

3.2. Basically, the statistical system to be established would have to cover the following major work areas:—

(i) Collection and analysis of data regarding assessments, extra dues raised, refunds granted, recoveries effected from old and current arrears etc.

(ii) Statistical surveys to elicit, on suitable sample basis, information relating to total turnover, taxable turnover and tax payable according to rates of taxes and by dealer groups.

(iii) *Ad hoc* economic and statistical studies on matters relating to sales tax as and when required by the Department.

(iv) Computation, periodically, of indicators such as index of turnover.

(v) Preparation of commodity survey reports from time to time.

Initially the main source of information will be the returns filed by the dealers registered under the Act. Other information for various studies can be collected by the cell on *ad hoc* basis.

3.3. Further, the statistical system to be established can be expected to undertake special survey in addition to the work outlined above. The two important schemes which may be mentioned here and which will help getting more or less, comprehensive information relating to sales tax are (i) collection of commoditywise statistics relating to Sales Tax, and (ii) distributive trade statistics Survey. While the former will be useful to get valuable commoditywise data as described in para 2.3, the latter will be useful to get estimates of value added in the trade sector which along with commoditywise statistics can be utilised for estimation of State Income.

3.4. In addition to the above, it is also possible to conceive of the work of the other operational problems and research into them to be carried out by the statistical system. Further, a considerable body of related data are available (for example index numbers of industrial production, wholesale prices) which the statistical system can bring together for the use of the Sales Tax Department for improving the efficiency of tax administration.

3.5. The increase and enlargement of work areas would finally be dependent on the interest that the Sales Tax Department and the Government in Finance Department shows in the statistical system and its use that they make. The suggestions regarding the size of the cell made here are, however, made keeping the sights lowered down only to the work areas mentioned in para 3.2 above in respect of which past experience is available.

4. *Location of the Statistical Cell.*—4.1. It needs no justification to say that a statistical cell should be created for operation of the statistical system. Initially, the size of this cell should be that shown in section 5 below. The question would, however, arise whether the cell should be located in the DES or should form part of the office of the Commissioner of Sales Tax (O.C.S.T.). This question has to be resolved in the light of the following considerations.

4.2. It can be said that, in the past, the data collected and analysed by the Directorate of Economics and Statistics was used mainly by the Government in the Finance Department. In fact, only the type of data mentioned at (ii) and (iii) of para 3.2 above had been collected which had little direct bearing on the administration of the Sales Tax, but which related to the requirements of the Government in connection with question of taxation policies. Understandably, therefore, the O.C.S.T. had little use of the Sales Tax Statistics Section in the DES. The disadvantage was that because of this, the work of the collection of data also got considerably delayed inasmuch as even the lists of registered dealers were not available in time. It is not difficult to see from the description of work done so far that a considerable delay took place in the collection of data, its analysis and the preparation of report thereon and the publication of the same, which perhaps reduced the value and usefulness of the statistical effort. The location of the cell in the Sales Tax Department may improve the speed of collection of the Sales Tax data and for this reason alone it would be advantageous to locate it in that office.

4.3. It will be, however, necessary that the S.T. authorities continue to take a sustained interest in the statistical system not only in its output but also in the considerations of the type of output that is expected out of it in order that the statistical system becomes productive and useful. It is feared that if the statistical cells are created in the departments and if they are largely not used for the purpose for which they were created, the identity of such cell gets lost in the departments and the DES is continued to be called upon for statistical responsibilities of the departments. After all, the *raison D'etre* for the Statistical Cell is the need of the S.T. Department and a mechanism has, therefore, to be evolved by which the continuity of the interest and of the process of use-making can be ensured for all time to come.

4.4. It is therefore suggested that along with the creation of the Sales Tax Statistical Section in the Office of the Commissioner of Sales Tax, two measures should be taken: (a) the section should work directly under the Commissioner and (b) it should be manned, as far as the statistical posts are concerned, by officers deputed from the DES. These posts should therefore be declared as additions to the corresponding cadres of the Directorate.

4.5. The first measure will ensure that usefulness of the section will be continuously watched. Secondly it will impart necessary status to the section, which alone in large measure can be an assurance for receipt of data by it in time from the Sales Tax Offices. The Second measure will involve the DES on a technical plane which is essential for underwriting the technical validity of the statistical efforts of the cell. This will be possible as the head of the cell can continuously look up to the DES for technical guidance. Secondly, the posts will not be isolated and it will be possible to send experienced officers to man them. In addition to the two measures, it will be necessary, as is proposed to be done about all statistical cells under the State Government offices, to take a yearly review about the performance of the cell. This will make possible a greater involvement of the DES in the cell's work and guard against the possibility of the cell either falling in disuse or failing in purposes for which it is created.

5. *State for the cell.*—5.1. The staff that should be appointed in the cell initially together with the annual cost estimates is shown at the end of this section. It is assumed that the data will be processed on the electronic computer and the supporting staff is shown therefore in minimum numbers. The cost estimates of contingencies are only tentative, the bulk of them relating to computer utilisation depending upon the extent and depth of proceeding that will be done.

5.2. The staff has been proposed on the basis that only the item (i) and (ii) of para 3.2 will be handled by the cell. The question of collection of commoditywise sales tax data has been considered separately. Depending upon the final decision about this work, the staff will have to be further strengthened by appointing Sales Tax Inspectors and Officers as field agency with some additional supporting statistical staff. It is also suggested that the survey of distributive trade, though not directly connected with the administration of Sales Tax, should be carried out by this cell for the reasons mentioned in the accompanying note in the Annexure. If this is done, the staff will require augmentation on the same lines as above. In fact it is possible to rationalise the work of Sales Tax data collection on the lines suggested in the scheme recently proposed to the Government, which is mentioned in the note in the Annexure.

5.3. The Cell, it is proposed, should be headed by a senior Officer from the Directorate of Economics and Statistics and for this reason the head of the cell has been proposed in the post of Joint Director of DES. This is necessary as the head has to work directly under the Commissioner of Sales Tax and in the course of his duties will have to work in cooperation with the senior officers of the office of the Commissioner of Sales Tax. It is also required that he should be able to work out continuously technical improvements in the data collection procedures and to build up new work that may be entrusted to him after the cell gets established. At a time, therefore, the head of the cell will have to be in charge of the technical responsibilities of a number of different assignments which the cell would be asked to carry out. For all these reasons, it is proposed that the cell should be headed by an officer equivalent in rank to that of Joint Director in Directorate of Economics and Statistics.

5.4. The head of the cell, initially, will be assisted by two Research Officers, one for the work relating to the sales-tax data collected from the quarterly returns compiled by the dealers and the other for the administrative statistics that the cell will collect. Each of them will be assisted by two Research Assistants and three Statistical Assistants. Necessary supporting clerical staff and peons have been proposed. If it is subsequently decided to take up the work of commoditywise sales tax data collection or that of the distributive trade survey, correspondingly, the cell will have to be strengthened by the addition of field and supervisory staff as well as smaller contingent of staff for analysis and scrutiny of data. How the integration of these additional staff should be done with that proposed above has been delineated in the note given in the Annexure attached.

Posts required for the proposed Statistical Cell

Serial No.	No.	Pay Scale
		Rs.
1 Joint Director (on deputation).	.. 1	700—50—1,300.
2 Research Officer (on deputation).	.. 2	300—20—460—E.B.—20—500—25—650— E.B.—30—830.
3 Research Assistant (on deputation).	.. 4	210—10—270—15—330—E.B.—15—390— 20—450.
4 Statistical Assistant (on deputation).	.. 6	170—10—250—E.B.—10—280—15—340.
5 Stenographer	.. 1	180—6—210—8—250—E.B.—10—310—15— 340—E.B.—15—400.
6 Clerk-typist ..	.. 2	115—4—135—5—160—E.B.—5—185—6— 215.
7 Peon ..	.. 3	75—1—80—2—90—E.B.—2—100.

5.5. Financial outlay for the statistical cell is worked out and presented below. With the creation of this cell, the existing posts in the above cadres under the Sales Tax Section in this Directorate will stand transferred to the above cell.

Financial Outlay

Item				Annual Outlay
				(Lakhs Rs.)
1. Pay and Allowances	..	..	..	1.50
2. Travelling Allowance	..	..	..	0.20
3. Non-recurring contingencies	..	..	..	0.50
4. Recurring contingencies	..	..	..	1.50
			Grand Total	3.70

ANNEXURE

Improvement and rationalisation of Trade Statistics in the State

1. Introduction

1.1. The Trade sector is one of the important sectors of the economy and its contribution to the generation of National Income and employment is quite significant. For example in this State nearly 11 per cent of the State Income is generated by the trade sector. The importance of this sector from the point of view of generation of tax revenue in the State is also quite significant. For example, in the state nearly 30 per cent of the total revenue receipts and 57 per cent of the state tax revenue are contributed by the Sales Tax. With the development of the economy, the contribution of this sector is bound to increase in absolute as well as in relative terms. In view of this, collection and analysis of trade statistics deserves higher priority from the point of view of bridging the gaps in the economic data of the State.

2. Statistics presently collected in the Directorate of Economics and Statistics

2.1. This Directorate has made an early start in collecting statistics flowing from the State Sales Tax Act. It is proposed to review the development in collection of statistics from this sector in the State and a scheme for rationalisation, and improvement of the statistics is proposed. The trade statistics data collected can be grouped in two major groups (i) information regarding the State Sales Tax Act, (ii) Statistics regarding the various aspects of the distributive trade. A brief summary indicating the present state of collection of statistics in this Directorate is given below.

2.2. Sales Tax Statistics

2.2.1. *Staff.*—At present there are 11 persons in the Sales Tax Section and the expenditure on their pay and allowances per year is Rs. 60,500.

The details of the staff are given below:—

Serial No.	Name of the post	No. of posts
1	Research Assistant	2
2	Statistical Assistant	6
3	Punch Operator	1
4	Clerk-Typist	1
5	Peon	1
	Total ..	11

Under this scheme, from 1958-59 onwards a report on the census basis relating to the sales tax data is prepared periodically. Information in the prescribed form is collected from the sales tax officers for all the dealers who file their quarterly returns giving particulars about their total turnover, taxable turnover and turnover according to different rates of taxes. The Sales Tax Officer with the help of the clerk posted in his office transforms the information from the quarterly return filed by the dealer in the schedule prescribed by the Directorate of Economics and Statistics and passes it on to this office which tabulates the results and prepares the report. In this survey, the dealers are classified into 17 broad groups and 20 sub-groups according to the major commodities dealt in by the dealer and the information regarding total turnover, taxable turnover, exports, turnover according to different rates of taxes and different ranges of turnover etc., is tabulated and presented with district and regionwise break-up.

2.3. Limitations of this Survey

2.3.1. Though the dealers are grouped into 80 sub-groups there is considerable inter-mixing of the commodities and the sub-groupwise information is not capable of giving any precise or useful information regarding commoditywise turnover data. Moreover, the classification of dealers into dealer groups is done by the clerks in the S. T. Office on the basis of the dealer's registration application. It is often found that this information from year to year is not comparable and the scrutiny at the sales tax office level could not be thorough and upto the mark. Thus, the chances of one dealer classified into one group in one year being classified into another group in another year are frequent. So, the comparison of the dealer groups over a period of time is not valid.

2.3.2. This particular approach no doubt had its utility in the initial stages when almost no information about this sector was available. Now this survey is being conducted, though at irregular intervals, for last 10 or 12 years and there is much scope for improvement.

2.3.3. There are presently about 1,25,000 dealers registered under the Sales Tax Act and getting their information from about 200 S. T. Officers is a time consuming job. The information from the respective Sales Tax Offices takes atleast 2 to 3 years and the scrutiny, punching and tabulation for such a large number of dealers takes another one and a half to two years. So in view of this operational delays and difficulties, the time lag in the publication of the Report is so large that by the time the report is published, it becomes almost of historical value. For example, report for 1960-61 was published in 1965-66 that for 1962-63 in 1969-70 and the report for 1964-65 is completed in 1970-71. The schedules for 1968-69 are received from the sales tax offices and this report may take another year.

2.3.4. The original scheme was started when there were only 55,000 dealers registered under this Act. Now the number of dealers have increased to about 1,25,000. Moreover, all the S. T. Offices are not adequately and equally equipped to send the information and delay in receipts is caused because of frequent transfers of the staff in both the Sales Tax Office and in this office. Part of the delay is accounted by the scrutiny time, the punching time, the tabulation time and the delay in printing the final report.

2.3.5. One of the alternative methods to reduce the delay and the workload involved was that instead of conducting the survey every year it was conducted once in two years. But this alternative because of the difficulties listed above, has not been able to improve the matters very much. In view of these factors namely (1) severe limitations of the data for tax and other policy decisions, (2) operational delays and considerable time lag in the preparation of the report and its publications, (3) the workload and the costs involved, it is proposed to discontinue this census and to introduce in its place a sample survey as described in para No. 3.2.

2.4. Commoditywise Sales Tax survey

2.4.1. As stated earlier, the usual Sales Tax Survey was incapable of giving commoditywise turnover data in the State which is more relevant for the tax policy as well as other economic considerations and hence the scheme for collecting commoditywise sales tax was introduced in 1967-68. In this connection, first a pilot survey in ' B ' ward of Bombay city was conducted in 1968-69 and after studying the feasibility of the survey, a sample survey of commoditywise sales tax for the year 1968-69 was undertaken for the whole State in 1969-70 (*vide* F.D.G.R. No. STW 3268/106462/1174/XIV, dated 6th November 1969). Under this scheme, a sample of about 5,000 dealers is selected and information regarding detailed commoditywise transactions of sales and purchases for two months from the selected dealers is collected from the records of the dealers by the interview method by the Investigators appointed under this scheme. For the field work, 33 Sales Tax Inspectors and 4 Sales Tax Officers from the Sales Tax Commissioner's Office were brought on deputation to this office. The field work of the survey as well as the scrutiny of the schedules are completed. The tabulation is done on the electronic

computer for which competitive quotations from different agencies to take the work on contract basis were called for. In this office the work was supervised by one Deputy Director assisted by a Research Officer and four Research Assistants in the Head Office. The total cost of the survey was around Rs. 5.5 lakhs including the tabulation costs. The information for 260 commodity groups is available as a result of this data for 1968-69. The staff sanctioned under this scheme was (48) with annual expenditure of Rs. 3,43,106 on pay and allowances. The details of the staff are as follows:—

Serial No.	Name of the post	No. of posts
1	Deputy Director	1
2	Research Officers	5
3	Field Investigators	33
4	Research Assistance	4
5	Clerk-Typists	2
6	Peons	3
	Total	48

2.4.2. Now since this survey was taken on an *ad hoc* basis and as a non plan scheme, a decision has to be made whether such a survey is to be taken on a continuous basis so that the commoditywise tax and turnover data can be available at a given interval in future. In the past survey, the field work including the preliminaries such as preparation of the list, drawing up of a sample and scrutiny of the schedules took nearly two years and the results after tabulation were available in the third year since the commencement of the survey.

