

**THIRTEENTH KERALA LEGISLATIVE ASSEMBLY**

**COMMITTEE  
ON  
PUBLIC ACCOUNTS  
(2011-2014)**

**THIRTY EIGHTH REPORT**

(Presented on 28th January, 2014)



SECRETARIAT OF THE KERALA LEGISLATURE  
THIRUVANANTHAPURAM  
2014

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PUBLIC ACCOUNTS  
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**THIRTY EIGHTH REPORT**

**on**

**Action Taken by Government on the Recommendations contained in the  
Sixty Second Report of the Committee on  
Public Accounts (1989-91)**

361/2014.

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COMMITTEE ON PUBLIC ACCOUNTS (2011-2014)

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„ K. Mohandas, Special Secretary

Smt. M. R. Maheswari, Deputy Secretary

Shri G. P. Unnikrishnan, Under Secretary.

## INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report, on their behalf present the Thirty Eighth Report on Action Taken by Government on the Recommendations contained in the Sixty Second Report of the Committee on Public Accounts (1989-91).

The Committee considered and finalised this Report at the meeting held on 21st August, 2013.

Thiruvananthapuram,  
28th January, 2014.

DR. T. M. THOMAS ISAAC,  
*Chairman,*  
*Committee on Public Accounts.*

## **REPORT**

This Report deals with the Action Taken by Government on the recommendations contained in the Sixty Second Report of Public Accounts Committee (1989-91).

The Sixty Second Report of the Committee on Public Accounts (1989-91) was presented to the House on 8th August, 1989. The Report contains fourteen recommendations relating to Taxes Department. The Report was forwarded to the Government on 28th March, 1990 to furnish the Statement of Action Taken on the recommendations contained in the Report and the final reply was received on 20th October, 2009.

The Committee examined the Statements of Action Taken received from Government at its meetings held on 20-5-1997, 14-3-2001, 10-1-2007 and on 22-9-2010.

The Committee was not satisfied with the reply received from Government on Para Nos. 66 & 67 and decided to pursue it further. This recommendation, Government reply and the further recommendation of the Committee are incorporated in Chapter I of this Report.

The Committee decided not to pursue further action on the remaining recommendations. These recommendations and the Statement of Action Taken by Government are incorporated in Chapter II of this Report.

### **CHAPTER I**

#### **RECOMMENDATION IN RESPECT OF WHICH THE ACTION TAKEN BY GOVERNMENT IS NOT SATISFACTORY AND WHICH REQUIRES REITERATION**

##### **TAXES DEPARTMENT**

##### **Recommendation**

*(Sl. No. 9, Para No. 66)*

1.1 The Committee observe that there is delay on the part of the Board of Revenue in settling the case pointed out in Para 3.8(i). The Committee desire to be furnished with the reasons for this delay. The Committee also want to be furnished with the details of the present stage of the case. The Committee urge the Government to collect tax due at the earliest so that it does not become time barred.

**Action Taken**

1.2 M/s Vythiri Plantations are assesseees on the rolls of the AITO, Vythiri. According to the report dated 13-2-1997 of M/s Pierce Leslie India Company Ltd. (Pooling agent) the company has pooled during the accounting year ended on 31-3-1997, 34142 Kg. of Coffee on which 50172 points were awarded by the Coffee Board. At the rate of ₹ 10/10 per point declared by the Coffee Board on each point during 1976-77, the amount receivable for 1976-77 seasons coffee would be ₹ 6,07,081 against ₹ 4,73,756 considered for assessment for the year 1997-98. Departure from the regular method of accounting resulted in a short levy of tax of ₹ 38,193.20 on an income of ₹ 1,33,325 that escaped assessment for the year 1977-78. In order to set right the omission, notice proposing rectification of assessment under Section 36 of the AIT Act was issued on 4-11-1985. The party has objected to the above proposals on the ground of limitation of time. Action under Section 35 and 36 were not possible due to limitation of time. So necessary instructions have been issued to the Deputy Commissioner, Kozhikode to send proposals for revision of assessment under Section 34 of the AIT Act at the instance of the Commissioner.

