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COMMON CAUSE

VOICE OF "COMMON CAUSE"

A PERSONAL APPEAL

H. D. SHOURIE

I am making this personal appeal to all members, to all readers of this periodical, to all those to whom they can convey the message of COMMON CAUSE, and through them to the larger audience of middle classes.

The organisation has had the privilege of deriving very wide-ranging strength and support for which we are all grateful. With your support it has quite a few important achievements to its credit: sloving the major problems of over a million pensioners; extension of family pension benefits to over 100,000 widows; constantly pursuing the problem of restoration of pension commutation which has already got partly resolved and will hopefully soon be satisfactorily resolved; abolition of estate duty; rationalisation of wealth tax rules; correct appreciation of viewpoint of middle class problems relating to income tax; straightening out assessment problems of house tax; fighting for appropriate amendment of rent control laws; straightening out problems relating to utility services like electric supply, telephones, transport, etc. There are numerous other common problems and grievances of the people which COMMON CAUSE keeps pursuing from day to day. In these endeavours we continue receiving your words of gratitude and appreciation from all parts of the country.

We now need more help. This organisation must be put on a stable and permanent basis, with a wide base, for continuing to provide more help to the people. If you conscientiously feel that it has rendered you service, selfless and dedicated, and is capable of proving more useful, you owe it to yourself to help it in all ways you can. We offer following suggestions to you

(i) Give to the organisation as much as you can towards donation for building up its corpus. If you are a pensioner, when and if you now get the commutation of the pension restored, send us at least one month's amount. Send it direct to COMMON CAUSE by crossed cheque or postal order or money order; not through any intermediary or society or association.

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OUR RECOMMENDATIONS FOR 1986-87 BUDGET

In the light of far-reaching importance of long-term policy on taxes announced recently by the Finance Ministry it will be relevant to provide information about the various recommendations which we had sent to the Finance Minister for the 1986-87 Budget. These recommendation were sent adout a month prior to the announcement of this long-term fiscal policy and we feel gratified that some of the measures contemplated for the long-lerm taxation policy take into account certain important recommendations made by us. We had envisaged that in the interest of providing an element of stability to fiscal development it was necessary to pronounce that the taxation measures will remain unaltered at least for three years ; it is very satisfying to note that the Government has now decided that for providing such stability the taxation rates will prevail for minimum of five years, excepting where change is indispensably necessitated by external factors and such like. Emphasis in the long-term fiscal policy has been rightly placed on further provision of incentives for savings which we had stressed in our recommendations.

Our recommendations related only to the areas of direct taxes and personal taxation. These touch upon the levies of Income Tax, Wealth Tax, Gift Tax, and Capital Gains Tax. These recommendation, will became particularly relevant when, against the background of this long-term fiscal policy, the budget proposals are formulated in the coming weaks for announcement at the end of February 1986. In making these recommendations we had commended the initiative already taken towards mitigating the rigours of direct taxes and had emphasized the importance of simplification and rationalisation of the direct tax structure which we feel would improve the situation in which voluntary compliance with just laws would become the order of the day.

We give below our recommendations.

INCOME TAX

Exemption Limit

In the context of continuing inflation and accompaying devaluation of the rupee, it is obviously inevitable that the exemption limit should be raised to atleast Rs. 25,000 to secure much needed relief to the lower income groups. This will also correspondingly reduce the burden of work on the Income tax Department which could then more effectively give attention to proper compliance of the tax laws.

Advance Tax

A very salutory provision has already been introduced to make payment of advance tax voluntarily in respect of those from whom the tax dues for payment is Rs. 1500. This should be increased to Rs. 3000.

Income from Self-Occupied House Property

COMMON CAUSE has repeatedly emphasised the ineqoity of taxing notional Income in respect of self occupied property. This should be removed. This provision runs counter to the need of stimulating housing development and expansion.

Without prejudice to the suggestion for total abolition of notional Income from self-occupied properties, the present deduction of Rs. 3600 from the value of such self-occupied properties is grossly inadequate. Even the humblest of houses which have recently come up are rated at mnch higher figures for municipal taxation, on which usually the annual value of properties is based for income tax purposes. The least deduction on this accaunt should be Rs. 9000 This will mitigate the burden of taxation on income which is neither recieved nor accures.

Standard Deduction from Salaries

This should be raised from Rs. 6,000 to at least Rs. 10,000 to cover increasing costs.

Tax on Pensions

Since most pensioners are in the lower and middle income groups it would be appropriate relief to them if their pensions are exempted from tax at least after they attain the age of 65, taking into account the requirements arising from infirmity and old age.

Multi-Storyed Buildings

It is hoped that the tax patterns of apartment-owners in group housing schemes and multi-storyed buildings will get resolved on the enactment of the

proposed legislation. The existing approach to taxation of income and wealth relating to such apartments is oppressive inasmuch as both the builder and the apartment-owner are sought to be taxed on grounds which are merely technical.

Incentives for Savings

As an added incentive to savings and their channeling towards specified investments, the present limit of Rs. 7,000 should be raised to Rs. 10,000. Similarly, the present limit of Rs. 40,000 under Section 80C should be raised to Rs. 60,000 and the permissible percentage should be raised as under :-

First	10,000	100%
Second	20,000	50%
Balance		40%

In this context we feel very gratified that in the long-term fiscal policy emphasis has been laid on expanding the areas of incentives for saving. to the ultimate extent of bringing about the development of concept of expenditure tax. The proposal of introducing a new series of National Doposit Scheme without any over-all ceiling is very welcome indeed. The deposits in this scheme will be eligible for deduction for taxabie income to the extent of 50%. This measure needs to be re-examined by the Government for providing 100% exemption upto an initial limit of say, Rs. 20,000, in order to make this scheme really attractive compared to the existing benefits available under S. 80C. We have separately sent to the Finance Minister detailed comments on certain aspects of the new National Deposit Scheme.

Rural Development

The withdrawal of incentives and relief which were previously available under Section 35CC for stimulating larger participation in the programmes of rural development has not been a wise move. The mere fact that there had been some instances of misuse of these facilities does not justify total withdrawal of such an important measure. These facilities should be restored, with appropriate safeguards against their misuse.

Deduction for Medical Expenses

The costs on medical care are increasing. It is appropriate that costs incurred to keep oneself fit should be a legitimate debit against the earnings liable to tax. Appropriate deduction, relative to the increased cost of medical care, should be permitted. The current practice of restricting tax free perquisites in the hands of employees in respect of reimbursement of medical expenditure, to one month's salary, needs to be reviewed as it is causing considerable hardship to non-governmant employees.

Deduction to Charitable Institutions (80G)

Dedudtions to institutions for specified purposes e.g. education, welfare of the handicapped, blind, spastics, and neglected women, should be raised to 100% in place of existing 50%.

Capital Gains Tax

Inflation has knocked the bottom out of any justification that may have existed for charging capital gains tax. Until it is totally abolished the following propositions merit serious consideration :-

i) The distinction between short-term and long-term capital gains should be removed to encourage greater public participation in equity capital. This would be in line with the current policy to promote larger resource mobilisation in the private sector.

ii) The limit of capital gain exemption from tax should be raised from Rs. 5,000 to Rs. 25,000.

iii) At present the tax payers have the option to deduct from the sale proceeds of an asset, its cost of acquisition or its market value as on 1.1.1964. This date is much too ancient in

the present context of escalated values and this should be brought forward to 1.1.1979.

iv) If the proceeds of sale of a capital asset are invested in specific securities, a tax payer can secure exemption from capital gains. For reason already indicated, equity shares of public limited companies should also be included in these specific investments. In fact, there is need of widening the areas of utilisation of such proceeds as for instance including schemes such as national savings certificates, public provident fund and postal savings.

v) The exemption on purchase of house should also be extended to the construction of house on retrospective basis in addition to prospective basis.