The information collected under this survey presupposes familiarity with the assessment procedure under the Bombay Sales Tax Act so that the field Investigators as well as the supervising officers are necessarily to be drawn from the Sales Tax Commissioner Office. There is one more advantage in having the staff from that office, that is with this Sales Tax staff in the field, the response of the dealers is quite satisfactory. It is very much doubtful whether the dealers will co-operate without their help.

Since this survey gives commoditywise estimates of the sales and taxes in the State, this data is likely to be useful to the Government in relation to its tax policy. It is therefore proposed that this survey may be taken on the continuing basis say once in two years. The total cost of such survey for nearly three years will be Rs. 4 to 4.5 lakhs. But the present cost of Rs. 3.00 lakhs that is presently incurred on the sales tax survey (at the rate of Rs. 60,000 for five years) will be saved and as a result the time lag in the collection will be reduced to half and the quality of data also can be improved considerably. If this survey is to be taken on a continuing basis the present periodical sales tax survey that is conducted once in two years can be discontinued and the present office staff working under this scheme can be utilised for commoditywise sales tax survey. This will result in annual saving to the extent of about Rs. 60,500 being spent presently on the office staff under the Sales Tax Survey conducted on a census basis. This will not only reduce the time lag in the results but also give more meaningful estimates of commoditywise turnover and that too at a reduced costs. In view of the above considerations in paragraph No. 3.3, a scheme for collecting commoditywise sales tax data on a continuing basis with an interval of two years is proposed.

2.4.3. The only possible difficulty will be as to whether the Sales Tax Commissioner will be able to spare permanently the field Investigators (Sales Tax Inspectors) and Officers for this work. The general experience in this respect was that the persons brought Sales Tax Office for this work were new to the survey work and most of them were reluctant to do this work and were eager to go back to their parent department.

2.4.4. Since, as is proposed in paragraph No. 3.6, the field staff used for collection of commoditywise sales tax data can also be used with advantage for the field work in distributive trade survey, the question of getting the field investigators as well as the supervising officers from the Sales Tax Commissioner's office on continuing basis will have to be discussed with the Sales Tax Commissioner and his views and comments will have to be ascertained.

2.5. Survey of Distributive Trade

2.5.1. Under the Sales Tax Surveys mentioned above though information about total and taxable turnover of the dealers and commodities will be available, the information on other important aspects of the distributive trade such as investment in fixed and working capital, value of output, input, and value added, employment, gross and net profit and earnings etc. will not be available from the above referred Sales Tax Survey. For this purpose, a separate and independent survey is necessary. The planning Commission and the Central Statistical Organisation have already recommended that in view of the importance of the trade sector in the economy, the State Statistical Bureaus should conduct the survey of the distributive trade in their respective states. For this, a scheme for survey of distributive trade in this State is taken up as a core scheme in the Fourth Plan. The work under this scheme was started in April 1973 and it is expected that the field work will be completed by the end of 1974-75 and tabulation will be taken up in the year 1975-76. The total cost of the scheme will be about Rs. 4.5 lakhs including tabulation and the information for the reference year 1971-72 will be available in 1975-76 i.e. within the minimum time lag of four years.

2.5.2. For this survey also it is proposed to select the sample of 5,000 dealers from the entire State and the requirement of the field staff will be nearly 35 to 40. Field Investigators and 5 to 6 supervising field officers, one Deputy Director, one Research Officer and four Research Assistants in the Head Office as was the pattern in the Commoditywise Sales Tax Survey.

2.5.3. Before proposing the sample survey of distributive trade for whole of the State, a sample survey on a pilot basis was conducted in three districts namely, Nagpur, Poona and Bombay to study the feasibility and operational problems of such a survey at the state level. The Report of the pilot Survey is already published and the major difficulties that will have to be encountered are given in detail in it. Apart from the problems in using a frame in bigger surveys a problem of response from the dealers in parting with the information is also important. So far in Bombay city the response is not unsatisfactory and the survey can be undertaken on continuing basis. The staff sanctioned under this scheme *vide* P.D.G.R. No. STW-3272/227 R(BU) dated 17th November 1972 is 34 persons and the annual expenditure on their pay and allowance is Rs. 3,10,000.

The details of the staff are as follows:—

Serial No.	Name of post	No. of posts
1	Deputy Director	1
2	Research Officers	4
3	Research Assistants	2
4	Statistical Assistants	2
5	Sales Tax Inspectors	20
6	Clerk-Typists	2
7	Stenographer	2
8	Peons	2
	Total ..	34

3. Proposals for Improvement and Rationalisation of Trade Statistics

3.1. In the light of the details given in above paras, the following proposals are made to integrate these schemes which will not only result in economy but will also help to put the entire collection of trade statistics on a continuing and sound footing. The time lag in the collection as well as presentation of data will be considerably reduced and the quality of the data will also be improved. In addition the field as well as office staff will develop expertise in the collection of statistics from this sector. The proposed scheme of integration will be as follows.

3.2. The present Sales Tax Survey, the information for which is collected on a census basis, should be discontinued and in its place a sample survey covering a sample of 10 to 15 thousand dealers should be conducted once in two years to give the estimates of total and taxable turnover according to present 80 dealer groups. With such a large sample it is expected that margin of errors in the estimates will be very small. The scrutiny efforts can be improved. Since the information of only limited number of dealers say 10 to 15 thousand will be collected, much of the workload in collecting, scrutinising, punching and tabulation will be reduced without adversely affecting the quality and thus the time lag will also be reduced.

3.3. Because of its utility, a sample survey of commoditywise sales tax data may be taken once in two years on a continuing basis. For this a sub-sample of about 5,000 dealers from the sample in para. 3.2 above will be selected to build up commoditywise estimates.

3.4. The survey of distributive trade should also be conducted once in two years for which another sample of about 5,000 dealers will have to be selected from the list of registered dealers.

3.5. The list of dealers registered under B. S. T. Act will be brought up-to-date once in five years in the place of detailed census.

3.6. The field staff of about 30 Investigators and 5 officers should be used alternatively for the survey of commoditywise sales tax data (one and a half years) and the survey of distributive trade in one and a half years. Thus the time lag in all the surveys will be reduced effectively and all aspects of the trade statistics will be covered on a continuing basis on more systematic lines. This will also reduce cost of all these schemes as compared to collection of the information on *ad hoc* basis.

4. The staffing pattern

4.1. The staffing pattern for this is shown in the diagram attached to this note. In brief the schemes may be implemented under one Joint Director who will be overall incharge of trade statistics in the Directorate. There will be one Deputy Director under the Joint Director and one Research Officer for each of the wings viz., (i) sales tax data and (ii) distributive trade survey data in the office. The other office staff will slightly vary as shown in the diagram. One additional Research Assistant is proposed in place of present few Statistical Assistants who will take up the scrutiny of the surveys. Rest of the staff in both the wings i.e. Sales Tax and Distributive Trade Statistics Wings will be more or less similar. The field staff will be common to both the surveys. The office staff as proposed above should be able to manage the scrutiny, tabulation etc. of (1) Sample survey of sales tax data, (2) Sample survey of distributive trade, and (3) Sample survey of commoditywise sales tax data.

Details of the work of each categories:

4.2. (1) *Joint Director*.—Overall technical and administrative control of the surveys.

(2) *Deputy Director*.—The Deputy Director will assist the Joint Director in the work of preparation of sample design, selection of sample, arrange for field work and tabulation and preparation of draft reports.

(3) *Research Officer*.—The Research Officer will assist the Deputy Director in all the technical and administrative aspects of the surveys as shown in (2) above.

(4) *Research Assistants*.—The Research Assistants will assist the Research Officers in the work of scrutiny of the data collected and maintenance of records etc.

(5) *Statistical Assistants*.—The work of preparation of dealers list, coding and scrutiny etc.

(6) *Clerks*.—To look after the work of correspondence, progress reporting, maintenance of records and other ancillary work.

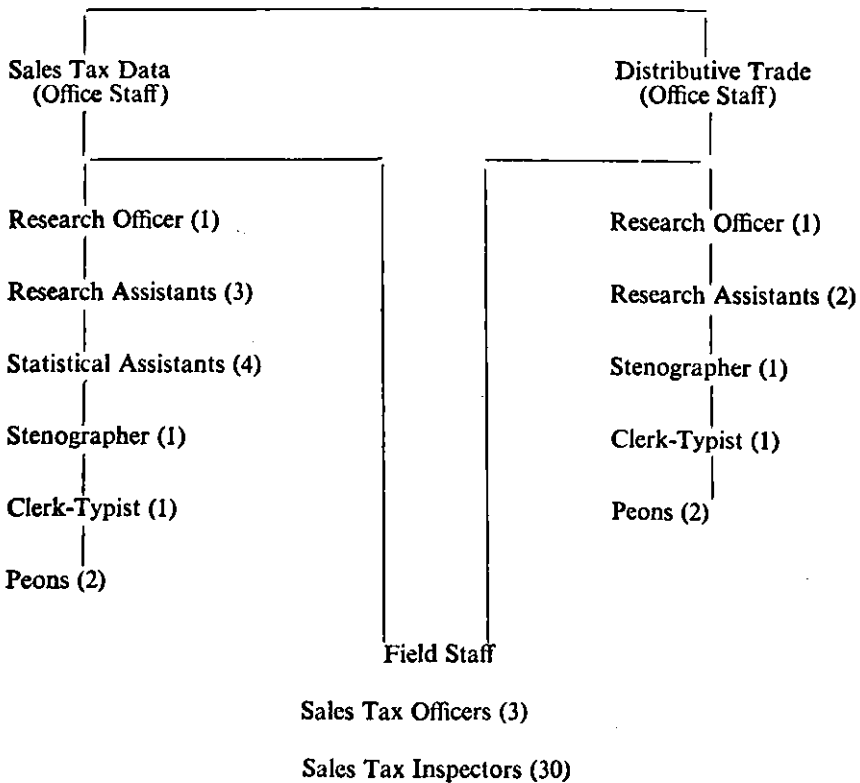
5. The cost of the scheme

5.1. The total annual cost of these schemes together will work out to Rs. 4.08 lakhs annually excluding the tabulation costs.

STAFFING PATTERN OF TRADE STATISTICS

Joint Director (1)

Deputy Director (1)



Abstract of total cost of the Scheme

1. Pay and Allowances—

Serial No.	Post/Item	Total proposed	
		No. of posts	Annual expenditure
			Rs.
1	Joint Director	1	15,876
2	Deputy Director	1	10,949
3	Research Officer	5	44,375
4	Research Assistant	5	34,115
5	Investigators	30	1,92,240
6	Statistical Assistants	4	24,596
7	Stenographer	2	11,121
8	Clerk-Typist	2	8,380
9	Peon	4	11,448
	Total ..	54	3,53,100
2.	Conveyance Allowance .. ..	..	18,900
3.	Travelling Allowance .. ..	..	20,000
4.	Contingencies .. ..	..	15,500
	Total (1 + 2 + 3 + 4) ..		4,07,500

APPENDIX VII

Report of the O & M Study Group

The objective of O and M is to study the structure, rules, regulations, policies, systems, procedures, machines, equipment, working conditions and facilities prevailing in an organisation with a view to improving its efficiency.

The O and M experts critically examined the objectives of the organisation and question, its present structure, policies, methods, etc., because it is essential to establish clearly the purpose of doing a particular type of work by a particular person or a group of persons. It often happens that as an organisation grows, complexities multiply. There are too many levels. The procedures are lengthy. Paper work is voluminous. The people working in the organisation are so engrossed with their day-to-day problems that they do not get adequate time to undertake a critical review. Secondly, their thinking is inevitably inhibited by the existing ways of doing things. Thirdly, even though they may often get good ideas to improve the working, they feel hesitant to introduce any changes because of the fear of the unknown.

As a result of these factors, a large organisation generally starts losing its vitality and dynamism. An impartial objective analysis by an O and M team becomes helpful.

The study of the organisational aspects leads into a critical analysis of job content at various levels and delegation of authorities.

The study of systems and procedures leads to a minute examination of all the operations performed by all the people, at all levels in processing the papers from the stage of receipt to the stage of final disposal. The objectives are to eliminate unnecessary operations, unnecessary levels and to simplify the necessary operations.

A detailed statistical analysis of all the activities is also undertaken to find out the dimensions of the problems.

Lastly, a detailed cost-benefit analysis of all the activities is also undertaken to judge the cost of the present operations as well as to estimate the likely costs/savings of the recommendations made by the O and M study.

ACTIVITY: REGISTRATION

The Registration of dealers is the first step in the scheme of the Bombay Sales Tax Act, 1959. The registration under the Act is an obligation on the dealer whose turnover of sales or purchases during a financial year exceeds the prescribed limit. These limits have been prescribed separately as under—

Type	Turnover of sales or purchases whichever exceeds first
Reseller ..	.. Rs. 30,000.
Importer..	.. Rs. 10,000 in the State and value of goods imported being at Rs. 2,500.
Manufacturer	.. Rs. 10,000 value of goods manufactured being Rs. 2,500.

The value of taxable goods sold or purchased must exceed Rs. 2,500 in all the above three categories.

The work of issuing registration certificates is entrusted to Registration Branch which works under the administrative control of Deputy Commissioner of Sales Tax, Bombay City Division (Enforcement), Bombay.

In other places, the Sales Tax Officer is incharge of issue of registration certificates.

The statistics of registration certificates issued in Maharashtra during the last four financial years is given below:

*Position of application for Registration under Bombay Sales Tax Act, 1959
in Maharashtra State*

Year	Opening Balance	New addition	Cancel- lations	Closing balance	Percent of net addition
1971-72 ..	1,30,344	15,225	8,820	1,36,749	4.91
1972-73 ..	1,36,749	16,416	8,960	1,44,205	5.18
1973-74 ..	1,42,399	19,794	9,449	1,52,744	7.27
1974-75 ..	1,52,744	22,760	9,142	1,66,362	8.92

Existing Procedure

(1) A dealer who has to obtain registration certificate submits his application in Form 1 to the Registration authority.

(2) On the appointed day, the dealer attends with books of accounts to show his turnover and furnishes information required as per another form known as "Form of Statement of Applicant" wherein all details about his place of business residence, terms of tenancy for both antecedents and details of his turnover of sales and purchases are included.

(3) On the date of appointment of Sales Tax Inspector verifies these details with original documents produced and makes his report to Sales Tax Officer who gives a hearing to the dealer and calls him on some other day to collect his R.C.

(4) In the meanwhile, the Sales Tax Officer directs Sales Tax Inspector to visit the place of residence of the dealer and his place of business to ascertain the genuineness.

(5) Similarly, details of sales and purchases shown by the dealer are verified by deputing Sales Tax Inspectors from different wards to the place of vendees and vendors.

(6) Having satisfied about *bonafides* of the dealer and his transactions, R. C. is issued to him.

The activity of Registration thus, starts with the receipt of an application and ends with the issue of a Registration Certificate.