As per Board's Order No. H6-2885/86 dated 30-3-1991 the assessment in respect of the above assessee for the year 1977-78 was remanded for fresh disposal. Further proceedings including revision of assessment has been stayed by the Honourable High Court of Kerala in its Order No. in CMP. 10902/91 in O.P. No. 6562/91 dated 28-6-1991.

The O.P. No. 6562/91 in the High Court was dismissed on 24-6-1997 (copy of the judgment is enclosed).

**Further details called for by the Committee**

1.3 The Committee would like to be informed the present position of the case after it has been dismissed by the High Court.

**Reply furnished by Government**

1.4 The assessment records in this case have not been received back by the assessing authority (i.e., AIOT & STO, Vythiri) from the office of the Advocate General so far (it is learnt that the assessment records are missing from the office of the Advocate General).

**Further details called for by the Committee**

1.5 The Committee wanted to know whether any photocopy of the file is taken before handing over the file to the office of the Advocate General. If not, the reason for not taking the photocopy of the file. The Committee suggested that

the Department could have collected the amount based on the judgment of the Honourable High Court of Kerala and the department should take urgent steps to collect the money from the assesseees.

#### **Reply furnished by Government**

1.6 Generally no photocopies of the file are taken and kept when files are forwarded to any office. Since the chance of loss of file never occurs.

The Accountant General (Audit) has pointed out the objection on 22-9-1983. At the time no action was possible to assess the escaped income under Section 35 or 36 of the AIT Act, 1950. Hence the issue has been taken up under Section 34 of the AIT Act, 1950 and the assessment has been remanded for fresh disposal as per order of the erstwhile Board of Revenue dated 30-3-1991.

The AIT Act, 1950 has been repealed on 31-3-1991 and the AIT Act, 1991 came into effect with effect from 1-4-1991. As per Section 99 of the AIT Act, 1991 any previous operation pending on the repealed Act alone can be continued. As no action has been initiated and pending as on 1-4-1991 under the repealed Act to complete the remanded assessment, no action is possible under the AIT Act, 1991 in this case.

To set right the objection notice under Section 36 of the AIT Act, 1950 had been issued on 4-1-1985. As per Order dated 30-3-1991 of the Board of Revenue (Taxes) assessment in respect of M/s Vythiri Plantation for the year 1977-78 (AIT & ST Office, Vythiri at Kalpetta) was remanded for fresh disposal. The assessee challenged the validity of notice under Section 36 of the AIT Act, 1950 in O.P. No. 6562/91. So the assessment file for the year 1977-78 along with the Statement of Fact was submitted to Deputy Commissioner (Law), Ernakulam on 12-7-1997, subsequently Deputy Commissioner (Law), Ernakulam forwarded the assessment records to Advocate General in connection with O.P. filed.

But the Advocate General Office has not returned the assessment records even after repeated request from the Deputy Commissioner (Law), Ernakulam, as the file is missing. The assessing authority could not proceed with the case based on the order of the Board of Revenue (Taxes) dated 30-3-1991. Since the assessment file went missing at the Advocate General Office. It is also ascertained that the records are irrecoverably lost.

In the circumstances the Deputy Commissioner, Wayanad was directed to verify the feasibility of construction of missing assessment records of M/s Vythiri Plantation for the year 1977-78. It is reported that there is no possibility of reconstruction of missing assessment records in respect of the above assessee.



### **Further Recommendation**

1.7 The Committee recommends that when files are handed over to the Advocate General, Court or other departments, photocopy of the respective files should compulsorily be taken and kept with the department concerned as directed in G.O.(P) No. 65/92/Vig. dated 12-5-1992. Disciplinary action should be initiated against those official who neglected to enforce the Government Order.