In the long-term fiscal policy the Government has indicated the proposal of considerably overhaulting the Capital Gains Tax somewhat on the lines above suggested. A major decision is to provide that the date for computation of capital gain will be 1.1.1974. (We have suggested and would reiterate, that the proper date for this purpose would be 1.1.1979). We had s ggested the widening of areas of utilisation of proceeds of capital gains for purposes of tax benefit; it is heartening to notice that the long term policy envisages such widening but we feel that some more thinking needs to be done to include the investments in capital issues and other suggested areas of investment.

Wealth Tax

EXEMPTION LIMIT

This limit was recently increased to Rs. 2.5 lakhs but in the present context of continuously escalating values it is quite inadequate. It would be desirable to raise the limit to Rs. 5 lacs.

RESIDENTIAL HOUSE

One residential house should be tottally exempt from Wealth Tax.

VALUATION OF VACANT LAND AND JEWELLERY

A serious anomaly in the existing approach to valuation of assets relates to the valuation of a house property constructed on a plot as against the vacant plot of the same size.

The valuation of the former is much lower under Rule IBB; alternatively, at the option of the assessee it is pegged at the same value as for the assessment year 1971-72. This should be done in respect of vacant plot of land as well as jewellery. Jewellery to the women in India has importance which cannot be ignored, and it is grossly unfair to penalise them on account of galloping inflation. It is accordingly necessary that inflated value of jewellery, should be kept in view while determining the imposition of wealth tax on it.

In various matters the assessees have had legitimate grievances of harassment in relation to taxation and allied matters. We had brought to the notice of the Finance Minister that the present procedures of indiscriminate issue of notices to purchasers of immovable property of the nature of flats, houses or plots in urban areas, alleging that the property has been under-valued and thereby threatening acquisition on 15% above the purchase price, was serving no purpose whatsoever and was being used only as an instrument of harassment and opportunity of corruption. Tens of thousands of notices have been issued in each zone; the overall result has been that in the entire country only about half a dozen properties are stated to have so far been acquired. It is gratifying that this problem has been recognised in the long-term fiscal policy and remedies are being considered, of the nature of utilising pre-emptive right of acquisition in cases selected at random and of acting within a period of not more than 60 days after issue of notice.

Gift Tax

Having got rid of the obnoxious Estate Duty, the Government might as well extend the process of rationalisation by abolishing Gift Tax. If the objective is dispersal of wealth even then Gift Tax

merits abolilion because gifts given to family members or friends do result in dispersal of wealth. Without prejudice to this suggestion, however, the following proposals need serious consideration in regard to gift tax :-

i) The limit of tax-free gift, in the present context of escalated values, needs to be increased from Rs. 5,000 to Rs. 25,000.

ii) Aggregation of gifts in respect of previous years, for determination of the rate of tax, is irksome and meaningless. There is no rationale is fixing the period of five years for the aggregation. In line with the Government approach to simplify the taxation structure this aggregation should be abolished.

iii) At present a gift of upto Rs. 50,000 to one's wife is free from Gift Tax. But what is given with one hand is really taken away with the other, because under the provisions of Income Tax (S.64) and Wealth Tax (S.4), the income arising to the wife from this gift is includable in the income of the husband and likewise the wealth represented by this gift is included in this wealth. This provision should be abolished no matter what its revenue implication, which is any case cannot but be minimal.

In the long-term fiscal policy the Government has recognised the weight of arguments we had put forth for the abolition of Gift Tax but have decided that on balance it Is necessary to retain the Gift Tax on the grounds of equity and for avoidance of splitting for tax avoidance. It is gratifying, however, to note that the problems of raising the exemption limit, which was fixed decades ago, and of aggregation of gifts for purposes of rationalisation, have been recognised.

HOUSE TAX ASSESSMENT

PROBLEM OF CONSTRUCTION - IN - STAGES

Thousands of houseowners of Delhi, and hundreds of thousands of houseowners in the towns all over the country, have direct interest in the procedures of assessment of property tax levied by the local municipal authorities. One particular aspect of this assessment, where the construction has taken place in stages, say over a period of some years, has assumed great importance in the context of high escalation of land prices in the intervening years. For clarification of certain issues in this regard COMMON CAUSE has had to take this matter to the Supreme Court of India. In view of the importance of this matter we have considered it appropriate to present informatron on this problem about how the matter at present stands before the Supreme Court.

Delhi Municipal Corporation is now stated to be considering certain innovations and concession in the levy of Property Tax. It has been announced that there are proposals of (i) restoring the 20% self-occupancy rebate; (ii) encouraging payment of ten years' one-tjme payment of property tax during 1986-87 to qualify for all-time exemption from recurring payment of this tax; (iii) giving rebate of 20% in the tax for five years on recurring basis to all new properties constructed after 1. 4. 1985, for stimulating construction activity; (iv) according 5% rebate on property tax on its Prompt payment on demand; and (v) rounding off the rateable value to multiples of 100 for facility of calculation. These proposals have been submitted by the executive wing to the deliberative wing for consideration in relation to the next budget of the corporation.

For the first time it now appears that the MCD authorities have recognised that demands and problems of the people cannot be disregarded as has hitherto been done. These innovations and concessions, when they come into effect, have obvious importance and will help to streamline the operation of levy and collection of property tax. There is, however, still great scope for rationalisation of the assessment procedures and of the removal of the areas of irritations and harassments in assesment. One major problem still continues to be that of the assessment where construction of premises has come about in stages. This matter is dealt with in the present write-up. On all accounts it is necessary for the MCD authorities to recognise that there has been unprecedented escalation of land prices during the last 10/12 years. If the impact of this fact is recognised, and the assessment procedures are so modified that the "price of land on the date of commencement of construction", in the case of all recent constructions, is taken as the price of land as it obtained in the year 1971-72, whereafter the escalation in land prices had in fact started (as has been adopted for wealth tax purposes) a large area of vexation to the people will be resolved, the people will heave a sigh of relief, objections against the assessments will be minimised, appeals against the assessments will become infructuous, and people will feel that the MCD has taken the further initiative of simplifying and improving the levy and collection of property tax. We earnestly hope that the MCD will give serious throught to this suggestion which COMMON CAUSE has made at various stages in the past years. Meanwhile, we take this opportunity to inform the people of the assessment problem relating to cases where the premises have been constructed in stages, which matter is presently pending before the Supreme Court.

Arising from the Supreme Court landmark Judgement of 12.12.84 on the assessment of rateable value for purposes of levy of municipal property tax, and resultant upon certain actions and pronouncements of the concerned officials of Delhi Municipal Corporation, COMMON CAUSE had filed an Application in the Supreme Court to seek clarifications on some important points of the judgement so that the harassments and alleged illegalities caused to the houseowners on these specific issues may be checked. These issues were : problem of assessment of rateable value and accounting of the price of land in cases where construction of premises has taken place in stages and not at one time; further elucidation of the problems of assessment in casas of self-occupied premises where they have been constructed amidst the conditions of highly escalated land price; and the problem of self-occupancy rebate of 20% which was previously being given by the Delhi Municipal Corporation, which had been discontinued since the previous Supreme Court judgemeut of 1979, regarding which the Supreme Court in the recent judgement had advised resumption by the Corporation and which the Corporation now proposes to restore.