Estimates of Cost

The following table gives the estimate of man hours at various levels and the cost thereof related to the activity of issue of a Registration Certificate:—

Approximately worked out in one case	Level	Cost
(a) Verification of application for registration certificate.	2 hours S.T.I.	@ Rs. 7.50 per hour
(b) Verification of application for document.	1 hour S.T.I.	
(c) Time spent for cross checks ..	3 hours S.T.I.	
(d) Time spent for checking of residence place of business.	3 hours S.T.I.	
	9 hours	67.50
(e) Time spent for visit by Sales Tax Officer.	2 hours S.T.O.	@ Rs. 10.00 per hour.
(f) Time spent for hearing by Sales Tax Officer.	$\frac{1}{2}$ hour S.T.O.	
	2 $\frac{1}{2}$ hours	Rs. 25.00
(g) Time spent by clerk in doing clerical work for issue of R.C.	2 hours Clerk	@ Rs. 5.00 per hour.
	2 hours	Rs. 10.00
		Rs. 102.50
say Rs. 100 per case		
Cost of travel and Allowance in Bombay.		Rs. 15.00

Identification of Problems

There is generally a time gap of 2 to 4 weeks from the date of application to the date of issue of Registration Certificate even in normal straight forward cases. In case of lack of availability of reliable data, the time gap may be even 8 to 10 weeks. In addition to the cost of man-hours calculated at Rs. 100 per case, the department has to incur the cost of visit estimated at Rs. 15 per case. As about 50 per cent of the registrations are in Bombay we may estimate that applications for new registration certificates in Bombay on the basis of 1974-75 figures would be around 8,000 and cost of registration Rs. 8,00,000. Additional cost for travelling allowance is roughly Rs. 1.20 lakhs (8,000 application Rs. 15 per case).

It is not only the cost that matters but the inescapable problems arising because of the procedure such as arrears of work from the point of view of the department and dissatisfaction from the point of view of members of the public.

Critical Examination

In critical examination, it is necessary to establish the purpose of activity. Here, registration is a legal necessity. It just cannot be avoided. The next point to consider is the procedure in existence. The existing procedure aims at establishing *bonafides* of the dealer by a meticulous examination of the place of business, the place of residence, genuineness of the transactions reported by him etc. The department has evolved this procedure to forestall unscrupulous elements obtaining bogus registration. If they succeed in obtaining bogus registration, they enable others to deprive the Government of its legitimate revenue. The whole procedure, however, seems like an attempt to kill a snake where none exists at a given point of time because no amount of procedural rigidity can discover dishonest intention of an applicant. In other words, an applicant furnishes genuine and *bonafide* information till the time he obtains registration. His unscrupulous activities start only after registration.

It is, therefore, necessary to see the character of the person, no doubt, but no amount of verification of transactions can throw any light on the character of the person. We, therefore, feel that a substantial portion of time and energy spent on cross verification of the transactions as well as the antecedents of the applicant is a well intentioned but misdirected effort.

We, therefore, define the core-requirement which the procedure must fulfil as below:

To establish the antecedents and collect information about the applicant's character with the least delay and cost to the department and where necessary, to establish *bonafides* of transactions,

Alternatives

To establish the *bonafides* of the applicant, the department is at present relying on visual evidence by personal visits. Alternatives can be considered which serve the same purpose by considering circumstantial evidence given on the basis of testimonials. The following alternatives are open for consideration in case of different categories of applicants:—

- | | |
|----------------|---------------------------------------|
| Category No. 1 | .. Public Limited Company. |
| Category No. 2 | .. Private Limited Company. |
| Category No. 3 | .. Registered Partnership. |
| Category No. 4 | .. Unregistered Firm and Proprietors. |

Public/Private Limited Companies.—As the promoters of a public or private limited company have to undergo numerous formalities for registration of the company before obtaining the Registration Certificate and Certificate of Commencement of business, the department need not necessarily insist on visual verification by making visit to the place of business of the Company or a visit to the place of residence of the directors. Circumstantial evidence and documentary evidence produced by such Companies can be accepted.

- (a) Agreement of lease and/or rent receipt.
- (b) Certificates under the Shop and Establishment Act.
- (c) Statement of Bank Account showing the address of the Company.
- (d) Proof of residential addresses of Directors by any documentary evidence etc.

The element of risk in case of public and private limited companies is, in the opinion of the team, negligible.

Registered Partnerships.—In case of registered partnerships also, a number of legal requirements have to be complied with such a deed of partnership and registration of the partnership. Here again, production of documentary evidence like rent receipt, lease agreement, statement of account with the bank showing the address of the partnership may be accepted.

Unregistered Partnerships and Proprietary Business.—The problem is really to establish *bonafides* of unregistered partnerships and Proprietors. The following alternatives can be considered in lieu of personal visits:—

- (1) To verify voters list to ensure correctness of the addresses.
- (2) To verify from the telephone directory if a telephone stands in the name of the proprietor and/or in the name of partners in an unregistered partnership.
- (3) To verify the bank account of the partnership or proprietary firm.
- (4) To verify from the correspondence i.e. Agency/Dealership agreements entered into by reputed concerns.
- (5) To verify whether the firm/proprietor is a member of a reputed trade association of Chamber of Commerce.
- (6) To verify from the documentary evidence whether no objection certificate has been obtained from the Directorate of Industries in case of manufacturers.

- (7) In case of manufacturers, to verify correspondence for electricity connection.
- (8) To verify correspondence with the institutions like SICOM, Maharashtra State Finance Corporation, etc.
- (9) To verify L.I.C. Policies.
- (10) To verify driving licence.
- (11) To verify radio licence.
- (12) To verify T.V. licence.
- (13) To verify rent receipt in case of ownership flat, municipal assessment.
- (14) To verify electricity bill for the place of residence and business.
- (15) To verify ration card.

The above list is not intended to be fully comprehensive but only shows the multitude of circumstantial and documentary evidence which can be adduced by the applicants to establish their *bonafides*. The team is of the opinion that if an applicant can furnish such circumstantial and documentary evidence to establish his *bonafides* beyond all reasonable doubts it may not be necessary to insist on personal visits.

Some of the alternatives are not in the nature of insistence on documentary evidence but in the nature of acceptance of certificates or testimonials from undisputed sources. Passport is given on the strength of a certificate signed by an Officer of the rank of the Deputy Secretary and above. In the same way, if a certificate of *bonafides* signed by a Government Official of sufficiently high level is produced, other formalities need not be insisted upon.

Certificates from approved Chartered Accountants or a panel of retired Senior Level Government Servants may also be accepted e.g. a certificate issued by a retired I. A. S. could be considered as adequate. Similarly retired Senior officials of the Sales Tax Department may be empowered to issue certificates after they have satisfied themselves of the *bonafides* of the applicants and such certificates should be deemed as sufficient for registration.

This list of alternatives open before the department points out that the existing procedure can be simplified without sacrificing core requirements. There will be substantial saving in time and energy of the staff which can be used for more productive and fruitful purposes. The time lag can also be reduced to a very great extent. It is needless to say that the cost to the department will also be much less by adoption of such measures of simplification.

Above all, there will be a much greater public satisfaction.

Recommendations

On examination of the alternatives listed above recommendations may be summed up as below:—

(1) In case of public and private limited companies and registered partnership firms, personal visits for verification should be discontinued and scrutiny should be confined only to documentary evidence produced before the Sales Tax Officer.

(2) There should be only one visit of the applicant and one hearing on the same day with the Sales Tax Officer when all such documentary evidence should be verified. Registration Certificate should be issued either on the spot or forwarded under registered letter without asking the dealer to come again to the department.

(3) In case of unregistered firms and proprietors, the applicant should be asked to furnish as many documents as possible including certificates from acceptable sources such as listed above. If the documents and other evidence establish the *bonafides* to the satisfaction of the Sales Tax Officer, no personal visit to the place of business or residence or for cross verification of transactions of the vendees or vendors should be undertaken.

In the opinion of the team the number of hours to be spent will thus be not more than one hour of the Sales Tax Inspector and one hour of the Sales Tax Officer plus maximum 2 hours of the clerical time. Thus, the cost will be reduced to Rs. 7½ (S.T.I.), Rs. 10 (S.T.O.) and Rs. 10 (Clerk). Total Rs. 27½.

Thus, there will be an approximate saving of Rs. 75 per case. As we estimated earlier that the number of registrations in Bombay is roughly 15,000 per year, we assume here that simplified procedure can apply at least to say 80 per cent of applicants i.e., say about 6,500 applicants allowing for detailed examination in case of a 20 percent percentage of applicants. The saving will, therefore, be roughly to the tune of Rs. 75 per application which will be equal to Rs. 4,87,500 per year.

Once again we repeat that these estimates of savings are only approximate.

The application form for registration has to be re-designed to fulfil the objectives of the simplified procedure. Such a revised form will be submitted separately. This completes the activity of registration.

It is necessary to consider the element of risk involved in such a simplified procedure. The emphasis is not on removing control or vigilance but only on substituting of one type of proof in place of another type of proof which is equally reliable. If the applicant is in a position to furnish a set of documents which conclusively proves the same facts, we feel that the risk is virtually nil. Looking at it from another point of view, we may say that even under the existing procedure, malpractices cannot be altogether stopped, because as pointed out earlier, they generally start after the grant of Registration Certificates and not before.

Lastly, objectively speaking, the Government does not stand to lose any revenue as a result of the simplification of procedure.

As a matter of fact our enquiries have shown that there has not been any case of a bogus dealer being detected prior to grant of a registration certificates. Thus, on the risk and loss side, we fail to see any risk or loss to the Government. On the benefits side, there are several benefits.

RETURNS BRANCH

Purposes

As per provisions of the Bombay Sales Tax Act, 1959 registered dealers are required to file returns at different frequencies; mostly quarterly and in some cases monthly or annually.

	Statutory requirement for		
	Filing of Returns	Payment of Taxes	
(A) Dealers having turnover over Rs. 10 lakhs annually.	Quarterly	..	Monthly.
(B) Dealers having documents newly for first twelve months.	Monthly	..	Monthly.
(C) Dealers other than those covered by (A) and (B) above.	(1) Quarterly or	Monthly	For January, February, March of each year.
	(2) Monthly	(Previous year's basis)	
	(3) Quarterly	(Actual self assessment)	
		(Actual self assessment)	For remaining months of year.

The annual returns may be submitted by certain dealers specially permitted by the Commissioner to do so as per rule 22(2) of the Bombay Sales Tax Rules, 1959. However, in practice, hardly any annual returns are submitted owing to numerous restrictions.

According to the statutory requirements all the dealers have to pay their sales tax on a monthly basis for January, February and March. In other words, each dealer must pay and submit six chalang though he may submit only 4 quarterly returns.

The return is a sort of self assessment made by the dealer for ascertaining his liability under the sales tax Act. On the basis of the self assessment, the dealer pays sales tax to the Government. He must attach a copy of the chalan along with the returns as a proof of having made payment of sales tax.

It must be stressed here that submission of returns is a statutory requirement of the dealer, failure to comply with this statutory requirement can result in compounding of the offence/prosecution.

Existing Procedure in brief

Returns and chalang are received at the counters in the Sales Tax Office Building, situated at Mazgaon, Bombay-10 and at Telecom Building, Parel, Bombay-12. Returns for A, B, C, D and F Wards are received in Mazgaon Office and for rest of the wards in Parel Office.

On receiving return and/or chalan, a receipt is prepared in triplicate. Original copy of the receipt is retained for office record, duplicate is meant for verification of chalang with the treasury sheet or Bank scroll and the third copy is handed over to the dealer.

A return accompanied by the necessary chalan for full payment of tax is a regular return, whereas a return accompanied by a chalan for part payment of tax or without a chalan is called an irregular return. On receipt of returns, the same are sorted out as regular and irregular returns.

After sorting, all the returns are noted in register No. 6. A defaulter list is prepared as per time schedule of receipt of return. There are three categories of defaulters, viz—

- (i) Dealers who do not file returns and chalang
- (ii) Dealers who file returns but do not file chalang for full payment.
- (iii) Dealers who file chalang but do not file returns.

In case of non-document holders, no action is taken in case of a single default. But in case of such dealers committing two consecutive defaults, the concerned ward officer is apprised of the defaults who in turn takes immediate action for assessment. In the case of three consecutive defaults, the matter is reported to the administrative Assistant Commissioner for penal action by the Ward Officer.

In respect of defaulters, who file returns but fail to file chalang whether document holders or non-document holders, a notice in form 26 has to be issued. If the payment is not made, even after the notice period, the matter is reported to the Collector of Bombay for recovery of the dues as per arrears of land revenue.

Defaulters in category No. 3 i.e. dealers who file chalan but do not file returns (non-document holders only) action is taken as per defaulters in category No. 1.

In case of defaulters holding documents falling under category No. 1, 2 and 3, a show cause notice is issued. If the default is not made good the document is suspended or cancelled. Suspended/cancelled document is required to be surrendered within a period of 15 days. Otherwise further penal action is attracted.

Approximate number of man-hours at various levels and cost

From the facts and figures made available by the officers in Returns Branch of Bombay City the cost per return is calculated as under:—

It is reported by the officers that as on 30th June 1975 92,764 dealers are required to submit returns. Out of these, only 1,225 dealers are required to file monthly returns and the rest have to file quarterly returns. 92,764 dealers are filing approximately 5,65,000 returns in a year. Total expenditure incurred on returns branch is Rs. 11,36,000.

This includes other work done by the returns branch viz., receiving the returns under Central Sales Tax Act, also. Thus for receiving and sending the returns after processing the cost per return comes to Rs. 2. Cost of stationary, furniture and equipment and overhead expenditure of 1/3rd of total cost is not taken into the cost shown above.

Critical Analysis

The O and M Study team has collected a sample study to find out the number of defaulters as on 30th June 1975 and 30th September 1975. The statistics are given below:—

30th June 1975—

Ward	Total No. of dealers	Total No. of defaulters	Document holder defaulters	Non D.H. defaulters	Closed	Under action	Sus-pension
A	10,154	3,211	729	2,482	..	72	..
B	11,149	4,320	1,588	2,732	1,586	..	2
C	14,376	2,490	372	2,118	352	..	20
D	11,212	4,139	594	3,545	545	..	49
E	6,193	1,794	142	1,652	137	..	5
	53,084	15,954	3,425	12,529	2,620	72	76

30th September 1975—

Ward	Total No. of dealers	Total No. of Document holder	Total No. of defaulters	Document holder defaulters	Non Document holder defaulters	Closed	Under action	Sus-pension
A	10,154	3,158	4,934	1,006	3,928	..	57	4
B	11,149	4,061	3,300	1,175	2,125	1,018	69	88
C	14,860	3,989	1,979	317	1,662	269	..	48
D	11,212	2,305	4,722	559	4,163	428	70	61
E	6,311	650	1,365	85	1,280	63	..	22
	53,686	14,163	16,300	3,142	13,158	1,778	196	223

It can be seen from the above statistics that the number of defaulters is fairly large. It can also be seen that action is not taken against the defaulters as promptly as desirable. The weakness in the present system is that it is not a self-regulatory system. The delay in sending reminders or notices to the dealers creates an erroneous impression in the minds of dealers about the importance of filling the returns in time.