### **Recommendation**

*(Sl. No. 10, Para No. 67)*

1.8 The Committee would like to be informed of the outcome of the appeal filed by the Department in respect of the 2nd case given in Audit Para.

### **Action Taken**

1.9 The case relates to M/s Bhavani Tea & Produce Company Limited for the year 1977-78. The second appeal is pending before the Agricultural Income Tax Appellate Tribunal, Thiruvananthapuram. In response to Board's instruction to take urgent steps to get the appeal disposed of, the Law Officer, Thiruvananthapuram as per his letter No. AITA.101 to 103/87-C dated 7-10-1997 had reported that the appeal was heard by the Tribunal on 16-12-1996 and no order has been passed so far. In the circumstances the Board again addressed the Law Officer, Thiruvananthapuram to take urgent steps to get the order from the Tribunal.

The second appeals filed by M/s Bhavani Tea & Produce Company Ltd., for the years 1976-77 to 1978-79 were heard by Tribunal on 15-2-2000.

### **Further details called for by the Committee**

1.10 The Committee would like to be informed of the Judgment of the Tribunal.

### **Reply furnished by the Government**

1.11 The Tribunal in its Order No. AITA-102/87 and 103/87 dated 15-3-2000 has remanded the assessments to the assessing authority for fresh disposal. It was originally communicated to the Office of the Agricultural Income Tax Officer, Kottarakkara which was resubmitted to that office on 27-7-2000. Subsequently, the remanded cases for the years 1973-74, 1974-75, 1975-76, 1977-78, 1978-79, 1979-80, 1985-86 & 1986-87 were posted for hearing on 18-2-2003 as per Tribunal Orders No. 77/82, 143/82, 144/82, 101-103/87, 36/92 and 37/92 dated 15-3-2000. Since the cases pertained to 8 years the hearing could not be completed on that day. Hence the case was posted again on 7-5-2003 and

the party was informed by registered post for which the party sought for an adjournment on 8-5-2003. The Inspecting Assistant Commissioner (Spl.) was wholly concentrating on completing assessments which would have become time barred on 31-12-2003. After completing the time barred assessments, the above remanded cases are again posted for hearing on 25-2-2004.

The Honourable Tribunal have specifically directed that reasonable opportunity had to be given to the assessee for proving their contentions before finalising the assessments. Hence the assessing authority was constrained to grant repeated adjournments for hearing as requested by the assessee. Finally as per the notice dated 2-4-2005, proposal to finalise the assessments on best of judgment was issued to the assessee. The assessing authority is waiting to complete the assessment on receipt of acknowledgement of the service of the notice. The delay occurred in this case is owing to the delay in getting the records from the Law Officer after disposal of appeal by the Tribunal. The date of receipt of the records could not be ascertained from the available records in that office. Certain administrative reasons such as frequent transfer of officers also adversely affected the timely action in completing the assessment. Charges were already framed against the officers who were in-charge of the files during the relevant period, vide memo of charges of Commissioner of Commercial Taxes dated 29-12-2003. The action is pending finalisation.

#### **Further Recommendation**

1.12 The Committee had directed the department to furnish the present position of the case. But no reply had been received so far from the development in this regard. The Committee express displeasure for the delay occurred on the part of the department in submitting the replies for the details sought by the Committee and recommends that the department shall inform the latest position of the case to the Committee urgently.

#### CHAPTER II

#### RECOMMENDATIONS IN RESPECT OF WHICH THE COMMITTEE DOES NOT DESIRE TO PURSUE ACTION IN THE LIGHT OF THE REPLIES RECEIVED FROM GOVERNMENT