These problems, and particularly the problem of construction-in-stages, are of obvious interest to owners of premises all over the country because the Supreme Court judgement and general application and its effect is not limited only to Delhi. The application submitted by COMMON CAUSE for seeking clarification on these issues is still pending and is, therefore, sub-judice. The houseowners have however, been very keen to know the thrust of our contentions and the positton taken by the Delhi Municipal Corporation' and we are accordingly reproducing in this write-up the issues as presented to the Supreme Court in our original application and as further elaborated in a subsequent Affidavit submitted by the Director of COMMON CAUSE, the substance of reply submitted by the Corporation, and the further rejoinder submitted on benaif of the COMMON CAUSE.

CONSTRUCTION IN STAGES

The major problem which is now before the Supreme Court is that of assessment of rateable value where the premises have been constructed in stages e. g. the ground floor was constructed fifteen

years ago and an addition on the adjacent floor or upper floor was made twelve years later when the land price had greatly escalated. The question for examination is whether the municipal authorities would have any justification in computing the price of land over again in the calculation of reteable value of the original construction and the subsequent construction. This problem has to be viewed in the context of the provision in relevant law that assessment of rateable value will be related to the reasonable cost of construction and the "price of land on the date of commencement of construction". The other two above-mentioned issues which were submitted in our application before the Supreme Court are not being dealt with in this note. Instead, we are presenting the problem of construction in stages in relation to the position as it arises from the presentations in the adove-mentioned Application and Supplimentary Affidavit of COMMON CAUSE, reply of the Corportion, and the subsequent Rejoinder of COMMON CAUSE.

This problem concretises itself in the following averment which COMMON CAUSE has made in its Rejoinder :-

> "The question primarily relates to a property of single ownership on one single plot constructed in stages, regardless of whether the subsequent construction has taken place over the previous construction (i. e. vertical construction) or the addtional construction is on adjoining vacant piece of land within the same plot (i. e. horizontal construction): or the additional contruction is extension of the previous construction on the first floor or upper floors, and also regardless of whether the additional constuction comprises the addition of small accommodation or of complete housing unit".

To this one may add that the problem needs to be decided also irrespective of the fact whether the plot is on lease-hold land or free-hold land.

This problem needs to be considered against the background of the repeated emphasis which has been laid in the Supreme Court judgement that the question of assessment of rateable value has necessarily to be considered by taking the premises as a whole and not as different parts of the premises as distinct and separate units. The Supreme Court in this judgement laid down the following specific position in relation to the problem where the premises have been constructed in stages :-

> 'The same principles for determining of rateable value would obviously apply in case of subsequent additions to the existing premises. The basic point to be noted in all these cases is-and this is what we have already emphasised earlier-that the formula set out in sub-section (1) (A) (2) (b) and (1) (B) (2) (b) of Section 6 cannot be applied for determining the standard rent of an addition, as if that addition was the only structure standing on the land. The assessing authorities cannot determine the standard rent of the additional structure by taking the reasonable cost of construction of the additional structure and adding to it the market price of the land and applying the statutory percentage to the aggregate amount. The market price of the land cannot be added twice over, once while determining the standard rent of the original structure and again while determining the standard rent of the additional structure. Once the addition is made, the formula set out in subsection (1) (A) (2) (b) and (1) (B) (2) (b) of Section 6 can be applied only in relation to the premises as a whole and where the additional structure consists of a distinct and separate units of occupation, the standard rent would have to be apportioned in the manner indicated by us in the earlier part of this judgement."

In our original Application, which was submitted on 21.2.85, within about two months after the pronouncement of the Supreme Court judgement on 12 12.84, we stated that from the actions and pronouncements of the concerned officials of the Corporation we apprehended that they would flout the guidelines laid down in this judgement. These apprehensions later turned out to be well founded because when the Corporation

issued a Public Notice on 29.7.85 about having disposed of the objections filed by the assessees, and when after considerable effort the assessees were able to secure copies of the assessment orders passed on their individual properties, they found to their horror that there had been flagrant and blatant violation of the directives incorporated in the Supreme Court judgement. In this situation a further comprehensive affidavit was filed before the Supreme Court by the Director of COMMON CAUSE in which inter alia the position relating to a few properties selected at rondom was presented.

Instances Submitted to Supreme Court

It would be interesting to note the information that was furnished in this affidavit about the specific properties. From this information following points emerge : (i) the assessing authorities made arbitrary apportionment of the land between different stages of construction, thereby burdening the assessment with subsequent escalated price of land ; (ii) the price of land was taken on the basis of auction of plots conducted by DDA from time to time ; and (iii) numerous objections, aggregating to about 88,000 were pending with the Corporation arising from the notices served under Section 126 of the MCD Act and these have continued to remain undecided for years. These facts will be vident from the information reproduced below in summary form in relation to certain properties.

1) Residential Property No : A9/32, Vasant Vihar New Delhi

Construction in two stages, first in 1969 and second in 1975 Total area of plot 892 sqr. mtrs. Assessment Order passed by the Deputy Assessor & Collector/SZ on 15.7.85, wherein he has based the assessment on the following :

Market price of land (755 sq. mtr.) comprised in 1st phase of construction, taken at Rs. 180 per sq. mtr.

Market price of land (137 sq. mtr) comprising certain additions in 2nd phase of construction, taken at Rs. 350 per sq. mtr.

2) Residential Property No, C-4/3, Vasant Vihar, New Delhi

Construction in two stages, first in 1973 and second in 1977. Total area of plot 334.44 sq. mtrs. Assessment Order passed by Dy. A&C/SZ on 21.8.85, wherein he has based the assessment an the following :

Market price of land (determined at 43% as 143.80 sq. mtr) comprised in the 1st phase, taken at Rs. 330 per sq. mtr.

Market price land (determined at 57% as 196 64 sq. mtr) comprised in the 2nd phase, taken at Rs. 500 per sq. mtr.

3) Residential Property No. 6/18, Shanti Niketan New Delhi

Construction in two stages, first in 1970 and second in 1976. (Additions in Ground Floor and First Floor were made in 1984, for which separate notice u/s 126 MCD Act is pending, and this is proposed to be taken up later by MCD). Total area of plot 335 sq. mtrs. Assessment Order passed by Dy. A&C/SZ on 18.7.85 wherein he has based the assessment on the following :

Market price of (190 sq. mtrs) comprised in 1st phase, taken at Rs. 190 per sq. mtr.

Market price of land (145 sq. mtr) comprised in 2nd phase, taken at Rs. 400 per sq. mtr.

Market price of land relating to construction will presumably be taken on the basis of 1984 price (Rateable Value of Rs, 90,340 is pending final decision).

4) Residential Property No. A-5/1, Vasant Vihar New Delhi

Construction in two stages ; first phase in 1969 and second phase in 1973. Assessment Order was passed by Dy. A&C/SZ on 23.8.85, wherein he has based the assessment on the following :

Market price of land comprised in 1st phase (determined 58%-760 sq. mtr), taken at Rs. 180 per sq. mtr.

Market price of land comprised in 2nd phase (determined 42%-551 sq. mtr), taken at Rs. 330 per sq. mtr.

5) Residential Property No. D-271 Defence Colony, New Delhi

Construction in three stages, first (ground floor) construction in 1959, addition in 1970, and second addition in 1982. Area of plot 325 sq. yds. Assessment order was passed by Dy. A&C (NDZ) on 17.7.85, wherein he has based the assessment on the following :

Market price of land comprised in the 1st construction taken at Rs. 50 per sq. yd.

Market price of land comprised in construction on first floor in 1970 taken at Rs. 170 per sq. yd.