Alternatives

In order to achieve better results with less cost in terms of time, man-power and money, the team explored in consultations with departmental authorities as many as 19 alternatives for simplification of work. The alternatives are given below:—

- (1) Do away with returns in case of retailers paying only Retail Sales Tax and having turnover below Rs. 1,00,000 or irrespective of the size of annual turnover.

(2) Accept annual return from dealers having turnover below Rs. 3,00,000 and annual tax liability below Rs. 500.

(3) Accept cash below a certain limit in the Sales Tax Department itself.

(4) Open branch of S. B. I. in the premises of the Sales Tax Department.

(5) Accept payments through all the nationalised Banks besides R.B.I./S.B.I.

(6) Simplify the form of returns.

(7) Simplify the form of chalan.

(8) Provide for a perforated receipt to returns and chalans (A duplicate receipt for chalan for the purpose of Bank scroll).

(9) While designing the form, print instructions on the top of the returns advising the dealer to avoid inaccurate particulars.

(10) Punch Card system for recording receipt of returns and chalans. This will help to find out defaulters easily.

(11) Returns should be collected at one place by the respective Ward Officers. Ward Officers should maintain the record of the returns and chalans. However, the returns Branch Officer will have to verify the bank scroll with the duplicate copy of receipt.

(12) Depute inspectors to collect returns from the defaulters.

(13) Remind dealers by Press/Radios/T. V. about the last date of filing of the returns and making payment.

(14) Open more windows for accepting the returns.

(15) Give direct cash discount to dealers making prompt payment.

(16) Prescribe keeping of cash deposits at the time of registration so as to ensure prompt filing of returns.

(17) Accept equal amount payment on *ad hoc* basis for first three quarters on the basis of last year's assessment. Payment for the 4th quarter should be adjusted on self assessment basis.

(18) It was seen from the statistics collected for the quarters ending 30th June 1975 and 30th September 1975 that though show cause notices were sent to thousands of dealers holding documents, only two dealers had in fact failed to pay tax in time. The delay in producing the proof of payment i.e. the chalan was either due to late receipt of chalan from the banks or forgetfulness on the part of the dealers. As the notice has to be either served through the notice server or sent by registered Post Acknowledgement Due, the Department has to incur unnecessarily more cost either by way of the salary and travelling expenses of the notice servers or postage. It is suggested that the department should only send a printed post card with necessary legal terminology to ask the dealers to submit the chalan to the department within 7 days failing which the dealer would be liable for penal action. As this type of reminder will in all probability serve the purpose in most of the cases, the cost of the department will be considerably reduced. A rough estimate shows that the saving in postage alone will be around Rs. 7,000 per year per 5,000 notices.

It was the general consensus of opinion that the return cannot be altogether dispensed with as the same is the basis to know the turnover and tax liability of the dealer. Further it was agreed that an annual return would be acceptable in case of many dealers but not in all cases. To ensure regular inflow of funds to the Government it was proposed to have suitable instalments in advance.

Recommendations

After giving serious consideration to the numerous alternatives listed above the O and M team recommends the following measures for simplification of work.

The frequency of returns and payment should be as shown in the table given below:—

If tax liability in the preceding year is	If gross turnover in the preceding year is	Recommended frequency
Below Rs. 1,000	Irrespective of turnover.	Accept yearly returns and yearly payments.
Above Rs. 1,000	Below Rs. 10 lakhs ..	Accept yearly returns and payments for 3 quarters on the basis of preceding year and for the last quarter after adjustments.
Above Rs. 1,000	Above Rs. 10 lakhs ..	Accept quarterly returns and monthly payments.

Punch card system for recording receipt of returns and chalans should be introduced.

Post cards should be sent as reminders to document holders instead of serving the notice by sending a notice server or by sending it by registered post.

If our recommendations are accepted the Department is likely to benefit as below:—

(1) It is estimated that as a result of simplification, as many as about 70,000 dealers will submit only annual returns and will make only annual payment in B. C. Dn. Thus in terms of relief to the public, this step will undoubtedly be heartily welcomed.

(2) From the statistics available with this department it is found that the total sales tax payable by such dealers will amount to approximately Rs. 7 crores per year. Of these Rs. 7 crores the Government hypothetically would have $\frac{1}{4}$ the amount in each quarter, i.e., Rs. 1.75 crores per quarter. Thus the Government will receive Rs. 5.25 crores late. In terms of net effect on the ways and means of the Government the impact is likely to be marginal if one remembers that the annual collection of sales tax is in excess of Rs. 166 crores in Bombay City Division alone.

It has earlier been estimated that the cost of receiving and scrutinising each return is roughly of Rs. 2. Elimination of quarterly returns of about 70,000 dealers will thus mean an elimination over 2,00,000 returns for the 3 quarters which will lead to saving of over Rs. 4 lakhs.

However, this saving is only a national saving because it is not proposed in any way to reduce the staff strength whatsoever but to use the same strength for a more vigilant and stringent control over the remaining 22,000 and odd dealers. The team believes that better control over the remaining is likely to not only off set the deficiency in the ways and means as calculated above, but also to yield to Government much better revenue. Lastly, it must be stressed that there is no risk to Government of losing revenue in any manner.

Taking all the facts into account, it is expected that these recommendations will prove satisfactory both from the point of public as well as the Department.

ACTIVITY : ASSESSMENT

1. The main purpose of assessment is to verify the correctness of the self-assessment made by the dealer while furnishing the returns. The Sales Tax Officer is responsible for assessment of the dealers. He has to demand the difference between the tax as assessed and that already paid by the dealer along with the returns. He is also responsible for levying penalties for which the dealer is liable and to demand such amount of penalties.

2. Clearing off huge arrears of pending assessments is one of the major problems with which the Department is confronted. The position of arrears is given below:—

Year	Opening Balance	Additions	Total of B and C	Disposal	Percentage of E to D	Pendency	Percentage of G to F
A	B	C	D	E	F	G	H
1971-72	BST 1,82,978	1,72,913	3,55,891	1,52,829	43%	2,03,062	57%
	CST 95,897	90,153	1,86,140	76,794	41%	1,09,346	59%
1972-73	BST 2,03,062	1,92,973	3,96,035	1,85,936	47%	2,10,099	53%
	CST 1,09,346	99,269	2,08,615	80,698	43%	1,18,917	57%
1973-74	BST 2,10,099	1,67,586	3,77,685	1,60,146	42%	2,17,536	58%
	CST 1,18,917	92,495	2,11,412	83,765	40%	1,27,647	60%
1974-75	BST 2,17,536	1,85,192	4,02,728	1,69,176	42%	2,33,552	58%
	CST 1,27,647	93,339	2,20,986	84,306	38%	1,36,680	62%

3. The assessment procedure involves issue of notice to the dealer asking him to produce books of accounts, preliminary hearing, verification of books of accounts, hearing, passing of an order and issue of a demand notice. Every case has to go through this rigid, lengthy and time consuming procedure so as to raise additional demands which bear a very insignificant percentage to the total revenue earned as Sales Tax. The following statistics will speak for itself.

4. The statistical table given below will show the yearwise additional demand raised through the assessment procedure, and total revenue collected and the amount actually recovered out of the assessed dues during that year. However, it is necessary to point out that the additional demand raised through assessment procedure will relate to preceding assessment years and not to the same assessment year. In other words, it will be incorrect to say that in 1971-72 additional demand raised amounting to rupees 14.57 crores related to assessment years of 1971-72.

Year	Additional demand raised through assessment Procedure		Total Revenue		
	A	B	C		
		B.S.T.	C.S.T.	B.S.T.	C.S.T.
1971-72	..	14,57,02,027	2,77,93,555	109 crores	40 crores
1972-73	..	16,65,79,673	3,10,94,736	120 crores	45 crores
1973-74	..	17,76,22,074	4,74,62,251	154 crores	56 crores
1974-75	..	17,15,00,000	3,79,00,000	211 crores	71 crores

5. However, when we take into account a number of consecutive years, such overlapping of statistics will not make much difference because the assessed additional demand as well as the total revenue recovered will show broadly the same pattern of percentages.

6. It is necessary here to point out certain limitations of the existing statistics.

(i) In any given year, the additional demands raised through the assessment proceedings will relate to the preceding assessment year.

(ii) The total revenue collected during the year will be partly the revenue paid by the dealer based on self-assessment and partly in settlement of the additional demand made by the Department for preceding assessment years.

(iii) The figure of total revenue shown in any assessment year will be required to be corrected to the extent refunds are allowed at the stage of appeal or second appeal to the Tribunal.

(iv) The additional demand raised during the assessment year also needs to be corrected to the extent of the relief allowed at the stage of appeal or at the second appeal or to the Tribunal.

(v) Despite these limitations, the existing statistics can show the broad general pattern of the total revenue collected, the total of additional demand, the total of actual recovery during the different assessment years.

7. If one looks at the figures over a number of years one can form a reasonably good idea of the trend of revenue, additional demand, and actual recovery and their relationship to each other.

8. It is needless to say that the amount shown in Column B above cannot be said to be actual revenue because more often than not, the amount demanded is disputable at the stages of appeal. What is material to be considered in relation to the total revenue is the amount actually recovered out of the amounts in Column B. Such figures are as follows (of course, the following figures are the figures of recovery not necessarily out of the demand of the same year) :—

Year	Additional demand raised through assessment procedure		Recovery assessment dues	
	A	B	C	
	B.S.T.	C.S.T.	B.S.T.	C.S.T.
1971-72 ..	14,57,02,027	2,77,93,555	6,87,06,174	1,51,45,765
1972-73 ..	16,65,79,673	3,10,94,736	10,53,70,050	2,58,95,588
1973-74 ..	17,76,22,074	4,74,62,251	10,51,79,662	3,70,18,604
1974-75 ..	17,15,00,000	3,79,00,000	13,36,00,000	3,17,00,000

9. Again, these figures will also be reduced to the extent of the refunds granted at Appellate and Tribunal stages. However, the aggregate statistics of such refunds is not available.

10. It is necessary to note here that as on 31st March 1975 there were 1,66,362 live registered dealers liable to pay sales tax of which just about 9 per cent paid as much as 75 per cent of the total revenue. Against the background of these statistics it is essential to realistically reconsider the appropriateness of the existing assessment procedure in case of all the dealers.

11. *Brief outline of existing procedure.*—(a) Every registered dealer has to file returns (yearly, quarterly or monthly as prescribed by the B. S. T. Rules, 1959) and chalans i.e., the proof of payment of taxes payable as per returns, with the Returns Branch.

(b) The Officer of the Returns Branch maintains a record of the returns and chalans received and forwards the returns and chalans to the respective Ward Officer who has to carry out the function of assessment.

(c) The Ward Officer who is in charge of assessment of roughly 5 to 6 hundred live cases, fixes the priorities for the purpose of assessment.

(d) The Ward Officer issues a notice for assessment to the dealer on the basis of the returns. Statutorily, at least 15 days notice is required for producing the books of accounts.

(e) One day in advance of the date of appointment, the Sales Tax Officer gets consolidation of the figures of returns and chalangans completed.

(f) On the appointed day the Sales Tax Officer gives a preliminary hearing and allots the case to the Sales Tax Inspector who verifies the correctness of the returns with reference to books of accounts.

(g) The Sales Tax Officer gives final hearing to the dealer to satisfy himself about the correctness of the returns.

(h) He also sees whether the dealer is liable for any of the penalties provided for by the Act. If so, he hears the dealers on that point also.

(i) He passes an order of assessment which may or may not result in an additional demand. It may even result in a refund. A copy of assessment order along with demand notice is then served on the dealer.

(j) If there is an additional demand, the Sales Tax Officer initiates the recovery proceedings, if the payment is not made within the stipulated time. If there is a refund, he issues a Refund Payment Order to the dealer within the stipulated period.

12. *Approximate cost of Assessment.*—On a critical analysis on the time spent at various levels it is found that the total cost of each case of assessment will be roughly as below:—

Level	Approximate number of man-hours spent	Rate per hour	Cost
S.T.O.	2	Rs. 10·00	Rs. 20·00
S.T.I.	6	Rs. 7·50	Rs. 45·00
Clerk	2	Rs. 5·00	Rs. 10·00
	10		Rs. 75·00

This cost naturally assumes that the case is not very complex or that there are not too many adjournments or other dilatory tactics. It will be worth carrying out a little exercise of the total cost of assessment to the Department in relation to the total revenue raised through the additional demand from various categories of dealers.

Problems Faced

Assessments are the responsibility of the Sales Tax Officer after the verification of books is completed by the Sales Tax Inspector. As there is always a likelihood of bogus transactions, the Inspector as well as the Officer have to exercise Argue-eyed vigilance. Secondly, the Sales Tax Officer must keep himself up to date with the latest judgements of the Tribunal as well as discussions carried out in legal seminars and the departmental instructions issued by appropriate authorities. Thirdly, the Sales Tax Officer has to undertake multifarious responsibilities such as issue of notices in case of failure to file the return or chalan, issue of notices for recovery including action under section 39, submission of write off or prosecution proposals, compliance with audit notes etc.

The department has fixed its own method of work measurement for judging the output of the Sales Tax Officers. The volume of output is assessed in terms of what is known as 'P's'. The method of calculation of 'P's' explained in the Departmental Manual of Procedure on page 86 under Appendix 1 and 2, Chapter 3.

The O and M Team has no hesitation in mentioning that the existing method of measuring the output has been evolved out of experience but lacks scientific foundation. In fact, it may not be out of place to mention here that a critical work measurement exercise will be well worthwhile to determine the norms of output of all levels. The consequence of present method is that undue weightage is given to output without proper regard for qualitative judgment. As the Sales Tax Officer has to attend to various responsibilities mentioned above and also has to fulfil the quantitative targets, he has no option left but to either work beyond office hours or to pay little respect to the qualitative aspects of his judgement.

Despite these quantitative norms it is sad to reflect that the work of the department is generally in arrears and the assessments are pending for nearly a year or two.

The arrears of work not only cause public dis-satisfaction but project a rather poor image of the department and open the door for undesirable practices. The O and M Team, therefore, has considered various ways and means of reducing the burden of work to enable the Officers to pay greater attention to qualitative aspects in the interest of the department.

Critical Examination

The first and foremost question is whether it is necessary to follow the same rigorous procedure of assessment in case of all the dealers irrespective of turnover or the quantum of tax liability.

The statistical data furnished earlier proves that as many as about 75 per cent dealers have a turnover of less than Rs. 3 lakhs.

In fact, the department itself has made a beginning to avoid 100 per cent assessment by taking recourse to section 33(2) which permits the department to accept the returns of dealers without further scrutiny provided certain conditions as laid down by the Commissioner are fulfilled.

At present reliance is placed only on certification of books of accounts by the Sales Tax Inspector or Sales Tax Officer or on visits made by S.T.I./S.T.O. It is worth considering whether the department could explore other types of reliable evidence such as circumstantial evidence or evidence by testimonials, to reduce the work load and the costs of the department.

Lastly, it is also worth considering whether time and cost can be saved by simplification of work on the one hand and asking the dealers to do certain types of work on the other hand.