#### **TAXES DEPARTMENT**

#### **Recommendation**

*(Sl. No. 1, Para No. 11)*

2.1 The Committee find that the assessee firm in this case had attempted to suppress the fact that the partnership was reconstituted in March 1978 i.e., before the commencement of the next assessment year. Instead of re-registering,

the firm tried to renew the registration of the old firm by submitting an application for renewal signed by the old partners. The Committee find that in essence a fraud has been committed by which the firm could escape from payment of considerable amount of tax. If the Audit could not discover this, the firm would have succeeded in their attempt to conceal their status at the time of assessment and would have been able to evade tax. The Committee are surprised to note that the officer who had assessed the firm had been re-constituted at the time of assessment and that he had recorded in the assessment file all the facts relating to the case. The provisions of the Act were misinterpreted by the office and be held that there was no substantial change in the status of the firm. The Committee cannot understand how the assessing officer who was aware of all the facts relating to the firm could make such an interpretation. The Committee displeased to note that no action has been taken against the officer whose misinterpretation has resulted in prolonged litigation and consequent loss to Government. The Committee observe that the Board of Revenue handled the matter in an indifferent manner. Moreover it is seen that the persons who claimed to be the legal heir of the deceased partner has not produced, his heirship certificate, while submitting the application for renewal or registration of the firm. The assessing officer or his superiors did not note this and did not demand the certificate. This is irregular. The Committee find that since the assessing officer had recorded all the facts relating to reconstitution of the firm in the file, the superior officers who had passed the assessment order should have taken note of the whole issue. Here also they had failed in their duty. The Committee therefore recommends that action should be taken against the assessing officer and his superior officers involved in the case. The result of action taken should be intimated to the Committee.

#### **Action Taken**

2.2 The case relates Pambra Coffee Plantations an assessee on the rolls of the Inspecting Assistant Commissioner (Special), Kozhikode. The assessment was taken up in *suo motu* revision. Accordingly the assessment for 1978-79 was set aside and remanded for fresh disposal as per Order No. H4.23850/34/TX dated 17-3-1986. Fresh assessment was completed on 11-7-1987. Against the revision order the partners of the firm have filed a Reference Application before the High Court of Kerala and it was dismissed. Thereupon the assessee filed O.P. before the High Court of Kerala as per O.P. No. 6285/86, 6924/86, 6809/86 to 6816/86. In the judgment in O.P. No. 6285/86 the High Court has directed the Commissioner of Agricultural Income Tax to refer certain questions of law. Accordingly the case been referred to High Court. The ITR. 19/93 to 28/93 has been disposed of on 29-9-1997.

The irregular assessment was completed by Shri V. Balan Nair and action was initiated against him. Taking into consideration of the fact that he was due to retire from service on 31-5-1991, further action against him was dropped as per Order No. H1.60175/85/TX dated 19-4-1991.

Action has been initiated to ascertain the Superior Officer who approved the irregular assessment in respect of M/s Pambra Coffee Plantations for taking disciplinary action against him.

### **Recommendation**

*(Sl. No. 2, Para No. 27)*

2.3 The Committee would like to point out that the assessment in the first case as pointed out in audit paragraph 3.5(i) had become time barred due to the irresponsible attitude of the then Agricultural Income Tax Officer. The Officer is primarily responsible for not clubbing the income of the wife with that of the husband. The failure to club the income would not have been due to the ignorance of the officer since it is seen that the same officer had assessed the income of the persons involved in this case correctly, during the subsequent years. Besides, when the matter was pointed out by Audit, the officer had hindered the process of reassessment by not making available the documents connected with the case in time. It was only after his demise that the documents and other files connected with the case were recovered from his wife. Due to delay in obtaining the files, the disposal of case was also delayed so that it became time barred and the collection of tax was remanded impossible. The Committee of the opinion that the AIT Officer as well as his immediate superiors who should have monitored the case should be held responsible for the loss of revenue to Government and the income so lost to Government should be recovered from them.