Rate of market price of land comprised in third construction has not been separately given in the assessment order but the price of land comprised in 3rd construction in 1982 has been taken as Rs. 55 679.

6) Residential Property No. A-72 Defence Colony, New Delhi

Construction in two stages, first in 1960 and second in 1968. Total area of plot 278 sq. yds. Assessment Order was passed by Dy A&C (NDZ) on 23.8.85, wherein he has based the assessment on the following :

Price of land comprised in the first phase (determined at 50%, 139 sq. yds) taken at Rs 50 per sq. yd.

Price of land comprised in the second phase of construction (determined 50%, 139 sq. yds), taken at Rs. 160 per sq. yd.

7) Residential Property No. D-151 Defence Colony, New Delhi

Construction in two stages, first in 1959-60 and second in 1972-73. Total area of plot : 325 sq. yds. Assessment Order was passed by Dy. A&C (NDZ) on 2.9.85, wherein he has based the assessment on the following :

Market price of land (determined at 45%, 146 sq. yds), taken at Rs. 30 per sq. yd.

Market price of land (remaining 179 sq. yds) taken at Rs. 280 per sq yd.

(This case had been remanded by Court for re-assessment).

8) Residential Property No. A-347, Defence Colony New Delhi

Construction in two stages, first in 1658-59 and second in 1977. Total area of plot 217 sq. yd. Assessment Order was passed by the Dy. A&C (NDZ) on 2.9.85, wherein he has based the assessment on the following :

Price of land (detetmined 40%-87 sq. yd) in 1st phase of construction on ground floor, taken at Rs. 30 per sq. yd.

Price of land (determined 40%-87 sq yds) in 2nd phase of construction on first floor taken at Rs. 480 per sq. yd.

2nd floor barsati construction, determined as 20% of remaining land, has been assessed separately on the basis of market price of land at Rs 480 sq. yd.

9) Residential Property No. B-17. West End New Delhi

Construction in two stages, first in 1968 and second in 1974. Total area of plot : 666 sq. mtr. Assessment Order was passed by the Dy. A&C/SZ on 17.7.85, wherein he has based the assessment on the following :

Market price of land comprised in 1st phase (556 sq. mtr), taken at Rs 180 per sq. mtr.

Market price of land comprised in 2nd phase (110 sq. mtr) taken at Rs 350 per sq. mtr.

10) Property No. 4/3, Shanti Niketan, New Delhi

Construction in two stages, first in 1972 and second in 1980. Total area of plot 669 sq. mtrs. Assessment Order was passed by Dy. A&C/SZ on 18.7.85, wherein he has based the assessment on the following :

Market price of land comprised in 1st phase (480 sq. mtrs) taken at Rs 330 per sq. mtr.

Market price of land comprised in 2nd phase (189 sq. mtr) taken at Rs 1600 per sq. mtr.

11) Property No. A-5/1; Vasant Vihar, New Delhi

Construction in two stages, first in 1969 and second in 1973. Total area of plot 1311 sq. mtrs. Assessment Order was passed by Dy. A&C/SZ on

23.7.85, wherein he has based the assessment on the following :

Market price of land comprised in 1st phase (determined at 60%, 760 sq. mtr), taken at Rs 180 per sq. mtr.

Market price of land comprised in 2nd phase (determined at 42%, 551 sq. mtr), taken at Rs 330 per sq. mtr.

12) Property No. F-8/10, Vasant Vihar New Delhi

Construction in two stages, first in 1970 and second in 1980. Total area of plot 326 sq. mtr. Assessment Order was passed by Dy. A&C/SZ on 16.7.85 wherein he has based the assessment on the following :

Market price of land comprised in first phase (241 sq. mtr) taken at Rs 190 sq. mtr.

Market price of land comprised in 2nd phase (85 sq. mtr), taken at Rs. 1600 per sq. mtr. (2nd phase of construction in this case was totally on the first floor)

In connection with our contention that about 88,000 objections have been pending with the Corporation against notices u/s 126 MCD Act we have given examples of following properties :

1) A Property in Vasant Vihar, New Delhi

Area of plot 600 sq. yds. Construction in two stages, first in 1970, second in 1979. The second phase of construction was only on the first floor and above. Notice u/s 126 MCD Act has since been pending, and despite general objection submitted every year the assessment of property has not been finalised.

2) A Property in West End, New Delhi

Area of plot 1200 sq. yds. Construction in two stages, first in 1969, second in 1979. Notice u/s 126 MCD Act has since been pending. and despite general objection submitted every year and a number of representations, final assessment of the property has not been finalised.

3) A Property in Vasant Vihar, New Delhi

Area of plot 501 sq. mtr. Construction in two stages, first in 1973, second in 1981. Notice u/s 126 MCD Act has since been pending, and despite general objection submitted every year the assessment of property has not yet been finalised,

4) A Property in Vasant Vihar, New Delhi

Area of plot 1108 sq. yds. Construction in three stages, one in 1970-71, second in 1974-75, and third in 1979. General objection has continued to be submitted but final assessment has not yet been finalised.

REPLY OF CORPORATION

The Delhi Municipal Corporation, in the r eply filed before the Supreme Court, has raised various points which are contended to confuse the main issue. They have referred to various provisions of the MCD Act and particularly to the provisions whereunder separate rates of property tax are levied on separate types of properties e.g. residential, non-residential commercial properties etc. It has been contended on behalf of COMMON CAUSE in the Rejoinder that the problem of assessment of property subject to construction-in-stages needs to be considered primarily from the view point of property of same ownership and of the same type of property and not different properties. The inter-mixture of ownership and of different types of properties (e.g. residential and commercial) on the same plot raise altogether different issue and these are not directly relevant to the main problem of construction-in-stages dealt with in the judgement of the supreme Court. Other various ramifications of the problem can be dealt with once the major problem of the policy in respect of assessment of property subject to construction-in-stages is clarified.

Examples of five properties have been cited in the reply of the Corporation. All the five examples are stated to be such that they are not directly relevant to the above-mentioned main issue. One example is of a property in which the basement ground floor first floor and second floor are for commercial use, and the third floor is for residential use. From the figures of land price and construction cost of respective floors it is not clear as to what point is sought to be made by the MCD in the context of clarification sought by the COMMON CAUSE Second example states abou

a housing plot in a lease-hold colony having been divided among two brothers for individual constructions. It does not appear from the recount of this example as to how this division of the plot came about, because under the terms of lease-hold properties the division of a housing plot is not permissible. If the division has been effected by a decare of Court then the two portions of the plot obviously become two separate plots and need to be treated as such, for the purposes of assessment of rateable values of of the premises constructed on them. If the plot continues to be one entity then the construction-in-stages on this plot will need to be dealt with in the light of the pronouncement made in this behalf in the above-mentioned judgement. Third example relates to the Indian Express Building which is totally for commercial purposes and the problem of which has its special characteristics. The presentation of this example in the reply of MCD is itself so confused that one cannot make out the thread of the argument nor follow the figures and calculations Fourth example cited in the reply of MCD relates to a unique type of case where the housing plot and the first floor in a free hold colony, belongs to one owner who sold to another owner the rights of construction on the terrace of first floor and construction of second floor, and the problem arises in relation to the assessment of separate units of properties of the two owners. Construction in this case has taken place in stages, and the price of land at the time of original construction needs obviously to be spread pro-rata over the constructian of different owners. Fifth example is another unique example where an owner of plot and ground floor canstruction let out the terrace to his son who constructed first floor and barsati, and the problem relates to assessment of the properties of two ownerships. It is contended in the Rejoinder of COMMON CAUSE that these examples cited by the MCD in the reply fail to put forth any specific principle which is supposed to flow in favour of the enunciation of the Supreme Court in relation to the prodlem of assessment of property subject to construction in stages. These examples appear to have been cited as difficult cases encountered by MCD in relation io assessment, to justify that they can be solved only by taking price of land separately in relation to each stage of construction.