Alternatives

Keeping these points in mind the team explored various alternatives—which are listed below:—

(1) Relax the present conditions stipulated by the Commissioner for acceptance of returns under section 33(2) by making the turnover limit of Rs. 3 lakhs applicable to all the dealers provided the annual liability to pay tax does not exceed Rs. 1000 except those whose cases are under investigation of Enforcement Branch or already black-listed.

(2) As mentioned in the recommendations on Returns Branch, there should be only one annual return and only one annual payment which will automatically reduce the work load involved in consolidation of returns and verification of chalangas as proof of payment.

(3) According to the present procedure a notice has to be issued before assessment can be taken up and a minimum period of 15 days must elapse between the dates of serving the notice and the appearance. Often the dealers themselves are anxious to complete their assessment. It should therefore be possible for the department to waive the need to issue notice and wait for the statutory period of 15 days in case of dealers who themselves request the department to take up the assessment.

(4) In order to expedite disposal, the dealer should be asked to submit a consolidated statement for the four quarters in a standard form of consolidation.

(5) As assessment of dealers having turnover of less than Rs. 3 lakhs will be mostly on the basis of returns only, the department will get a significant relief in the volume of work. The time so saved can be used for qualitatively better work.

(6) At present an experiment of Pilot Officers who conduct the hearing entirely themselves without the help of the S.T.I. is being carried out. Such Pilot Officers should be empowered to complete the cases of dealers with a turnover below Rs. 10 lakhs instead of the present limit of Rs. 3 lakhs.

(7) The Sales Tax Officers should have full discretion to decide whether and to what extent the Sales Tax Inspector should carry out the verification of books of accounts, bills, purchases etc. furnished by the dealers.

(8) The dealers should be asked to submit the following information prior to the date of preliminary hearing.

List of following requirements to be sent with notice:—

(i) If there is any difference in sales and purchases as per books and as shown in the returns, the difference should be reconciled.

(ii) Statement in respect of goods returned and its consequential effects.

(iii) Statement of sales not supported by declarations for example Forms 14, 15, 16 etc.

(iv) Statement showing commodity-wise bifurcation of purchases on Forms 31 and 31-A.

(v) Statement of missing Forms 31 and 31-A declarations.

(vi) Statement of sale showing summaries from sales register and explaining the differences on comparison with the returned figures.

9. As it is quite inconvenient for the big dealers to transport their books of accounts and other documents from their place of business to the office of the STO/STI, the STI/STO may be permitted to carry out verification at the dealer's place especially in case of such dealers whose integrity is unquestionable e.g. wellknown public or private companies, government undertakings, co-operative societies, hotels etc., This step will not only expedite the process of verification but will also eliminate inconvenience to the public.

10. Attention has to be drawn to the latest order issued by the Ministry of Law and Justice and Company Affairs No. 52/4/68-CL-II, dated 7th November 1975. This order is known as Manufacturing and Other Companies (Auditors Report Order, 1975). It imposes several stringent requirements on the auditors. Certificates issued by the auditors covering at least the points specified in the order can be considered as acceptable by the department.

The department should design specific questionnaire and/or forms to elicit necessary information which can be certified by the auditors of the dealers in order to reduce the time spent by the departmental staff as much as possible.

11. There should be a standard form for assessment order to make it self-speaking. Main points to be included in are given below:—

(1) Service of notice (particularly in assessment order passed *ex-parte* or when the transferor is to be assessed when it is necessary to make the transferee also a party to the assessment proceedings.)

(2) Reasons for assessment for period less than a year.

(3) Nature of business in brief and commodities dealt in with reference to entries in Schedules.

(4) Books of Accounts maintained. Reliability.

- (5) Comparison of returned figures (G.T.O., tax collection, various deductions, set-off claims) with those determined and reasons for the difference.
- (6) Reasons for not accepting G.T.O. as per books of accounts, procedure followed.
- (7) Reasons for disallowances of claims if any.
- (8) Discussion of case law and reasons for not accepting the decisions relied upon by the assessee. Citation of favourable case law.
- (9) Reasons for imposition of penalty and for quantum thereof procedure followed.
- (10) *Resale allowance*.—Whether on identification or by proportion.
- (11) *Tax collection*.—Whether charged separately.
- (12) *Contravention*.—Nature and extent.
- (13) Any other special point.
- (14) *In ex-parte assessment order*.—Discussion about findings in previous assessment orders, present returns and how estimations for current assessment are made.

12. A good deal of time is spent on manual calculations. The department should liberally provide suitable calculating machines to save the drudgery of the staff.

Recommendations

The various alternatives listed above have been discussed with the departmental authorities and are found to be generally acceptable in principle. It is therefore not necessary to reproduce again the same list as recommendations.

Cost Benefit Analysis

Assessment of dealers is perhaps the most fundamental responsibility of the department. According to the present procedure, the cost of each assessment works out to be roughly Rs. 75. If the scope of section 33(2) is expanded as above, the number of assessments will be reduced by as much as about 1,25,000. The likely savings to the department will be to the tune of Rs. 93·75 lakhs.

Total revenue collected from dealers having turnover below Rs. 3 lakhs was about Rs. 25 crores during 1974-75. Additional revenue received by way of assessments is 10 per cent of the total revenue. By resorting to assessments under section 33(2) in respect of dealers having turnover below Rs. 3 lakhs, on the basis of 10 per cent, there may be loss of additional revenue by Rs. 2½ crores.

The saving made in expenditure on account of such assessments will be Rs. 93·75 lakhs. Thus there will be net loss of revenue of Rs. 1,56,25,000.

If the staff strength so saved on the above category of dealers is used for concentration on bigger dealers and for collection of tax on concealed turnover, there will be possibly substantial addition to revenue for the following reasons:—

More time spent on quick assessments and recoveries of bigger dealers will increase the yield and reduce losses arising out of inability to recover.

Secondly, it is often said that substantial Revenue is evaded. The extent of such an evasion is difficult to estimate. If we estimate that Rs. 20 crores of the revenue is evaded then even if the department is able to unearth 10 per cent or 20 per cent of such tax, the gain will be Rs. 2 to 4 crores as against the possible loss from small dealers amounting to Rs. 1·56 crores.

Thus there is likely to be an overall gain to the government and relief to the public.

RECOVERY

Introduction. The main purpose of "Recovery" is to recover the balance dues assessed by the assessing authority as well as the dues shown as payable but not paid in the self-assessment, i.e. the return of the dealer. The activity of "Recovery" does not start unless a demand notice for such dues is served on the assessee giving him specified time for making payment.

Brief outline of Existing Procedure

1. There are two categories of dues which have to be recovered.
 - (a) The dues shown as payable in the returns but not paid termed as "RETURNED DUES."
 - (b) The dues assessed by the assessing authority after giving credit for the payments made with returns and also the penalties that are levied under the Act termed as "ASSESSED DUES"
2. So far as the 'returned dues' are concerned, the Sales Tax Officer, Returns Branch, issues and serves on the dealer a notice in Form 26 demanding the dues shown as payable as per returns but not paid by the assessee.
3. The Sales Tax Officer has to give time of minimum 30 days from the date of service of notice in Form 26 for making payment.
4. The Sales Tax Officer, Returns Branch forwards a copy of notice in Form 26 duly served on the dealer to the Sales Tax Officer, Ward Office for taking further recovery action.
5. So far as 'assessed dues' are concerned the Sales Tax Officer Ward Office issues a demand notice (no form has been prescribed under the Rules) and serves it on the dealer. Minimum 30 days time from the date of service of notice has to be given for making payment.
6. The Ward Officer takes entries for making recovery in the 'Day Book of Assessments' in respect of both the demand notice issued for "assessed dues" and also the demand notice (Form 26) received from Returns Branch in respect of 'Returned Dues'.
7. The Sales Tax Officer takes out the file on due date for payment.
 - (a) If full payment is made by the assessee and chalan is received then the Sales Tax Officer takes necessary note on the file and after taking necessary entry in the D.B.A., the entry is closed.
 - (b) If the assessee makes only a part payment the matter is pursued further.
 - (c) If the payment is not received and if the amount involved is small, the Sales Tax Officer sends a reminder to the dealer.
 - (d) If the payment is not received and if the amount involved is substantial, the Sales Tax Officer takes action of a threatening nature so as to compel the dealer to make immediate payment and proceeds on following lines:—
 - (i) If the defaulter is a document holder the Sales Tax Officer issues show cause letter for suspension of his document and proceeds in that direction.
 - (ii) If any amount is due to the assessee from third parties like banks and debtors the Sales Tax Officer issues notice under section 39 asking the third parties to pay to the Government the amount to the extent of dues pending against the defaulter.
 - (iii) If the defaulter is claiming set off in the returns the Sales Tax Officer issues a show cause letter under rule 46(1) asking him why he should not be prevented from adjusting the set off so long as the dues in question remain unpaid. Accordingly he proceeds in that direction.
 - (e) If even after taking the aforementioned action, the dealer fails to make payment and the Sales Tax Officer also does not get the desired response from the debtors/banks the Sales Tax Officer completes the action by suspending or cancelling the document or issuing order under rule 46(1).
8. Thereafter the Sales Tax Officer awaits payment till the 90th day from the date of service of notice. In case of non-receipt of payment by 90th day, on the 91st day the Sales Tax Officer is supposed to issue Revenue Requisition Certificate to the Collector requesting him to recover the dues as arrears of land revenue.

9. The Sales Tax Officer then awaits receipt of chalan either from Collector or from the dealer. On receipt of chalan he closes the matter. If, however, any post assessment penalty is leviable due to the delay in payment he proceeds to take suitable action in that behalf. If the post assessment penalty calculated is less than Rs. 25 no action is taken to levy the penalty. If it is more than Rs. 25 a show cause letter is issued for the levy of penalty. In such a case till demand for this penalty is created by issue of Demand notice, the original entry is not closed. After issue of Demand Notice for penalty a fresh entry is taken and followed up till amount is recovered in the same fashion explained above.

10. After receipt of the RRC from the Sales Tax Officer, the Collector takes necessary action at his end. If the assessee is available on the given address, he issues notice for recovery of dues. If the assessee pays the dues, the matter is closed at his end and the RRC is returned to the Sales Tax Officer with the details of payment. If the assessee is not available at the given address, necessary enquiries are caused and efforts are made to trace him. If the assessee is traced the action to recover dues is pursued. If not, R.R.C. is returned to the Sales Tax Officer with the remarks that the assessee is not traceable. If it is found that the assessee is not in a position to make full payment of dues at one stroke, the Collector grants him instalments and dues are recovered in instalments. If the assessee is not in a position to make payment and does not possess any property or assets, the Collector returns R.R.C. with necessary remarks. If any property is available, the Collector attaches the same to realise the dues.

11. On receipt of R.R.Cs. back from Collector for reasons mentioned above, the Sales Tax Officer again ascertains whether all the available addresses of the dealer are tried by the Collector as also whether there is any further information available about assets, properties and new business. If so, the Sales Tax Officer returns the R.R.C. to the Collector with additional information.

12. If no such additional information is available, the Sales Tax Officer submits write-off proposal to the concerned higher authorities after conducting necessary enquiries.

13. On receipt of sanction of write off from higher authorities the entire are closed.

Problems

It is necessary to consider some of the special problems faced by the Department.

It is often found that the defaulters do away with their assets and leave no property in their names. Secondly it is necessary to establish that the default is wilful. During the hearing of the show cause notice, the defaulters offer to pay the outstanding amounts in partly instalments which would be spread over several years. Such offers cannot be rejected as the intention of the defaulter is shown to be bonafide. In view of these two difficulties, it is extremely difficult to recover the outstanding amounts.

It is worth noting here that the directors of public or private limited companies and the office bearers of the co-operative societies are not personally responsible for non-payment of sales tax dues. The recovery proceedings have therefore to be necessarily against the corporate entities and not against the individuals. Such corporate bodies often end in liquidation but the claims of the Sales Tax Department, do not have precedence over other secured creditors. As a result, the department has no other alternative but to wait till the liquidation proceedings are over and get whatever little amount available after payment to secured creditors.

The premises taken on rent by assesseees are generally on leave and licence or tenancy basis. In the event of recovery proceedings being launched against such assesseees, premises on statutory tenancy basis cannot be attached and sold in realisation of sales tax dues. Premises on leave and licence basis do not constitute assets of the assesseees. The department can therefore, at best attach only movable assets like furniture. The value of such movable assets is negligible compared to the arrears of sales tax dues from the assesseees.

Even attaching such assets creates problems for the department because there is no storage space to keep them or funds for transporting them. Therefore the assets have to be left with the assessee with an undertaking to the effect that such assets will not be sold or disposed of in any manner. Habitual defaulters are thus not at all scared of formal attachment.

In some cases of recovery, it is found that assessments have been made *ex parte* and that too arbitrarily resulting in heavy dues even though the business has ceased to operate as a result of the death of proprietor. When the department tries to recover the sales tax dues, the facts come to light, there is generally no other alternative in such cases but to write off of the amounts of arrears. It is, therefore, necessary to ensure that *ex parte* assessment is not made for more than one assessment period. If the dealer does not appear for the second assessment period, the Sales Tax Inspector/Sales Tax Officer should endeavour to find out whether the business is still in operation instead of proceeding further with the *ex parte* assessment.

According to the existing rules and procedures, it is essential to advertise the auction of movable assets in local newspapers. As the value of such articles is often insignificant, the cost of advertisement is just not worth incurring.

The Sales Tax Act provides under section 62A that transfer of property or assets made with an intent to defraud the Department will be deemed as void if such transfer is made during the pendency of any proceedings under this act. However, there is a lack of clear understanding about the implications of this provision. It is not clear whether the Sales Tax Commissioner or the Collector of Bombay or the Additional Collector of Bombay can declare such transfer as void or whether any judicial proceedings are necessary to get such transfer declared as void. Secondly the exact meaning of the term 'pendency of proceedings' is also not clear. Thirdly, the meaning and scope of the word 'assets' also needs precise definition.

It is necessary to get such doubts resolved by making a test case. It is suggested that the department should not hesitate to launch such a test case, to understand clearly the scope of its powers and the method of enforcing the powers.

To sum up, the rules and procedure of recovery of sales tax dues as arrears of land revenue make the whole exercise extremely cumbersome, time consuming and costly. It is necessary to devise simpler and more effective methods for recovery of sales tax arrears.

Critical Examinations

The problem of recoveries has been causing concern to the Department. However, it is necessary to understand the problems in its true perspective by a critical examination of the available statistics.

The total amount of recoveries due as on 31st March 1975 for the whole of Maharashtra is Rs. 30.82 Crs. These arrears of revenue are due from the very inception of the sales tax department i.e. since 1946. The team has not been able to calculate the total amount of sales tax collected by the Government of Maharashtra since 1946. However, a rough calculation shows that during the last 29 years, the Government would have collected almost Rs. 2,000 Crs. in all probability and even on the most conservative basis, at least, Rs. 1,500 Crs. Thus, the quantum of recovery is barely about 2 per cent or so of the total amount of sales tax collected. Frankly, this is a creditable performance indeed. Loss of 2 per cent of revenue can objectively be regarded as a 'trade loss' within tolerable limits. If we consider that almost Rs. 8 Crs. out of this Rs. 30 Crs. are in dispute in appeals or Courts the real amount of recoveries which should cause concern stands reduced to just about Rs. 22 Crs. i.e. about 1.5 per cent.