### **Action Taken**

2.4 The Case related to M. D. Joseph and assessee on the rolls of the Agricultural Income Tax Officer, Pala. In this case disciplinary action against the delinquent officer had his immediate superior officers were taken. The disciplinary action initiated against the delinquent officer, Shri K. J. Thomas, was finalised as per Government Order No. 6267/ D1/89/TD dated 27-9-1990 of Taxes (D) Department to show ₹ 16,808 as liability in the NLC and accordingly proceedings has been issued as per Order No. B2/23654/85/TX dated 4-7-1991 to the Accountant General, Thiruvananthapuram. The disciplinary action initiated against superior officers i.e., Shri K. O. Varkey Kunju and Shri N. M. Gopalakrishnan has been dropped by Government as per Order No. G.O. (Rt.) No. 646/93/TD

dated 8-11-1993 and G.O. (Rt.) No. 645/93/TD dated 8-11-1993 respectively. Action against Shri P. A. Abdul Azeez has been dropped as per Order No. A5-22-343/84/TX dated 3-12-1994. The Board come to the conclusion that apart from the deceased officer Shri K. J. Thomas, none other can be said to delinquent in the case. Shri A. Velayudhan, the then Additional Agricultural Income Tax Officer, Shri A. M. Thulasidharan Achari and Shri C. Velayudhan Nair have already retired from service they were let off from the purview of disciplinary proceedings.

#### **Recommendation**

*(Sl. No. 3, Para No. 28)*

2.5 The Committee understands that at present the higher officers in the Board of Revenue and the Agricultural Income Tax and Sales tax Departments are not carrying out their duties quite promptly. In fact no inspection or checking of the work of officers at the lower levels was being done. The Committee feels that this state of affairs should change. Inspection of offices should be regularly conducted so that all work is completed within the time limit prescribed and no revenue is lost to Government due to the delay or laxity on the part of the officers concerned.

#### **Action Taken**

2.6 Board has given instructions to all officers in the matter. All Inspecting Assistant Commissioners and Deputy Commissioners have been directed to inspect the offices frequently and to see that the completion of assessment and such other items of works are completed within the time limit prescribed so as to confirm that no revenue is lost to Government due to the delay or laxity on the part of the officers concerned.

#### **Recommendation**

*(Sl. No. 4, Para No. 29)*

2.7 The Committee finds that in the 2nd case i.e., 3.5(ii) the assessing officer had furnished a patently incorrect reply to the audit enquiry. It could be inferred from this that the assessing authority had either done this purposely or else he had not gone through the case and had not gathered sufficient information about the case. It is really a grave mistake on the part of the assessing authority to have given wrong information to audit and so he is liable to be punished. The Committee recommend that the officer responsible be dealt with suitably.

### **Action Taken**

2.8 The case relates to Neelikandi Pooker as assessee on the rolls of the Agricultural Income Tax Officer, Vythiri. In this case the explanation of Shri C. Gopalkrishnan, formerly Agricultural Income Tax Officer, Vythiri was called for. Board has examined the explanation in detail with reference to the records, facts and circumstances of the case and found that there was no willful negligence on this part in this case. In the circumstances he was let off with a warning.

### **Recommendation**

*(Sl. No. 5, Para No. 30)*

2.9 The Committee surprised to note that the officer who made the wrong assessment was let off with a warning. The Committee cannot understand why the Board of Revenue is showing a lenient attitude towards erring officers in the Department. The Committee recommends that in future erring officers should be dealt with suitably so that the punishment given to them would act as a deterrent to others. It is found that the officer who was responsible for the under assessment of tax in the case pointed out by Accountant General in para 3.5(ii) is also involved in the cases in para 3.5(iii), 3.6(ii) and 3.8(i) in the Report of Comptroller and Auditor General for the year 1984-85 (Revenue Receipts) and the punishment awarded to him is of the same nature in all the cases. The Committee desire to know whether the under assessment in all the cases were due to the ignorance of the officer and if so, the Committee would like to have the cases re-opened and explanation of the officer got afresh. The Committee wants the Board to take a stricter view in this matter and give exemplary punishment to the officers concerned.