In the reply MCD has also attempted to strengthen its arguments by citing Valuation Reports of two registered valuers. These reports are purported to show that valuers in the two cases have adopted the price of land as obtaining at different stages of construction of the respective properties. It has been pointed out that it is surprising that the MCD has sought to place reliance on these reports which are stated to be still "under considertion", and with the knowledge that in numerous cases the other registered valuers have adopted the price of lond only in respect of the original construction.

Against the background of these presentations on behalf of the COMMON CAUSE and the Delhi Munictpal Corporation, and in the context of the principle enunciated by the Supreme Court in its comprehensive judgement of 12.12.1984, wherein it has been held that the property for the purposes of assessment has to be considered as one whole, and different parts of the premises cannot be dealt with as distinct and separate units, and in making assessment of the rateable value the price of land cannot be taken twice over, once when the original construction came about and again when subsequent addition is made, clarification has been sought whether the procedure adopted by MCD has any authenticity or whether it is in contravention of the judgement. On behalf of COMMON CAUSE it has been submitted that the position as enunciated by the Supreme Court is unmistakably clear and that the Delhi Municipal Corporation, in taking account of the price of land in relation to different stages of construcrion, is contravenlng the guidelines provided in the judgement, whatever may be the circumstances of individual cases of the nature cited in the reply submitted by the Corporation. Our Prayer submitted before the court is to clarify that tn making assessment of rateable value of a property, standing on one plot, the price of land taken into the calculation should only be the market price prevailing on the date of commencement of original construction, irrespective of whether the subsequent construction is a part addition or complete housing unit, and whether the additional construction

has been made on vertical basis or horizontal basis as long as the additional construction is on the same plot, and the premises should be taken as a whole and treated as one property including the original and subsequent constructions.

In the context of above it will be of interest to the houseowners to read the letter I have written on 24th December' 1985 to the Mayor of Delhi Municipal Corporation in which the position regarding the recent pronouncement of concessions by the executive wing of the Corporation have been dealt with in some detail The letter follows :

"The Commissioner of Delhi Municipal Corporation and his staff deserve to be complemented on tbe bold initiatives taken by them in presenting proposals for 1986-87 budget in relation to Property Tax. Even though some of these proposals have certain flaws which might render them impractical and ineffective, the very fact that they have formulated these proposals in a bold manner, keeping the interests of owners as well as the MCD in view, makes them deserving of appreciation from the people. In fact, for once they have demonstrated that bureaucracy of MCD has recognised that people cannot be disregarded or taken for granted, and that their legitimate problems must be given due consideration.

Five important proposals have been made by the MCD executive for consideration of the deliberative wing. These are : (i) restoration of 20% self-occupany rebate ; (ii) encouraging payment of ten-years' one-time payment of property tax during 1986 87 to qualify for all-time exemption from recurring payment of this tax ; (iii) giving rebate of 20% in tax for five years on recurring basis to all new properties constructed after 1.4. 1985, for stimulating construction activity ; (iv) according rebate of 5% on prompt payment of property tax on demand ; and (v) rounding off rateable value to multiples of 100 for facility of calculation Out of these no (i) is very welcome indeed ; it should have been introduced from 1985-86 ; actually it was most unfortunate that it was ever withdrawn after the earlier Supreme Court judgement of 1979. Nos. (iii) (iv) and (v) have obvious merit and they too are welcome.

Doubts are being expressed about the practical utility and effectiveness of the proposal of one-time payment of property tax of ten years, for securing all-time exemption. This proposal will naturally be examined by the assessees in the light of comparative investment opportunities presently available for any spare money. If, for instance, the property tax on a modest property is Rs. 5000 per annum, its one-time payment of ten years' assessment will necessitate the payment of Rs. 50,000. If the amount of Rs. 50,000 is invested by the assessee in Unit Trusts or alternative secure investment, he will get interest of at least Rs. 5,000 per annum, which will suffice the requirement of his paying the property tax.

If the amount of Rs. 50,000 remains in such investment for many years, it will continue enabling the annual payment of property tax for all those years ; and even after the discharge of this liability it will still remain his own money, whereas if he gives it as one-time payment to MCD it is lost to him while of course securing him all-time exemption. It is also very relevant that the payment made towards property tax is deductible from income for income tax purposes The one-time payment for ten years will not be beneficial in this regard, and will at most give the income tax benefit only for the year during which the peyment is made, and that only if the incon.e is so sizeable that the ten-times payment of property tax will still leave taxable income. The assessee will be deprived of the income tax benefit for all the remaining years.

While, therefore, the proposal of one-time payment of ten-years' property tax may not bring about response, I suggest that a variant of this course can be examined and explored MCD can float special ten years' Bonds. If anybody wishes to invest in these bonds, as payment of property tax for ten years, he should become entitled to all-time exemption from property tax. The bonds should carry bank interest which should not be less than 10% and the interest will go towards property tax to MCD automatically. Every year the assessee can secure certification from the MCD about the payment of property tax for entitling him to income deduction for income tax purposes. The money invested in Bonds will mature

to the investor after ten years.

While these proposals have their respective merits and problems I wish to urge before you one important matter on which MCD executive has over the years created great resentment to and alienation of the assessees. This matter relates to the application of assessment formula to recent constructions. I am sure you will recognise, for instance, that according to the letter of the law (assessment of rateable value being based on the reasonable cost of construction and the *market price of land on the commencement of construction*), it is sheer impossibility for any person to self-occupy a recently constructed house. You are aware of the present notified prices of land in Delhi. In any moderate colony the price ranges upto Rs. 1500 per sq. metre. For a plot of 500 sq. mtrs. the price would be of the order of Rs. 7.5 lakhs Add the cost of construction of Rs. 1.5 lakhs of a very modest house, and the total comes to at least Rs. 9 lakhs. Take 8¼% of this amount and it gives the figures of about Rs. 75,000. Property tax on this rateable value, even after 20% self-occupancy rebate etc, will be of the order of Rs. 18,000, i.e. Rs. 1500 a month for living in his own house. If the plot is a sizeable one of, say, 1000 sq. mtre. and the cost of construction is Rs. 5 lakhs, the Property Tax, even after 20% self-occupancy rebate, will be of the order of Rs. 40,000 for the year. Similar problem arises where owner has constructed the house or its units in stages. Where one portion or addition has been recently constructed, the position becomes impossible for him.

We have tried our best to bring this matter home to the officers of MCD but have failed in our efforts. On this account this matter has had to be taken by us to the Supreme Court, as you would be aware, While it awaits hearing and final decision by the Supreme Court I write to appeal to the good sense of the deliberative wing of the MCD to give serious cousideration to this problem. There is a solution which from COMMON CAUSE has been putting forth for four years. This solution is based on the formula which the Government of India has adopted for Wealth Tax assessment purposes. It is recognised by everybody that the land prices and construction cost actually escalated from 1971-72 ownwards. Therefore the Government of India has adopted the valuation of 1971-72 for purposes of wealth tax. We have suggested that in relation to the formula of "cost of construction and price of land on the commencement of construction", for purposes of assessment of property tax, where construction has taken place subsequent to 1971-72, the land price and construction cost of 1971-72 (which figures can be easily available) should be considered as fulfilling the requirement of this formula. You will agree that rigidity of the letter of the law in this matter, in the special circumstances created by unprecedented esalation of the prices, does not have to stand in the way of MCD adopting tnis via media, as for instance they have done in exempting all properties below the rateable value of Rs. 1.000 even though law does not provide for this exemption as it stands at present.