The O and M. team has purposely tried to put the problem in its proper perspective because absolute figures are likely to cause an erroneous impression.

It is worth concentrating on analysis of arrears of revenue both by considering the causes as well as the age of amounts to be recovered.

We give below statistics of recovery for the Maharashtra State and Bombay City Division as on 31st March 1975 along with our comments:—

Sales Tax Dues under B. S. T. Act, 1959 as on 31st March 1975—Maharashtra

Category	Prior to 1965-66				1966-67 to 1970-71			
	No. of cases	Per cent	Amount (in lacs)	Per cent	No. of cases	Per cent	Amount (in lacs)	Per cent
(1) <i>Legally Disputed—</i>								
(a) Pending in appeal	97		16·11		946		107·73	
(b) Pending in Courts	414		59·68		566		58·28	
(2) <i>Co-operative Societies/Evacuee Property—</i>								
(a) Dues from Co-operative Societies	279		3·14		288		5·91	
(b) Claims with custodian of Evacuee Properties.	6		0·72		2		0·35	
(3) <i>Dues from Government Offices</i> ..	216		7·09		176		7·11	
(4) <i>Want of assets/Address—</i>								
(a) Assets	325		13·40		275		27·28	
(b) Address	337		19·56		732		60·79	
(5) <i>Revenue Recovery Certs.—</i>								
(a) Issued	9877		131·68		16164		327·35	
(b) To be issued	17		·57		45		2·55	
Total ..	11568	(10·20)	251·95	(8·18)	19194	(16·92)	597·35	(19·38)

Sales Tax Dues under B. S. T. Act, 1959 as on 31st March 1975—Maharashtra—contd.

Category	1971-72 to 1974-75				Total			
	No. of cases	Per cent	Amount (in lacs)	Per cent	No. of cases	Per cent	Amount (in lacs)	Per cent
(1) <i>Legally Disputed—</i>								
(a) Pending in appeal	5632		463·29		6675		587·13	
(b) Pending in Courts	613		126·92		1593		244·88	
					8,268	(7·29)	832·01	(27)
(2) <i>Co-operative Societies/Evacuee Property—</i>								
(a) Dues from Co-operative Societies	512		11·43		1,079		20·48	
(b) Claims with custodian of Evacuee Properties.	..		..		8		1·07	
					1,087	(·95%)	21·55	(·70%)
(3) <i>Dues from Government Offices</i> ..	1,657		52·22		2,049	(1·80%)	66·42	(2·14)
(4) <i>Want of assets/Address—</i>								
(a) Assets	639		61·38		1,239		102·06	
(b) Address	860		45·93		1,929		126·28	
					3,168	(2·79)	228·34	(7·42)
(5) <i>Revenue Recovery Certs.—</i>								
(a) Issued	47,654		1099·46		73,695		1558·49	
(b) To be issued	25,100		371·89		25,162		375·01	
					98,857	(87·17)	1933·50	(62·74)
Total ..	82,667	(72·89)	2232·52	(72·44)	11,3429	(100·00)	3081·82	(100·00)

Sales Tax Dues under B. S. T. Act, 1959 pending as on 31st March 1975—Bombay City Division

Category	Prior to 1965-66				1966-67 to 1970-71			
	No. of cases	Per cent	Amount (in lacs)	Per cent	No. of cases	Per cent	Amount (in lacs)	Per cent
(1) <i>Legally Disputed—</i>								
(a) Pending in appeal	49		14.30		645		90.01	
(b) Pending in Courts	216		43.77		447		52.23	
	265		58.07		1,092		142.24	
(2) <i>Co-operative Societies/ Evacuee Property—</i>								
(a) Dues from Co-operative Societies	2		0.06		24		1.40	
(b) Claims with custodian of Evacuee Properties.	5		0.71		2		0.35	
	7		0.77		26		1.75	
(3) <i>Dues from Government Offices</i> ..	Nil		Nil		1		0.02	
	..		..		1		0.02	
(4) <i>Want of assets/Addresses—</i>								
(a) Assets	75		6.69		116		20.78	
(b) Addresses	227		17.08		586		59.02	
	302		23.77		702		79.80	
(5) <i>Revenue Recovery Certs.—</i>								
(a) Issued	2,533		80.29		9,905		250.22	
(b) To be issued	1		0.36		2		0.34	
	2,534		80.65		9,907		250.56	
Total ..	3,108	(5.02)	163.26	(7.17)	11,728	(18.96)	474.37	(20.84)

Sales Tax Dues under B. S. T. Act, 1959 pending as on 31st March 1975—Bombay City Division—contd.

Category	1971-72 to 1974-75				Total			
	No. of cases	Per cent	Amount (in lacs)	Per cent	No. of cases	Per cent	Amount (in lacs)	Per cent
(1) <i>Legally Disputed—</i>								
(a) Pending in appeal	3,250		363·60		3,944		467·91	
(b) Pending in Courts	470		114·50		1,133		210·50	
(2) <i>Co-operative Societies/Evacuee Property—</i>								
(a) Dues from Co-operative Societies	17		1·76		43		3·22	
(b) Claims with custodian of Evacuee Properties.	Nil		Nil		7		1·06	
	17		1·76		50	(0·08)	4·28	(0·18)
(3) <i>Dues from Government Offices</i> ..	1,216		14·84		1,217		14·86	
	1,216		14·84		1,217	(1·96)	14·86	(0·65)
(4) <i>Want of assets/Addresses—</i>								
(a) Assets	137		47·23		328		74·70	
(b) Addresses	651		37·81		1,464		113·91	
	788		85·04		1,792	(2·89)	188·61	(8·29)
(5) <i>Revenue Recovery Certs.—</i>								
(a) Issued	28,777		807·50		41,215		1138·01	
(b) To be issued	12,499		251·40		12,502		252·10	
	41,276		1058·90		53,717	(86·87)	1390·11	(61·07)
Total ..	47,017	(76·02)	1638·64	(71·99)	61,853	(100·00)	2276·27	(100·00)

Statement of cases pending with the Recovery Officers
(Amount in lacs and thousand)

Ward	10,000 to 1,00,000		One lacs to 5 lacs		Above five lacs	
	Cases No. of dealers	Amount Rs.	Cases No. of dealers	Amount Rs.	Cases No. of dealers	Amount Rs.
A-I ..	83	24·26	10	36·56	..	..
A-II ..	89	24·87	5	12·06	..	..
D ..	65	21·21	6	7·49	..	..
C ..	119	34·56	6	14·58	..	..
D ..	134	28·24	10	26·81	4	30·87
E ..	80	21·46	7	15·58	..	..
F ..	31	8·22	4	8·84	1	5·04
G ..	120	30·61	8	12·11	..	70·85
ENBN ..	317	90·66	41	75·07	8	70·85
M ..	27	9·25	4	6·29	..	..
B.S.D.I. ..	60	17·36	5	6·96	..	..
BSD-II ..	259	22·85	56	15·78	42	43·93
	1,384	331·55	152	198·13	55	150·69
					No. of dealers	Amount
R. Cs. wherein arrears exceed Rs. 10,000 ..			..	..	1,681	680·37
R. Cs. below Rs. 10,000 ..		..	..	..	62,335	219·39
			Total ..	..	63,936	899·76

Statement showing the Receipt of R.Cs. Demand and Expenditure incurred and Strength of the Staff

Year	No. of R.Cs. received	Amount	Recovery	Remission due to irrecoverable	Expenditure	No. of Staff				
						Class I	Class II	Class III	Class IV	
1971-72	..	38,998	9,33,06,562	4,78,93,904	Not readily available	Not readily available	1	6	144	44
1972-73	..	47,542	10,78,39,871	6,26,64,230	Do.	8,86,372	1	10	208	56
1973-74	..	38,440	9,91,91,019	6,66,66,080	Do.	12,02,283	1	10	208	56
1974-75	..	23,472	6,55,28,799	4,91,38,633	Do.	11,96,488	1	10	208	56

Deputy Collector,
for Sales Tax Recovery,
Bombay and B.S.D.

Comments

The first category viz. 'legally disputed recoveries' comprises cases pending in appeals and cases pending in courts. This category accounts for Rs. 8.32 crores (27%) for Maharashtra State as a whole and Rs. 6.79 Crores (29.81%) for Bombay City Division. As these cases are subjudice it is not fair or correct, in our opinion, to say that the Department has to recover the above amounts because the legal authorities may even give judgment in favour of the dealers. In the accounts of the dealers, such liabilities will be shown as contingent liabilities. Similarly, the Department should show such revenue as 'contingent revenue' or 'contingent assets'. We suggest that, in future, such amounts should not be included in the amount of total recoveries at all but should be shown separately in order to give a more realistic and accurate picture.

The next category, i.e. recoveries due from the Co-operative societies/evacuee properties shows a total amount due at Rs. 21.55 lakhs a bare .7% of the total amount due in the State of Maharashtra. In Bombay City Division, just about Rs. 4.28 lakhs have to be recovered, a negligible percentage of .18%. It is significant to note that there has not been a single case of evacuee property during the last 4 years or so, and just 2 cases since 1966. The amount involved is so insignificant and overdue for such a long time, that the department need not feel much concern about it.

The third category, i.e. dues from Government offices accounts for Rs. 66.42 lakhs (2.14%) in Maharashtra State and Rs. 14.86 lakhs (.65%) in Bombay City. As this amount is small and mostly of a transfer nature, the Government does not stand to lose the amount. This category also therefore, does not present a serious problem.

The fourth category viz. recoveries owing to want of assets of addresses of the assesses account for Rs. 2.28 Crores (7.42%) in Maharashtra State and Rs. 1.89 Crores (8.29%) in Bombay City Division. This indeed is the most troublesome category, though in size, it accounts for a small percentage. Efforts made for recovery of this amount are likely to be far too costly compared to the likely yield of revenue.

The last category viz. 'R. R. Cs. issued/to be issued' is the most important category. The total amount falling in the category is Rs. 19.34 Crores (67.74%) in Maharashtra State and Rs. 13.90 Crores (61.07%) in Bombay City Division. The percentage of R. R. Cs. issued is 74% and the percentage of R. R. Cs. to be issued is 26% in Maharashtra State. The percentage of R. R. Cs. issued is 77% and the percentage of R. R. Cs. to be issued is about 23% in Bombay City Division. This suggests that there is either inadequate staff especially on the revenue side or there is a serious bottleneck because of procedural delays.

It is worth noting here that the number of R. R. Cs. to be issued may include a sizeable number of cases where the stipulated period of 90 days is not over. There is no doubt that serious thought will have to be given to expediting recovery due from this category on the one hand and preventing new cases falling into this category on the other hand.

The problem of recovery, in fact, reminds one of the familiar example of the bath-tub in which water is being poured from one side and is being drained from the other side. It is not enough only to consider how to recover this amount rapidly. It is essential to devise measures which will ensure the minimum addition to the existing volume of recovery.

Alternatives

1. It is found that the Revenue Requisition Certificates are some times returned for want of sufficient information. It is suggested that a standard form should be evolved in consultation with the revenue recovery section to ensure that all relevant information is furnished at one and the same time to avoid further delay and tossing of papers.

2. We have recommended earlier that the dealers whose annual turnover is less than Rs. 3 lakhs should be covered under the scope of section 33(2) of the Bombay Sales Tax Act 1959. The returns of such dealers should be accepted on self assessment basis and they should not be permitted to keep any arrears of tax. If they fail to make full payment according to their self assessment, they should be denied the benefit of section 33(2) and their cases should be taken up immediately for recovery, especially because the returns will be submitted by them only once in a year.

3. In the case of other dealers who do not pay tax as per the returns submitted by them, a notice in form 26 is issued calling upon them to pay tax. If the dealer fails to make payment even after issuing the notice in form 26 within the stipulated period, the department should be legally empowered to cancel his Registration Certificate. Such a provision for cancellation of registration certificate already exists in the Central Sales Tax Act, 1956. We are purposely recommending incorporation of such a provision under the Maharashtra Sales Tax Act in order to vest the department with deterrent powers to ensure that the sincere attempt of the department to increase public satisfaction by simplification of procedures is not abused by a few malevolent people. As cancellation of Certificate of Registration is a severe action, even a threat of such an action will have a salutary effect.

4. At present a specific dates for making payment of sales tax as per returns is required to be inserted in form 26 and this date is generally after the lapse of about 30 days from the service thereof. In our opinion, the period of notice should not be more than 7 days. The wording of the notice should be changed to the effect that the payment as per the said notice should be made within 7 days from the date of receipt of the notice.

5. The Department has at present powers under section 39 to ask the bank, or a debtor, or both to make good payment of the sales tax dues from a defaulting dealer. It is sometimes found that the dealers close the bank accounts or keep only a small amount in the bank whenever they fear such an eventuality and start operating on other bank accounts. It is, therefore, suggested that the department should regularly collect upto date information from the dealers about their bank accounts at the stage of assessment by examining their cash books carefully. Notice for recovery under section 39 should be sent to all the banks with whom the dealer has accounts simultaneously. The time lag in sending notices under section 39 should be reduced by handing over the duly signed notices to the Sales Tax Inspector instead of asking the Sales Tax Inspector to return to office after making the last check with the dealer about the payments made by him.

6. The present recovery procedure is rather time consuming because a reference has to be made every time to the Revenue Collector for recovery of outstanding amounts. A senior officer of the rank of Deputy Commissioner is designated as Additional Collector of Bombay and the revenue staff working for sales tax recovery is placed under his order. However, other staff of the Sales Tax Department do not enjoy the powers similar to the staff of the revenue department. For example, a mamlatdar in the revenue department has the necessary powers of attaching the goods property of the dealer. It is, therefore, suggested that such powers of attachment should be delegated downwards to the Sales Tax Staff so that recovery is expeditiously made. If such powers are delegated, the need to have one of the departmental officers as Additional Collector would disappear. Alternatively, it is felt that the number of revenue officers attached to the Additional Collector should be suitably increased and the Additional Collector should have no other responsibility or work but the Recovery of Sales Tax.

7. In case the amount of default is over Rs. 10,000, it is well worth to consider public announcement in newspapers just as the Income Tax liability as published at present. It is not necessary to make such an announcement in all cases. However, the knowledge that the department has such powers of making announcements will have a deterrent effect because the credit of such dealers will be adversely affected in the trading community.