### **Action Taken**

2.10 As per Rule 3 (b)(2) of Part III, no action is possible against a retired officer on any event which took place more than 4 years before. In this case the assessment were completed in 1983 and the report of the Committee was received on 26-9-1989. In the circumstances, as four years had elapsed in 1987 itself, no action was possible against the officer at the time receipt of the report of the Committee.

### **Recommendation**

*(Sl. No. 6, Para No. 31)*

2.11 The Committee understands that in the case pointed out by Accountant General in para 3.5(iii) the explanation of the officer was called for. The Committee would like to know when the explanation was called for, whether it had since been furnished and what action has been taken thereon and other relevant details.

### **Action Taken**

2.12 In this case Memo was issued to the Officer i.e., Shri P. Sundaram on 17-7-1986 and when the explanation was submitted to the Member for orders, the Hon'ble Member has ordered on 1-6-1987 to ascertain the State of *suo motu* revision in the two cases and to ascertain whether the assessing authority revised the assessment and collected the same. The assessment of M. P. Santhi Varma Jain and M. P. Sathyabhama Avva were remanded in *suo motu* revision as per the Order dated 5-7-1986 and 16-11-1988 respectively. But in spite of repeated directions, the assessment were not revised till 20-2-1993. Hence, memo was issued to the then assessing authority and he revised the assessment. After examining the whole issue disciplinary action is initiated against Shri P. S. Sundaran, the delinquent officer and is pending decision in Government.

### **Recommendation**

*(Sl. No. 7, Para No. 46)*

2.13 The Committee understands that in the case cited in para 3.6(8) action is being taken against the assessing officer. Since the supervisory officer as well as the assessing officers are responsible for incorrect assessment of income, action should be taken against the supervisory officer also. The result of action taken should be intimated to the committee. The Committee also desire to be furnished with details of the outcome of the case pending in the High Court.

### **Action Taken**

2.14 The case relates to Shri Dominic Cheriyan an assessee on the rolls of the Agricultural Income Tax Office, Kanjirappally. The O.P. No. 2103/85 filed by the assessee has been dismissed by the Hon'ble High Court on 20-1-1989. The appeal filed against the assessment for the year 1982-83 was remanded in appeal and the Department filed second appeal against the officer and the Agricultural Income Tax Appellate Tribunal Additional Bench, Kottayam as per Order No. AITA.73, 74 and 75/89 dated, 28-12-1992, confirmed the order of the Appellate Assistant Commissioner and dismissed State appeals. Even though the assessment was remanded in 1992, the assessing authority had failed to revise the assessment in spite of repeated directions given by the Board. Therefore the Board has initiated disciplinary action against the delinquent officer i.e., Smt. Geetha Gopalan and now she is under suspension. The Deputy Commissioner, Kottayam has reported that certain assessment records including the assessment records of Shri Dominic Cheriyan are still with Smt. Geetha Gopalan. Therefore Board had addressed the Superintendent of Police, Kollam to seize all assessment records available with her. The assessment in which the Accountant General had raised audit relate to the

assessment year 1982-83. This file was missing. The Deputy Commissioner, Kottayam vide letter No. D 10/747/97 dated 28-12-1998 had reported that the missing files have been traced out. The disciplinary action against Smt. Geetha Gopalan was finalised by the Commissioner as per Order No. A5-15818/97 dated 12-11-1999 by awarding punishment of 3 increments without cumulative effect.

In this case the original irregular assessment was completed by Shri P. Sankaran Potty, disciplinary action initiated against him was finalised as per Order No. A5-55137/87/TX dated 2-12-1991 and ordered to recover monetary value equivalent to one increment without cumulative effect by recovering from the Death-cum-retirement Gratuity.

Shri C. Velayudhan Nair, Inspecting Assistant Commissioner (Special), Kottayam was the superior officer during the period and he retired from service on 30-6-1987, that is before receipt of the recommendation. The recommendation was received only on 27-8-1989.

The Deputy Commissioner (AIT & ST), Kottayam reported pursuant to the Police enquiry has not been received.