We strongly urge that this suggestion should be given serious consideration. It will with one stroke settle tens of thousands of cases which are at present languishing in MCD; it will settle the cases pending in courts and clogging them; it will relieve the people and the MCD from having to fight against assessments; and it will earn great amount of goodwill for for the MCD.

If this suggestion is adopted, and the procedures of assessment thereby simplified, the huge backlog of pending assessments will be get cleared without the MCD having fo saddle itself with additional staff of 25 assessing units comprising officials of the level of additional commissioners deputy assessors and collectors, deputy chief accountants and the large number of stenographers, clerks, notice servers etc., which are proposed by the executive wing for employment and which they will not know what to do with after the backlog is cleared.

I am sending copies of this letter to Mr. P. P. Srivastava and Mr. M. P. Sharma, in the hope that they will give proper considerations to the suggestions in it. Of Course, these views, comments and suggestions are without prejudice to our case pending in the Supreme Court."

WHAT TO DO ABOUT INFLATED ELECTRICITY BILLS

Often consumers of electricity inform us about sudden inflated bills received by them without cause. The bills carry with them the threat that non-payment within the prescribed time will cause disconnection of electric supply. Instances have been brought to our notice where electricity bills have been issued to domestic consumers to the tune of a few thousand rupees with the demand of payment by the following day, accompanied by threat of disconnection.

The cause of such inflated bills is often stated to be the stoppage of an electricity meter long ago, in some instances years ago; its restoration after a long period, sometimes again of years; and the computation of arrears on the basis of consumption average after the replacement of defective meter. The consumers run from pillar to post. They donot get any redress, and eventually make the demanded payment, in lumpsum or instalments, to avoid disruption and inconvenience of electricity disconnection.

Instances have come to notice about such sudden inflated demands at Delhi from the Delhi Electricity Supply Undertaking (DESU). Ostensibly similar position would be experienced by the electricity consumers of other towns, and we have accordingly considered appropriate to provide information and guidance in this regard for the knowledge and benefit of all consumers. We have examined the matter and its legal ramifications. Writ Petition has been filed by COMMON CAUSE in the High Court of Delhi. DESU did not submit any reply to the Writ Petition despite opportunities given to it by the court. Therefore the court has been pleased to grant stay to the consumers who were co-petitioners in the writ petition alongwith COMMON CAUSE, with the result that DESU cannot cause disconnection of electric connection to them during the pendency of the writ petition, which stands admitted. One cannot yet say as to when this writ petition will come up for final hearing, but meanwhile DESU will not be able to enforce payment of these arrears bills and to cause disconnection of electric supply. The particulars of this Writ Petition are No 409 of 1985 COMMON CAUSE & others Vs Municipal Corporation of Delni and Delhi Electric Supply Undertaking, and these particulars can be quoted where necessary. The stay ordered in the writ petitions is of course applicable to the specific individuals whose cases were cited in it, but we suggest that where any consumers receive any such inflated and unjustified bills they should cite this writ petition and make submission to the High Court, giving the circumstances of the case and stating the position of the law, as given hereafter, for seeking the submission to be treated as a writ petition and requesting issue of stay of electricity disconnection. It may perhaps not be necessary to engage lawyer for the purpose, but this matter is for the discretion of the concerned individual consumer.

The legal position in this regard is given hereunder for the information of the electricity consumers :

(i) Electricity meter is normally provided and installed by the Electric Supply Undertaking though provision exists for the electricity meter to be supplied by the consumer and installed by the Undertaking. In cases where the meter is supplied and installed by the Undertaking, it is laid down in Section 26 of the Indian Electricity Act that *it is the responsibility of the Undertaking to ensure that it is correctly maintained.* It is also the responsibility of the Undertaking under section 26 of the Act to levy the charge only on the basis of correct meter. Disconnection of electricity can be caused by the Undertaking after giving notice to the consumer if there has been default of payment assessed

as due on the basis of a correct meter. Where, therefore, the payment is demanded on the basis of a meter which is admitted to have been incorrect or non-operating, the demand would obviously not be sustainable for enforcement. Where such demand is disputed on the question whether the meter was or was not correct the matter can be referred on application of either party to the Electrical Inspector notified under the Act, and the Electrical Inspector can determine the quantum of payment due from the cosumer; but it has been laid down in Section 26 of the Act that the amount shall not exceed six months' consumption. So, if at all the matter goes before the Electrical Inspector, he too cannot allow the charge to be levied for a period of more than six months. This point needs to be borne in mind and emphasized.

(ii) There is provision under Section 35 of the Indian Electricity Act for an undertaking to formulate its "conditions of supply" and it is prescribed in pragraph 22 (d) of the 'conditions of supply" formulated by DESU that where a meter is found defective it shall be replaced by the undertaking and for the period that the meter has remained defective the demand should be assessed on the basis of average recorded for the previous three season months. This provision cannot, however, over-ride the above mentioned statutory provision of Section 26 of the Indian Electricity Act.

(iii) Another important provision which has relevance to this entire matter is the provision of Section 455 of Delhi Municipal Corporation Act, which will presumably have similar counterpart in the statutes regulating other municipal authorities. It is laid down in S. 455 of MCD Act that "no proceedings for the recovery of any sum under this Act shall be commenced after the expiry of three years from the date on which such sum becomes due".

Where, therefore, the charge is demanded on the basis of a meter which is admitted to have been incorrect, that demand is illegal. Where the demand relates to a period more than three years old, such demand cannot be enforced through any proceedings. The disconnection of electricity can be caused only where the demand is ' due" and is based on a correct meter and not on incorrect meter, and any notice for causing disconnection of electricity, for non-payment of a demand based on incorrect meter, would be unlawful.

DESU has been taking the position that although Section 455 of MCD Act debars them from launching proceedings for recovery of an amount which relates to a period more than three years ago, they have the inherent right under S. 24 of the Indian Electricity Act to cause disconection of electric suppiy on non-paymeni of the demand. The correct legal position, arising from the study of the above provisions, appears to be that the demand can be only enforced if it is based on correct meter, that it is the responsibility of the Undertaking to maintain the meter in correct operation, that the demand becomes ' due" only if it so based on a correct meter, and that in any case a demand which relates to a period more than three years old is not enforceable and consequently the causation ef electricity disconnection on the basis of such unlawful demand would open the undertaking to the liability for unlawful action.

In view of the recurrence of instances of such demands for payments of dues relating to periods more than three years old, and based on the plea that a meter had gone out of order many years ago and the defect was noticed years later, we have considered it appropriate to provide this information and guidance to the consumers of Delhi and of other towns so that they may take steps to resist the demand where they feel it to be unlawful on the basis of the position explained.

It may please be noted that these instructions will obviously be applicable where the demand relates to an old period and is contended to be based in relation to a defective meter.