8. No R. R. Cs. should be raised and sent to the Revenue Collector for recovery if the amount is below Rs. 500.

9. At present write off proposals are initiated by the Sales Tax Officer only on return of R. R. Cs. by the Revenue authorities certifying that the dues are irrecoverable. Thereafter the dues are written off either by Assistant Commissioner, Deputy Commissioner or Commissioner of Sales Tax or the Government depending upon the amount involved and the powers delegated to them. In view of the lengthy and cumbersome procedure involved in sending the R. R. Cs. to and return of the same from Revenue authorities, it is recommended that powers of write off be delegated to the following officers to the extent shown against them without referring the R. R. Cs. to the Revenue authorities but only after the Sales Tax Officer has satisfied himself that on detailed enquiries conducted by him the dues are found to be irrecoverable. This will avoid not only issue of R. R. Cs. in each and every case but also certificates to be obtained from Revenue authorities or Police and other officials:—

Serial No.	Designation of officers	Amount
		Rs.
1	Assistant Commissioner	500
2	Deputy Commissioner	2,500
3	Commissioner	5,000
4	Government	Above 5,000

However, at the discretion of any of the above officials, the matter can be referred to Revenue authorities even when the Sales Tax Officer has made the required proposal for write off.

Suitable amendments may be made in the Act to that effect.

10. In order to reduce the volume of recoveries in arrears and to ensure that in future also the problem does not become unmanageable, it is suggested that a small committee should be set up with the powers to arrive at settlement of the recoveries due from the dealer. This committee should deal with the cases where amount of recoveries exceeds Rs. 10,000 and cannot be normally recovered. It should include senior officials of Sales Tax Department and Finance Department. The committee should not be hemmed in lengthy procedural requirements but should be in a position to arrive at a settlement by negotiation with the dealers. After arriving at an amount of settlement, the committee should be empowered to determine the quantum and number of instalments also. Lastly, this committee should recommend to the Government the amount to be written off and such recommendations of the Committee should be immediately accepted and sanctioned by the Government. Thus the volume of recoveries can be cleared off speedily and in future no case will remain in arrears for an unconsiderably long time.

To start with, the committee should review all cases above Rs. 10,000 which are in arrears for five and more years.

The department will then be comparatively free to concentrate on cases in arrears since 1971-72 as the chances of recovery are better in relatively recent cases.

11. It is found in some cases that the dealers delay the payment of Sales Tax because they prefer to use the amount so saved for their business instead of borrowing money at substantially higher rates of interest. If the rates of penalty under section 36(3) are increased to prohibitive levels making it uneconomic to the dealers to defer the payment of sales tax, there will not be any temptation to delay the payment. It is, therefore, suggested that penalty under section 36(3) should be levied at the rate of 4% per month instead of the present 1½% for the first 3 months and 2% for the subsequent months.

12. As explained earlier, the department can recover under section 39 the dues from the banks as well as the book debtors. It is suggested that in addition to informing the banks as well as the book debtors, the department should threaten the dealer by suggesting that his name will be communicated as a defaulter of Sales Tax to his principal suppliers and customers irrespective of whether such customers owe him any money or not. This threat is likely to be taken very seriously by the dealer because it will effect his standing in the eyes of his principal suppliers and customers. Thus, he is likely to pay up the arrears of sales tax to avoid the possible risk of loss of reputation and/or black-listing by his principal suppliers and customers. This measure may look as a Draconian measure, indeed and should be resorted to only sparingly.

13. According to the present practice, the Demand notice issued to the dealer bears a rubber-stamp stating that if the chalan in support of payment of the dues is not filed in the office of the assessing authority by 3rd day from the stipulated date for payment, action under section 39 would be taken against that dealer. In pursuance of this practice immediately after the lapse of the third day from the stipulated date, the Sales Tax Officer proceeds with action under section 39. The action under section 39 is of a deterrent nature. Such an action will be a bit too harsh, especially because there is always a possibility that the dealer has made the payment and filed the chalan but the chalan has not reached the concerned authorities. Therefore, the Sales Tax Officer should, if possible, make telephonic enquiries with the dealer before taking action under section 39.

Recommendations

As the various alternatives listed above have been discussed with the departmental authorities and are found to be generally acceptable in principle, we feel that it is not necessary to reproduce the same list as recommendations. We, therefore, only give below additional recommendations, which are primarily aimed at improving the statistics relating to recoveries.

The existing statistics of the department shows the number of cases of R. R. Cs. but does not indicate the number of dealers. It is, therefore, difficult to find out how many dealers are involved. It is suggested that in future statistics should be kept in terms of number of dealers in addition to the number of R.R.Cs.

The Additional Collector in charge of Recovery in Bombay City Division maintains, at present, statistics of recoveries if the amount exceeds Rs. 10,000.

It would be helpful if the department could keep statistics regularly to be able to exercise a better control as suggested below:—

Analysis of Recoveries by Amount

Recovery amount due	No. of assesseees	Total amount
Below Rs. 100	
101 to 250	
251 to 500	
501 to 1000	
1001 to 3000	
3001 to 5000	
5001 to 10,000	
10,001 to 25,000	
Over 25,000	

Analysis of Recoveries by Age

	No. of dealers	Amount
Over 10 years
5 years
4 years
3 years
2 years
1 year
Less than 1 year

Analysis of Recoveries by Dealers' Turnover

Turnover	No. of dealers	Recovery amount due				
		Over 5 years	4 years	3 years	2 years	1 year
Below Rs.						
1,00,000						
3,00,000						
10,00,000						
Over 10,00,000						

Analysis of Recoveries by Dealers' Liability

	No. of dealers	Amount
Dealers whose tax liability is below Rs.	500	
	1,000	
	3,000	
	5,000	
	10,000	
	Over 10,000	

The O and M team would have very much liked to make a cost benefit analysis to quantity to the extent possible the benefits arising out of the various recommendations made above. However, it is unable to do so for want of necessary statistics. All that the team would venture to suggest is that the recommendations, if implemented, would reduce the problem of recovery very substantially.

SECTION III. GENERAL OBSERVATIONS

(A) Cost Estimates

As the team will make frequent reference to the cost of man-hours at various levels, it is thought desirable to explain at the calculations made by the team.

(A) No. of days in a year	..	..	..		365
Less Sundays	..	..	..	52	
" Public Holidays approximately	..	..	..	14	
" Optional Holidays	..	..	..	4	
" Casual Leave	..	..	..	15	
" Annual Leave excluding Sundays and likely Public Holidays.				25	
			Total ..	110	
Available working days	..	..	..		255
Daily working hours	..	..	..	6½ hours	
Total working hours	..	..	..	255 × 6 = 1530	
				255 × ½ + 64	
				1594 rounded upto 1600 hrs. a year.	

(B) Average cost of Annual salary, D.A., other facilities like Provident Fund, Gratuity, Pension, etc. at

Clerical level	..	..	..	..	Rs. 6,000
Cost of space (Minimum 33 sq. ft. per head Rs. 99 per month. Therefore roughly per year	..	..	..	..	Rs. 1,200
Cost of Supervisory and Higher levels of Administration in the ratio of 1 : 6 i.e.	..	..	..	..	Rs. 1,200
			Grand Total ..		Rs. 8,400

This grand total of Rs. 8,400 divided by 1600 hours gives the clerical cost of 5.25 per hour.

(C) Average cost of Sales Tax Inspector per hour roughly works out to Rs. 7.50 Average cost of Sales Tax Officer per hour works out to Rs. 10.00

It can thus be seen that the annual cost of this activity to the department is as high as Rs. 22,76,000. In Mofussil areas visits to the dealers do not normally take place. Thus the time spent in more than one visit in Bombay is to that extent compensated by not paying visit in the Mofussil areas. As the percentage of registered dealers in Bombay is roughly 52% percentage of the total number of registered dealers in Maharashtra the above working of cost will not be far from accuracy as the cost arrived at above on the basis of registration certificates in Bombay is a reasonable estimate.

(B) Organisational Aspect Sales Tax Department

The O and M team has not entered into a very detailed discussion of the organisational structure, division of work, delegation of authorities etc. because distinctly different situations prevail in the Bombay City Division and in the rest of Maharashtra. For example, there are separate branches like Registration Branch, Returns Branch etc. in Bombay City Division, but in other parts of Maharashtra, all these activities are centralised in the hands of the S. T. Os. The peculiar problems of Bombay have led to such functional division of work in Bombay. The O and M team would have very much liked to ascertain from various officers the suitability or otherwise of the existing structure but for want of time, could not carry out such an exercise.

Authorities should indeed be delegated downwards as far as possible. The team has made some suggestions in this respect.

(C) A Note on Statistical Data

The O and M Team found itself at a great disadvantage because statistics as necessary from the point of view of the O and M study was not readily available. It was therefore necessary to make as reasonable and intelligent estimates as possible on the basis of a few available figures. The statistical tables prepared by the O and M team are thus combinations of facts available with the department and estimates based on such facts. These tables serve the purpose of showing only broad general trends. The O and M team does not make any claim to a high degree of accuracy.

The sources of available data are (a) information supplied by the S. T. Os. to the Enquiry Committee, (b) statistics published by the Bureau of Economics and Statistics for the year 1962-63 and 1964-65.

(a) *Information supplied by the S. T. Os. to the Enquiry Committee.*—The department had asked all the S. T. Os. in Maharashtra State to supply statistics of dealers according to the size of their turnover and also the taxes paid by them. The information received from the S. T. Os. showed the total number of dealers as 1,11,799 and the taxes paid by them as Rs. 166.41 crores. The actual figures available with the department however showed that the total number of dealers as on 31st March 1975 in Maharashtra is 1,66,362. The total tax paid by these dealers in the financial year ending 31st March 1975 was Rs. 211.43 crores.

The information submitted by the S. T. Os. about the number of dealers as well as the tax paid by them thus differed from the actual figures available with the department.

The O and M team found out the percentage of dealers according the size of their turnover from the information give by the S. T. Os. and has applied the same percentages to the actual figure of dealers to arrive at the estimated number of dealers according to the size of turnover. Similarly the percentage of tax paid by the dealers in different categories has been applied to the actual amount of tax collected in 1974-75 to arrive at the estimates of tax paid by dealers according to the size of their turnover.

This detail is given below as Table No. 1.

The second source of information viz. the facts and figures published by the Bureau of Economics and Statistics is unfortunately rather old, the latest figures available being for 1964-65. The percentages as found in 1962-63 and 1964-65 have been applied to the actual figures available for 1974-75 to arrive at various estimates as shown below:—

Table No.	Estimates for 1974-75	Area concerned	Basis of classification
2	Of number of dealers	.. Maharashtra State.	Turnover of sales of dealers.
3	Do.	.. Bombay City Division.	Do.
4	Do.	.. Maharashtra State.	Tax-slab of dealers.
5	Do.	.. Bombay City Division.	Do.
6	Of total amount of taxes paid.	Maharashtra State.	Turnover of sales of dealers.
7	Do.	.. Bombay City Division.	Do.
8	Do.	.. Maharashtra State.	Tax-slab of dealers.
9	Do.	.. Bombay City Division.	Do.

Detailed tables are given separately. It is however, worthwhile to record here some of the major findings.

(1) If we interpret table number 1, based on the information furnished by the S. T. Os., we find that the total number of dealers in Maharashtra State with a turnover of less than Rs. 1 lakh is 66,412 (39·9%). If we increase the turnover limit to Rs. 3 lakhs, the number of dealers will increase to 1,08,368 (65·09%).

The total tax collected from dealers with a turnover of Rs. 1 lakh or less is Rs. 4·23 crores (2%). The total tax collected from the dealers with a turnover of less than Rs. 3 lakhs is Rs. 13·87 crores (6·56%).

In other words almost 2/3 of the effort of the department produces barely 6 per cent of the revenue.

If we consider the estimated number of dealers for 1974-75 on the basis of percentage of dealer in 1964-65 as given by the Bureau of Economics and Statistics we find that in the whole of Maharashtra State 86,181 (51·80%) dealers had a turnover of less than Rs. 1 lakh and 1,24,991 (75·13%) dealers had a turnover of less than Rs. 3 lakhs.

Similarly, on the basis of Bureau of Economics and Statistics figures for 1964-65 for Bombay City Division, the number of dealers with a turnover below Rs. 1 lakh is estimated at 40,791 (47·43%) and the number of dealers with the turnover of less than Rs. 3 lakhs at 60,916 (70·83%).

The other way of looking at the figures is from the point of view of tax slabs. In the whole of Maharashtra State, as many as 1,20,363 (72·35%) dealers pay tax below Rs. 1,000. The total tax collected from these 1,20,363 dealers is only Rs. 4·38 crores (2·07%). If we increase the tax slab to Rs. 5,000 as many as 1,48,121 dealers (89·04%) will be covered.

In the Bombay City Division about 55,471 (64·05%) dealers pay tax below Rs. 1,000. The total tax collected from these 55,471 dealers will be about Rs. 2·33 crores (1·40%). The number of dealers who pay tax of less than Rs. 5,000 is 72,499 (84·03%). The total tax collected from these 72,499 dealers is Rs. 13·09 crores (7·86%).

So far we have been looking at the figures from the point of view of smaller dealers. If we now look at the figures from the point of view of large dealers, we find that the whole of Maharashtra State, there are only 15,038 (9·04%) dealers with a turnover of Rs. 10 lakhs.

In Bombay City Division, only 9,780 (11·37%) dealers exceed the turnover of Rs. 10 lakhs.

Just as we considered the small dealers on the basis of tax slabs, we may consider the large dealers also on the same basis. In the whole of Maharashtra State only 10,431 dealers pay tax exceeding Rs. 10,000 (6·27%) and in the Bombay City Division, only 7,956 (10·25%). However, the total collection of taxes from these 10,431 dealers in Maharashtra State is as high as Rs. 174·51 crores (82·54%) and from the 7,956 dealers in Bombay City Division, the total tax collected is as high as Rs. 153·37 crores (86·10%). It is asobering thought to realise that barely 10·25% dealers account for as large as Rs. 153·37 crores (86·10%) of collection in Bombay City Division or 75% collection of Maharashtra State as a whole.

Though the figures estimated by the S. T. Os. and as arrived on the basis of Bureau Economics and Statistics differ, the above analysis of the available and estimated statistics unmistakable shows that far too much effort of the department is spent on recovering far too little revenue.

The O and M team would like to recommend that a strong statistical cell should be set up and should be responsible for compilation and publication of statistics to fulfil the following objectives:—

(a) *Analysis for Decision Making and Formulation of Policies.*—Statistics should be available from various points of view such as commoditywise realisation of Sales Tax, commoditywise classification of dealers, ratewise realisation of Sales Tax, classification of dealers according to the turnover and accordig to the tax slabs etc.

In other words, the authorities should be in a position to obtain reliable information on a multitude of points required to be taken into consideration in decision-making and formulation of policies.

(b) *Analysis for Operational Control.*—The authorities should come to know at specified frequencies the inflow and outflow of work and reasons for bottlenecks, if any. It is most undesirable that delays of several years should be tolerated with either complacency or indifference. The greater the delay, the worse the public image, the greater likelihood of malpractices and loss of revenue. Officers at all levels must receive reports from their subordinates and submit their own reports to their superior authorities. The present method of Ps. is far from satisfactory in judging the true state of affairs and should be replaced by a more scientific method of measurement and standards of performance.