#### **Recommendation**

*(Sl. No. 8, Para No. 55)*

2.15 The cases referred to above also reveal the mistake committed by the assessing officers resulting in loss of revenue to Government, litigation and other hardships. A general remedy should be found out for avoiding the recurrence of such lapses and the Committee regret to point out that even after repeated mistakes of this sort, the department has not thought of any preventive action. This has to be deprecated. The Committee recommend that the Government should give serious thought to remedying this state of affairs and should evolve some suitable device to make assessment as perfect and as accurate as possible. The Action Taken in this regard should be reported to the Committee.

#### **Action Taken**

2.16 The Board has given various Circulars, viz. Circular No. 12/87/TX dated 5-7-1987, 10/88/TX dated 6-8-1988, 14/89/TX dated 7-6-1989 and Circular No. 16/90 dated 26-10-1990.

The Centre for taxation studies constituted by Government for imparting legal advice and training to the officers of the Taxes Department, started functioning from 25-5-1992. The centre gives training to the officers to make assessment as perfect and as accurate as possible.



**Recommendation***(Sl. No. 11, Para No. 79)*

2.17 In the two instances mentioned as Para 3.9, it is seen that ignorance of the relevant laws on the part of the assessing Officers has resulted in loss of revenue to the Government. The Committee feels that adequate steps should be taken to impart legal training to the assessing officers to avoid recurrence of cases of loss of revenue of the Government. The Committee also recommends that arrangement shall be made for assessing officers to obtain legal advice whenever doubts arises.

**Action Taken**

2.18 The centre for taxation studies which started functioning from 25-5-1992, is imparting legal advice and training to the officers concerned.

**Recommendation***(Sl. No. 12, Para No. 84)*

2.19 The Committee desires to know whether the loss to Government in this case had been recovered. The details thereof shall be made available to the Committee.

**Action Taken**

2.20 The collection particulars relating to Shri R. Krishna Swamy Gowder for the year 1978-79 are furnished below:

	<i>Amount (In ₹)</i>	<i>Cheque Number</i>	<i>Date</i>
	10,000	2132	28-2-1980
	5,000	266	15-9-1981
	1,156.85	132	22-6-1982
	19,607	Rt. No. 66566	21-11-1995
Total	35,763.85		

**Further details called for by the Committee**

2.21 The Committee would like to be informed whether the loss caused to Government has been completely recovered. If not, the balance amount should be collected in addition to the amount already collected.

**Reply furnished by the Government**

2.22 The total penal interest in 4 cases worked out by audit is ₹ 35,621. It appears that the audit worked interest from 1st day of June of the respective assessment years, without considering the part payment made by the assessee. The assessing authority has calculated the total interest ₹ 30,655/92 from the date of filing of return and the details of collection of the above amount are furnished below:

<i>No.</i>	<i>Name of Assessee</i>	<i>Year</i>	<i>Inst. worked out by A.G. (in ₹)</i>	<i>Inst. worked out by the assessing authority (₹)</i>	<i>Collection particulars</i>
1.	Alex Abraham (A-12)	1981-82	1,269	1,269	1,269 Ch. No. 973 dated 28-2-1984
2.	Alex Abraham (A-12)	1982-83	3,927	3,927	3,927 Ch. No. 972 dated 28-2-1984
3.	N. M. Jacob Mathew (J-12)	1982-83	1,111	1,111	1,111 Ch. No. 870 dated 31-10-1985
4.	Dr. K. E. Mathew (M-97)	1982-83	8,687	4,291/93	4,291/93 Ch. No. 115 dated 21-11-1984
5.	K. M. Mathew (M-32)	1981-82	13,885	14,438/93	14,438/93 Ch. No. 96 dated 3-3-1986
6.	K. M. Mathew (M-32)	1982-83	6,742	5,618/76	5,618/76 Ch. No. 97 dated 3-3-1986
Total			35,621	30,655/92	