FOR PENSIONERS

PENSION COMMUTATION. I had thougnt that by now I would be giving the pensioners positive news about decision on our Pension Commutation writ petition. It has come up before the Supreme Court time and again, but the final hearing has not yet taken place, mainly because the court has been expressing that the Government should accept this request of the pensioners with grace. It was expected on the last hearing on 2nd December '85 that, arising from the further communication I adressed to the Finance Minister and in which the claim of the pensioners was reiterated as desired by the court, the Governmen would come forth with a positive statement, not limiting the benefit of restoration of pension to the category of pensions upto Rs. 500 p m. as they previously intended to do, which was not acceptable to the Court. It is unfortunate that on this date the Government expressed disinclination to alter their previous decision in this regard. I expressed before the Hon'ble Chief Justice, the presiding judge of that Bench, that more than 100,000 old pensioners in their 70's, 80's and some 90's are eagerly awaiting the final outcome of this case that they are fast dying out, that nine State Governments had already rsstored the full pension, and that further delay in the decision of this case was most unfortunate. The Hon'ble Chief Justice accepted the urgency of this matter and directed that the case will be finally heard on the 7th January '85.

Meanwhile, as a last effort to persuade the Government to restore the commuted pensions with grace I have addressed on 6th December '85 a letter to the Prime Minister. The substance of this letter is reproduced below for the information of pensioners :

> "Over 100,000 old defence and civil pensioners, in their 70's 80's and some 90's are groaning under an archaic rule under which their Pensions contlnue being subjected to deduction to the extent of one-third to one-half on account of their having taken commutation of ten years at the time of retirement. Through these deuctions the Government has taken back from them two to three times the amounts they were given on commutation. This will be exemplified from the attached statement relating to a few pensioners. They are indigent and infirm, their pensions are meagre, and the deductions continue till the end of life.

This plea of the old pensioners has over last many years repeatedly been turned down, on grounds totally untenably. Government has been taking the positon that the scheme of commutation was an optional facilty; that it is operated on no-profit-no-loss basis (meaning it is unfortunate that a pensioner lives long and thereby loses, whereas Government loses where a pensioner dies early), and that the pensioners had opportunity of investing the commuted amount (as though the meagre amounts of Rs. 3,000/5,000 which the larger mass of pensioners got on commutation, and which they took primarily for meeting the social and family obligations, could lead to investments).

After thus drawing blank from the Government we filed a writ petition in the Supreme court. It has unfortunately been pending for over three years. Meanwhile, these pensioners are fast dying out. A Division Bench of the Supreme Court, taking a very sympathetic view of the problem, directed that I should make another effort, by meeting the Minister in charge. I tried, and eventually met the Finance Secretary. The merit of our case was accepted by him and it was indicated that a statement would be made in court. Statement was made but unfortunately the relief was sought to be limited only to those with pension upto Rs. 500. The court itself remarked this imposition of limit was not acceptable and was discriminatory. This was some months ago; since then the matter is languishing.

We plead before you that the Government should gracefully restore the full pension on the attainment of 70 years, or 12 years after the commutation, and not involve this humane matter in technicalities. This was strongly recommended seven years ago by the Parliamentary Committee on Petitions; it was, according to Parliament records, considered with sympathy by Smt. Indira Gandhi, Prime Minister. Nine State Governments have already restored full pension on the attainment of 70 years age, taking a march ahead of the Central Government in this regard.

The Department of Pensions appears to be concerned only about fixing a cut-off point so that the pensioners presently retiring with higher pensions should not also claim same privilege. The problem relating to post-1979 pensioners will come up only after about 1992 and during the period appropriate adjustments and motifications will come about. We have not succeeded in persuading the Department of Pensions and Finance Ministry to make alteration in their approach to the problem.

We look to you to solve this problem instead of its lingering any further in the Supreme Court, where it now stands fixed for final hearing on 7th January '86 and where the claim of arrears from the date of Petition will also become relevant. The least that the Department of Pensions and the Finance Ministry should have done was that when they decided to give back full pension to those whose pension was upto Rs. 500, for making the statement before the Supreme Court, they should have forthwith issued the orders for mitigating the continuing hardships of these very weak sections of the pensioners, pending re-consideration of claim of the pensioners with pensions more than Rs. 500. This too was not done. The entire matter now needs to be comprehensively viewed in the light of deprivation that the continuing deduction of pension causes to the old pensioners so that unnecessary discrimination between pensioners with pensions upto Rs. 500 and above is avoided and that the Central Government pensioners are not deprived of the relief that nine State Governments have already extended to their pensioners."

We hope that by the time this periodical reaches the pensioners this case will have been finally heard. I cannot yet envisage as to when the judgement will be announced by the Court, but I am sure that the result of judgement will appear in the newspapers when it is announced. I am acutely aware of the extreme keenness with which the pensioners are awaiting this judgement, but they will surely realise that the circumstances have been beyond us. We only hope that their anxiety will soon be allayed.

* DEFENCE PENSIONERS. The writ petition relating to pre-1970/1972 defence pensioners is also pending in the Supreme Court. This too is expected to come up for hearing on the 7th January '85. We will watch further developments and report to the Pensioners.

* IVth PAY COMMISSION. Now that the terms of reference of the IVth Pay Commission have been enlarged to include also the problems relating to present and future pensioners, we have initiated steps to insure that the problems and requirements of the pensioners are comprehensively marshalled and presented to the Commission before the prescribed date. For this purpose studies are being made of all the various relevant aspects and contacts have been established for determining as to how the demands and suggestions of the pensioners are presented with one voice to the extent possible and to avoid the spectacle of different interests and organisations presenting these in discordant voices.

* ADMINISTRATIVE TRIBUNALS. The Administrative Tribunals are now in the course of being established. It is expected that in the course of next few months the Tribunals will start operating in the demarcated zones, with defined jurisdictions. It is not yet

absolutely clear whether the cases already pending in the Supreme Court will continue in the court, but increasingly it appears that all cases relating to personnel, pensions, gratuity etc. which are pending before the High Courts and lower courts will be sent to these Tribunals. Further developments in this regard will have to be watched in the next few weeks. The organisations of pensioners will be well advised to acquaint themselves with the Administrative Tribunals Act and its provisions, and the procedure that the Tribunals will follow.

RAILWAY PENSIONERS. The particular problem of railway pensioners, who had opted for provident fund and thereby continue being deprived of the benefits foenhanced pensions, has been our concern. It is now expected that their problem will be submitted before the IVth Pay Commission and also be taken to the Administrative Tribunal. These proposals are being pursued.

Against the background of the long struggle which the pensioners, who have given the best years of their life to the government, continue facing for alleviation of some of their problems, it will be of interest of them that the recent session of Lok Sabha, in mere fiften minutes, passed the legislation to give themselves a hefty pay hike. A member of Parliament will now be getting Rs. 2500 a months by way of salary and allowances, rent free residence 30,000 free local telephone calls per year, and advance for buying vehicle. Of course, all legislators, of the centre and states, are already entitled to life time pension even after one election term

Miscellaneous

To give the readers an idea of the wide range of problems which COMMON CAUSE deals with every day we reproduce below some of the important letters which have issued during the last few days other than hundreds of letters including those which go out in reply to those who write on various problems :

* Letter to the Director General, Telecommunication Department, Ministry of Communications, Government of India.

"We would be grateful for information if you could kindly inform us about the factors on the basis of which the following rates have been fixed in relation to attachments and devices with telephone instruments, as proclaimed in the Telephone Directory :

All Types of facilities except auto dialler-Rs. 200/-
Per annum per attachment

Auto Dialler	— Rs. 300 P.A.
Imported Telephone instrument without any additional facility	— Rs. 200 P.A.
Imported Telephone instrument with STD barring facility	— Rs. 400 P.A.
Imported Telephone Instrument with auto dialling facility	— Rs. 700 P.A.
Imported Telephone Instrument with memory dialling facility	— Rs. 900 P.A.

Long Cord

5 Meters long — Rs. 75

For every additional 5 Meters in length — Rs. 30 P.A.