It would be perhaps out of place here to go into greater details of statistical requirements. Suffice it to say that statistics should be given far greater thought and importance than at present.

It is needless to add that this function should be in the hands of properly qualified statistical experts who should be fully and exclusively devoted to this function only.

(D) Need to set up a permanent Organisation and Methods Cell

We have already mentioned that it would be well worthwhile for the department to set up its own O and M unit on a permanent basis. Even at the risk of repetition, we would like to reiterate our suggestion because the department will always find it useful and profitable to have a ceaseless search for better systems, procedures and methods to suit the ever changing circumstances.

The staff selected for O and M should be properly trained and be kept into O and M unit for a reasonable period of say 3 to 5 years.

We conclude our report by once again sincerely thanking the authorities and all the staff of the department for their wholehearted co-operation and assistance to the O and M team.

Turnoverwise Classification of Dealers and Taxes paid by them

Statistics submitted by the Sales Tax Officer.

Maharashtra State

(Figures in lakhs)

Turnover of sales (in Rupees)	Figures supplied by S.T.Os. to Enquiry Committee		Estimated No. of dealers for 1974-75	Figures supplied by S.T.Os. of Tax paid		Estimate of taxes paid for 1974-75
	No.	Percentage		Tax paid	Percentage	
1	2	3	4	5	6	7
				Rs.		Rs.
Rs. 10,000 to 20,000	.. 6,367	5.68	9,501	14	.08	17
20,001 to 25,000	.. 4,298	3.84	6,428	15	.09	19
25,001 to 30,000	.. 5,474	5.06	8,409	26	.16	34
30,001 to 50,000	.. 11,627	10.38	17,269	118	.71	150
50,001 to 1,00,000	.. 16,705	14.91	24,805	160	.96	203
1,00,001 to 3,00,000	.. 28,246	25.22	41,956	757	4.56	964
3,00,001 to 5,00,000	.. 13,355	11.93	19,847	684	4.12	871
5,00,001 to 10,00,000	.. 11,805	10.54	17,533	1,024	6.17	1,305
10,00,001 and above	.. 13,922	12.44	26,614	13,843	83.15	17,580
Total	.. 1,11,799	100%	1,66,362	16,641	100%	21,143

Turnover of sales (in Rupees)	1962-63		Estimated No. of dealers for 1974-75	1964-65		Estimated No. of dealers for 1974-75
	No. of dealers actual figures published by B.E.S.	Percentage		No. of dealers actual figures published by B.E.S.	Percentage	
1	2	3	4	5	6	7
Below Rs. 1,00,000	.. 33,664	51.92	86,374	40,408	51.80	86,181
1,00,001 to 3,00,000	.. 15,611	24.09	40,077	18,199	23.33	38,810
3,00,001 to 5,00,000	.. 4,949	7.64	12,711	6,368	8.15	13,557
5,00,001 to 10,00,000	.. 4,815	7.43	12,361	5,991	7.68	12,776
10,00,001 to 20,00,000	.. 2,994	4.62	7,686	3,560	4.56	7,586
20,00,001 to 50,00,000	.. 1,762	2.72	4,525	2,189	2.88	4,791
50,00,001 to 1 Crore	.. 546	0.84	1,397	719	.92	1,531
Above Rs. 1 Crore	.. 453	0.74	1,231	532	.68	1,130
Total	.. 64,794	100%	1,66,362	77,966	100%	1,66,362

Notes.—(1) Figures given in columns Nos. 2 and 3 for 1962-63 and columns Nos. 5 and 6 are reproduced from the Statistics published by Bureau of Economics and Statistics, Government of Maharashtra.

(2) The figure 1,66,362 shown as the total number of dealers for 1974-75 in column No. 4 and column No. 7 is the actual figure. All other figures in column No. 4 are estimated by applying the same percentage as found in 1962-63. Similarly all other figures in column No. 7 are estimated by applying the same percentage as found in 1964-65.

Turnover of sales (in Rupees)	1962-63		Estimated No. of dealers for 1974-75	1964-65		Estimated No. of dealers for 1974-75
	No. of dealers actual figures published by B.E.S.	Percentage		No. of dealers actual figures published by B.E.S.	Percentage	
1	2	3	4	5	6	7
Below Rs. 1,00,000	15,303	47.16	40,559	18,969	47.43	40,791
1,00,001 to 3,00,000	7,926	24.42	21,002	9,359	23.40	20,125
3,00,001 to 5,00,000	2,630	8.10	6,966	3,596	8.99	7,731
5,00,001 to 10,00,000	2,812	9.67	7,456	3,523	8.81	7,577
10,00,001 to 20,00,000	1,863	5.74	4,936	2,159	5.40	4,644
20,00,001 to 50,00,000	1,135	3.50	3,010	1,416	3.54	3,044
50,00,001 to 1 Crore	409	1.26	1,084	531	1.33	1,144
Above Rs. 1 Crore	373	1.15	989	443	1.10	946
Total	32,451	100%	86,002	39,996	100%	86,002

Notes.—(1) Figures given in columns Nos. 2 and 3 for 1962-63 and in columns Nos. 5 and 6 are reproduced from the statistics published by Bureau of Economics and Statistics, Government of Maharashtra.

(2) The figure 86,002 shown as the total number of dealers for 1974-75 in column No. 4 and column No. 7 as the actual figure. All other figures in column No. 4 are estimated by applying the same percentages as found in 1962-63. Similarly all other figures in column No. 7 are estimated by applying the same percentage as found in 1964-65.

Amount of Tax paid (in Rupees)	1962-63		Estimated No. of dealers for 1974-75	1964-65		Estimated No. of dealers for 1974-75
	No. of dealers actual figures published by B.E.S.	Percentage		No. of dealers actual figures published by B.E.S.	Percentage	
1	2	3	4	5	6	7
Below Rs. 1,000	47,166	72.79	1,21,095	56,430	72.35	1,20,363
1,001 to 5,000	10,981	16.94	28,182	12,997	16.69	27,766
5,001 to 10,000	2,966	4.58	7,619	3,657	4.69	7,802
10,001 to 20,000	1,805	2.79	4,641	2,337	3.00	4,991
20,001 to 50,000	1,144	1.77	2,945	1,564	2.01	3,344
50,001 to 1,00,000	373	0.58	965	483	0.62	1,031
1,00,001 and above	359	0.55	915	498	0.64	1,065
Total	64,794	100%	1,66,362	77,966	100%	1,66,362

Notes.—(1) Figures given in columns Nos. 2 and 3 for 1962-63 and in columns Nos. 5 and 6 are reproduced from the statistics published by Bureau of Economics and Statistics, Government of Maharashtra.

(2) The figure 1,66,362 shown as the total number of dealers for 1974-75 in column No. 4 and column No. 7 is the actual figure. All other figures in column No. 4 are estimated by applying the same percentages as found in 1962-63. Similarly all other figures in column No. 7 are estimated by applying the same percentages as found in 1964-65.

No. of dealers: Tax Slabwise

Bombay City Divisio

Amount of tax paid (in Rupees)	1962-63			1964-65		
	No. of dealers actual figures published by B.E.S.	Percentage	Estimated No. of dealers for 1974-75	No. of dealers actual figures published by B.E.S.	Percentage	Estimated No. of dealers for 1974-75
1	2	3	4	5	6	7
Below Rs. 1,000	.. 20,633	63.58	54,680	25,799	64.50	55,471
1,001 to 5,000	.. 6,953	21.42	18,422	7,956	19.80	17,028
5,001 to 10,000	.. 2,028	6.25	5,375	2,540	6.45	5,547
10,001 to 20,000	.. 1,300	4.01	3,449	1,661	4.15	3,569
20,001 to 50,000	.. 900	2.77	2,382	1,214	3.04	2,614
50,001 to 1,00,000	.. 322	0.99	851	401	1.00	860
1,00,001 and above	.. 315	0.98	843	425	1.06	913
Total	.. 32,451	100%	86,002	39,996	100%	86,002

Notes.—(1) Figures given in columns Nos. 2 and 3 for 1962-63 and in columns Nos. 5 and 6 are reproduced from the statistics published by Bureau of Economics and Statistics, Government of Maharashtra.

(2) The figures 86,002 shown as the total number of dealers for 1974-75 in column No. 4 and column No. 7 is the actual figure. All other figures in column No. 4 are estimated by applying the same percentages as found in 1962-63. Similarly all other figures in column No. 7 are estimated by applying the same percentages as found in 1964-65.

Amount of taxes paid: Turnoverwise

Maharashtra State

(Figures in lakhs)

(Turnover of sales (in Rupees)	1962-63		Estimate of taxes paid for 1974-75	1964-65		Estimate of taxes paid for 1974-75
	Total tax paid actual figures published by B.E.S.	Percentage		Total tax paid actual figures published by B.E.S.	Percentage	
1	2	3	4	5	6	7
Below Rs. 1,00,000	104	3.88	820	126	3.42	723
1,00,001 to 3,00,000	217	8.06	1,703	262	7.14	1,509
3,00,001 to 5,00,000	147	5.44	1,150	197	5.37	1,135
5,00,001 to 10,00,000	242	8.97	1,896	319	8.69	1,837
10,00,001 to 20,00,000	272	10.08	2,132	364	9.90	2,095
20,00,001 to 50,00,000	381	14.13	2,988	480	13.08	2,765
50,00,001 to 1 Crore	282	10.46	2,212	423	11.51	2,434
Above Rs. 1 Crore	1,050	38.98	8,242	1,502	40.89	8,645
Total	2,695	100%	21,143	3,673	100%	21,143

Notes.—(1) Figures given in columns Nos. 2 and 3 for 1962-63 and in columns Nos. 5 and 6 are reproduced from the statistics published by Bureau of Economics and Statistics, Government of Maharashtra.

(2) Rs. 21,143 lakhs shown as the total tax paid in 1974-75 in Column No. 4 and column No. 7 is the actual figure. All other figures in column No. 4 are estimated by applying the same percentages as found in 1962-63. Similarly all other figures in column No. 7 are estimated by applying the same percentages as found in 1964-65.

Amount of taxes paid: Turnoverwise

Bombay City Division

(Figures in lakhs)

Turnover of sales (in Rupees)	1962-63			Estimate of taxes paid for 1974-75	1964-65		Estimate of taxes paid for 1974-75
	Total tax paid actual figures published by B.E.S.	Percentage			Total tax paid actual figures published by B.E.S.	Percentage	
1	2	3	4	5	6	7	
Below Rs. 1,00,000	63.38	2.85	475	74.71	2.53	421	
1,00,001 to 3,00,000	138.14	6.21	1,034	172.63	5.82	969	
3,00,001 to 5,00,000	103.49	4.65	774	136.31	4.60	766	
5,00,001 to 10,00,000	187.83	8.45	1,407	233.94	7.89	1,314	
10,00,001 to 20,00,000	216.27	9.73	1,620	278.97	9.41	1,567	
20,00,001 to 50,00,000	294.36	13.24	2,205	371.28	12.52	2,085	
50,00,001 to 1 Crore	248.86	11.19	1,864	364.68	12.30	2,048	
Above Rs. 1 Crore	971.31	43.68	7,274	1,332.34	44.30	7,048	
Total	2,223.64	100%	16,653	2,964.86	100%	16,653	

Notes.—(1) Figures given in columns Nos. 2 and 3 for 1962-63 and in columns Nos. 5 and 6 are reproduced from the statistics published by Bureau of Economics and Statistics, Government of Maharashtra.

(2) Rs. 16,653 lakhs shown as the total tax paid in 1974-75 in column No. 4 and column No. 7 is the actual figure. All other figures in column No. 4 are estimated by applying the same percentages as found in 1962-63. Similarly all other figures in column No. 7 are estimated by applying the same percentages as found in 1964-65.

Amount of taxes paid: Tax Slabwise

Maharashtra State

(Figures in lakhs)

Amount of taxes paid (in Rupees)	1962-63		Estimate of taxes paid for 1974-75	1964-65		Estimate of taxes paid for 1974-75
	Total tax paid actual figures published by B.E.S.	Percentage		Total tax paid actual figures published by B.E.S.	Percentage	
1	2	3	4	5	6	7
Below Rs. 1,000 ..	69.47	2.58	545.48	76.77	2.07	437.65
1,001 to 5,000 ..	257.20	9.54	2,017.03	307.30	8.37	1,769.65
5,001 to 10,000 ..	209.26	7.77	1,642.79	257.65	7.02	1,484.22
10,001 to 20,000 ..	253.76	9.42	1,991.65	329.10	8.96	1,894.39
20,001 to 50,000 ..	348.07	12.92	2,731.64	472.39	12.88	2,723.19
50,001 to 1,00,000 ..	260.42	9.66	2,042.39	332.42	9.05	1,913.42
1,00,001 and above ..	1,296.41	48.11	10,171.77	1,897.19	51.65	10,920.23
Total ..	2,694.59	100%	21,142.75	3,672.82	100%	21,142.75

Notes.—(1) Figures given in columns Nos. 2 and 3 for 1962-63 and in columns Nos. 5 and 6 are reproduced from the statistics published by Bureau of Economics and Statistics, Government of Maharashtra.

(2) Rs. 21,142 lakhs shown as the total tax paid in 1974-75 in column No. 4 and column No. 7 is the actual figures. All other figures in column No. 4 are estimated by applying the same percentages as found in 1962-63. Similarly all other figures in column No. 7 are estimated by applying the same percentages as found in 1964-65.

Amount of taxes paid: Tax Slabwise

Bombay City Division

(Figures in lakhs)

Amount of taxes paid (in Rupees)	1962-63		Estimate of taxes paid for 1974-75	1964-65		Estimate of taxes paid for 1974-75
	Total tax paid actual figures published by B.E.S.	Percentage		Total tax paid actual figures published by B.E.S.	Percentage	
1	2	3	4	5	6	7
Below Rs. 1,000 ..	37.07	1.65	274.77	41.45	1.40	233.14
1,001 to 5,000 ..	166.66	7.50	1,248.97	191.75	6.46	1,075.79
5,001 to 10,000 ..	143.11	6.44	1,072.46	179.18	6.04	1,005.84
10,001 to 20,000 ..	183.99	8.27	1,377.20	233.80	7.89	1,313.92
20,001 to 50,000 ..	278.39	12.52	2,084.96	369.25	12.45	2,073.30
50,001 to 1,00,000 ..	225.04	10.12	1,685.28	277.98	9.38	1,562.05
1,00,001 and above ..	1,189.38	53.50	8,909.36	1,671.45	56.38	9,388.96
Total ..	2,223.64	100%	16,653.00	2,964.86	100%	16,653.00

Notes.—(1) Figures given in columns Nos. 2 and 3 for 1962-63 and in columns Nos. 5 and 6 are reproduced from the statistics published by Bureau of Economics and Statistics, Government of Maharashtra.

(2) Rs. 16,653 lakhs shown as the total tax paid in 1974-75 in column No. 4 and column No. 7 is the actual figure. All other figures in column No. 4 are estimated by applying the same percentages as found in 1962-63. Similarly all other figures in column No. 7 are estimated by applying the same percentages as found in 1964-65.