**Recommendation**

*(Sl. No. 13, Para No. 93)*

2.23 The Committee finds that there is failure on the part of the assessing officers to impose penalty on the assessee for concealing the exact amount of cardamom sold by him. It is understood that charge memos were issued to two officers of the Department and that only one officer had submitted his explanation so far. The Committee finds that the other officer had not submitted his explanation even after repeated reminders. The Committee views with displeasure the failure of the Agricultural Income Tax Officer involved in this case in responding to the matter. The Committee recommend that stringent action be taken against the officer for not submitting the explanation so far. The Committee also recommends that the officers involved in this case should be punished suitably for their failure to impose penalty over the assessee for concealing the exact income.

**Action Taken**

2.24 The case relates to Shri N. S. Kathiresan, an assessee borne on the files of the Agricultural Income tax and Sales tax Officer, Kattappana. On further examination of the assessment records it was found that Shri N. Ramachandran Nair has issued notice to the assessee when the omission came to his notice and there is no lapse on his part in this case. Hence action against him was not pursued further. In the case of Shri K. I. Daniel, the Board examined the written statement filed by Shri K. I. Daniel in detail and found that the argument of the officer has some force and there is no loss of revenue in this case as the assessee had paid the amount in full. He was, therefore, exonerated from the charges framed against as per Order No. A5-30074/88/TX dated 7-9-1990.

**Recommendation**

*(Sl. No. 14, Para No. 94)*

2.25 The Committee desires that an early decision be taken in the 2nd case mentioned in Para 3.14(ii) and the fact reported to the Committee.

**Action Taken**

2.26 The erstwhile Board of Revenue (Taxes) in its Order No. A5-42708/87 dated 30-1-1992 has dropped the action against S/Shri S. Rajan, Sankaran Potty, E. R. Sukumaran Nair, George Eapen and M. Viswanathan Nair. Copy of the Order No. A5-42708/87/TD dated 30-1-1992 is enclosed.

The report of the Public Accounts Committee presented before legislature would contain various recommendations and observations of the Committee on which the department have to take proper action. As soon as the copies of report are received the Secretary to Government examine among other things, the following aspects and takes suitable remedial measures :

- (1) Whether the irregularity committed was due to negligence or capability on the part of any Government Servant. If so, suitable action has to be taken against the Government servant.
- (2) Whether there was lack of proper instruction or defect in organisational set-up. If so, steps have to be taken to rectify defects.
- (3) If there was a loss to the Government, the responsibility should be fixed and steps taken to recover the loss.
- (4) If the irregularity committed was due to the lack of supervision or ambiguity in the rules, steps have to be taken to enforce adequate supervision or to amend the rules.

After examining all the above facts, the Head of the Department would send the reply to the recommendation to the Government. In many cases, the impugned assessment records may be in appellate stage or revisional stage before different authorities. This also greatly affects the timely submission of the report. In such cases, the delay is beyond the control of the department. However the department has given 'Topmost priority' in sending the reply on the recommendation as per Circular instructions as early as possible.

Thiruvananthapuram,  
28th January, 2014.

DR. T. M. THOMAS ISAAC,  
*Chairman,*  
*Committee on Public Accounts.*

## APPENDIX

## SUMMARY OF MAIN CONCLUSION/RECOMMENDATION

<i>Sl.No.</i>	<i>Para No.</i>	<i>Department concerned</i>	<i>Conclusion/Recommendation</i>
1	1.7	Taxes	The Committee recommends that when files are handed over to the Advocate General, Court or other departments, photocopy of the respective files should compulsorily be taken and kept with the department concerned as directed in G.O.(P) No. 65/92/Vig. dated 12-5-1992. Disciplinary action should be initiated against those official who neglected to enforce the Government Order.
2	1.12	„	The Committee had directed the department to furnish the present position of the case. But no reply had been received so far from the development in this regard. The Committee express displeasure for the delay occurred on the part of the department in submitting the replies for the details sought by the Committee and recommends that the department shall inform the latest position of the case to the Committee urgently.