We would particularly like to know the justification which has been kept in view in relation to the levy of these respective charges, specially in the light of the following :

a) Where an instrument or device has been imported, the customs duty on it will be presumed to have been paid or it would have been imported in accordance with the relevant customs rules, and in such circumstances what justification has necessiated the imposition of the charge ? Does the attachment of any such device impose any special load on the telephone system which justifies the imposition of this levy ?

b) Where the device has been manufactured within the country, all the local levies, taxes and excise etc, will have been paid on it. What justification does then exist for the imposition of additional charge ? In these cases also, does the attachment of the device impose any specefic load on the telephone system which would justify the additional charge ?

c) We may be informed whether smiilar charges are levied in any countries where telephone systems are operating on a scale as large as that of India.

d) In the case of annual rental charge for the provision of "long cord" we would like to know the cost-price of the long cord per meter, and the justification for levy of the annual rental charge as prescribed by the telephone department.

We earnestly hope that you will be kind enough to send us a very early reply to give us re-assurance that these charges are not arbitrary and unjustified, because otherwise the only alternative inference will be that these charges have been arbitrarily determined because the present telephone system is operating as a monopoly system in this country."

* Letter to the Finance Minister, Govt. of India.

* Your visit to a Bank branch in Rajasthan which featured in the NEWS LINE programme telecast on the night of 17th December has prompted me to write this letter to you.

The purpose of your visit was obviously to see whether the small loans are being advanced by the Bank to the deserving people. I have had occasion to acquaint myself with the aspect of utilisation of the small loans which have been advanced in loan melas, and I feel it necessary to bring the facts to your notice.

Under the auspices of COMMON CAUSE we are holding LOK ADALATS at Delhi with the approval of this Chief Justice of India and the Chief Justice of Delhi. A list of 192 pending money suits were recently sent to us by the District & Sessions Judge of Delhi for being placed before the LOK ADALAT. Out of these 112 were suits arising from small loans advanced by the Banks to applicants from different parts of Delhi. The parties of these suits have during the past one month been called before the LOK ADALAT Representatives of the respective Banks have appeared on one side, and the borrowers have in quite a few cases appeared as defendants. Our experience has been that loans in most of the cases, where the Banks have had to lodge suits for recovery in the courts, have not been properly utilised. In a number of cases, particularly where the defendants are muslims, they clearly said before the LOK ADALAT that when they were given loans they were told that this money had come for distribution to them for the "Arabian Countries" and that there will be no question of repayment of the loans. They are now unable to repay them because of indigence or incapacity. The LOK ADALAT in each case has however persuaded them to repay the principal amount, & reasonable amount of Interest, in convenient instalments which are to the satisfaction of the concerned Banks, thereby escaping the continuously mounting burden of compounding and recurring interest.

While participating in this endeavour of settling these cases of money claims of the banks the members of LOK ADALAT could not escape the feeling that the discretion that needs normally to be utilised in advancing loans, for ensuring their proper utilisation and repayment, was disregarded in most of these cases. The plea of representatives of the Banks, who attended the sessions of LOK ADALAT, was that political pressures were exercised on them to advance the loans and there was nothing that they could do about it.

These views and expressions are obviously very relevant in the context of the effort that continues being made to advance loans on large scale to the weaker sections. It does not need to be emphasized that in advancing the loans and holding the loan melas it is necessary to exercise the elementary discretion which the Banks must exercise for ensuring proper utilisation and eventual refund of the loans."

* Letter to Minister of Railways, Govt. of India.

"While making study of certain aspects of the functioning of posts it has come to our notice that delay in tranmission of mail from the north to south of India is attributable to one primary factor which lies within the domain of railways and is not being remedied. This factor needs to be brought to the notice of the Ministers and the Chairman Railway Board so that theymay issue or ders for its rectification.

One railway van is at present provided for the mail of the entire northern region including Punjab, Haryana Delhi, Himachal, J & K, Western U.P., Eastern Rajasthan and pockets of Madhya Pradesh, It is attached to Jammu Tawi-Madras Janta train. Everybody recognises that one van cannot take more than 800/900 mail bags. The mail arisings from this region is of the order of 1200/1500 bags. The inevitable result is that large accumulations take place ; the van cannot also take the bags of intervening stations such as of Nagpur. The accumulations include Journals like INDIA TODAY from Delhi and publications like All India Reporter from Nagpur. The same problem arises in the movement of the mail from the south to the north, and it necessiates special engagement of parcel vans.

This difficulty does not arise in the clearance of mail from North to East or from North to West, or vice versa. The reason for this is that three bogeys are allotted for movement in these directions by attachment to three different trains.

We cannot understand as to what compulations stand in the way of the railways not being able to provide similar facilities of three bogeys, for attachment to three suitable north-south trains, to enable expeditious movement of mails in this direction. We would be grateful if this matter is urgently examined & remedial action taken, under advice to this organisation".

* Letter to the Editors of some newspapers ;

"Unfair Trade Practices have now been made punishable. These constitute all sorts of blandish ments, exaggerated advertisement claims, enticing hollow discounts, prizes for inducement to buy, boosting price by incorporating service guarantees. misleadpayments, and such like. All such acts on the part of industry and business are reprehensible under the recent amendments made in Monopolies & Trade Practices Act (MRTP), The MRTP, however applies only to private industry and trade ; public sector enterprises are made exempt under it, which is looked upon as blatant discrimination. There are public sector enterprises manufacturing all sorts of consumer products and providing various services which are also manufactured and serviced by private sector units : scooters, televisions, refrigerators, cars, cloth, medicines, hotels, transport, and many others. There are instances where the public sector units are also alleged to resort to unfair trade practices, and there is no reason why they should enjoy protection under the law and be allowed to perperate these practices with contumely.

COMMON CAUSE proposes to take this matter to the Supreme Court to secure adjudication wheather this discrimination in favour of public sector units, in the matter of unfair trade practices, is legally sustainable. For enabling detailed examination of this problem we request that specific instances of unfair trade practices of individual public sector units, providing complete information, should kindly be sent to us at the office address : 32 Anand Lok, New Delhi-49".

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(ii) If you are a houseowner, particularly of Delhi, and have already derived benefit from the house tax assessment, either on basis of revision after five years' tenancy or on calculation of assessment on the basis of Supreme Court judgement, send us at least one months' saving through house tax reduction. We have for five years relentlessly struggled to get these concessions for you, and are still struggling for more. You owe this contribution to the organisation, for enabling it to help you more. Send the contributian preferably through crossed cheque to COMMON CAUSE.

(iii) In expansion of membership we would be grateful for the expansion of Life Membership (subscription only Rs. 150). This saves us from administrative work of annual renewals and accounts relating to individual membership subscriptions. Exhort your friends to provide us this support.

(iv) We had previously communicated, on the advice of our auditors, that all existing annual memberships will expire on 31.3.1986 and in future the annual memberships will oprate only on financial year basis, irrespective of the date of enrolment. Following exceptions will presently operate. Where memberships have been taken after 1st October 1985, they will expire at the end of December 1986. Where memberships have been accorded for two years, they will continue operative till 31. 3. 1987. From 1.4.1986 there will be no concessional membership of Rs. 10/-, taking into consideration the increased cost of stationary, printing, despatch and preparation and publication of the periodical.

My special request to you is that in case of this particular organisation kindly donot count what you are getting or can get from it but count what you can give to it, for providing greater service to middle classas of the country. Your subscriptions and donations are not merely for providing services to you individually these are for strengthening the organisation, which is your own, of which you are an important part. Help yourself as well others by helping the organisation.

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