

দেখতে দেখতে বছরের প্রায় শেষের দিকে আমরা চলে এসেছি। সত্যি কথা বলতে কি, সারা বছর অজস্র ঘটনার ঘনঘটায় ব্যস্ত থাকায় বোঝার আগেই দেখি যে আর একটা বছর আমরা প্রায় পার করে দিয়েছি।

গত তিনমাসের অনেক অক্লান্ত পরিশ্রমের ফল আমাদের সংগঠনের **Memorandum** যা আমরা **5th Pay Commission**-এ জমা দিলাম। ৫৭ পাতার এই **Memorandum**-এর **synopsis** এই ক্যানভাসে আমরা প্রকাশ করার চেষ্টা করেছি। আশা করছি, আমাদের এই মিলিত প্রয়াস আপনাদের খারাপ লাগবে না।

Administrative Reforms Report নিয়ে আমরা যা চিঠিপত্র মাননীয় মুখ্যমন্ত্রী, অর্থমন্ত্রী ও অর্থসচিব-দ্বয়ের কাছে জমা দিয়েছিলাম, তা আপনাদের গত ক্যানভাসে আমরা জানিয়েছি। এর পরও অবশ্য আমরা বসে থাকিনি। **RTI Act**-এ আমরা পশ্চিমবঙ্গ সরকারের জনতথ্য আধিকারিকের কাছে জানতে চেয়েছি — কিভাবে একটি বিশেষ সার্ভিসকে **Premier Service** আখ্যা দেওয়া হল, **PSC**-র সাথে কোন আলোচনা করা হয়েছে কি না ইত্যাদি। কিন্তু তিরিশ দিন পার হয়ে যাওয়ার পরও আমরা কোন উত্তর পেলাম না। আরও একটি **reminder** দেওয়া হয়েছে। কিন্তু এখনও অবধি এই প্রসঙ্গে কোন উত্তর পাওয়া যায়নি। এছাড়া, সংগঠনের **Registration**-এর জন্য কাগজপত্র জমা পড়েছে — খুব শিগগির আমরা **Registered** সংগঠন হব, এই আশা করছি।

স্ক্রল-লিঙ্কড ডেসিগনেশন নিয়ে যত বেশী কথাই বলা হোক না কেন, কম মনে হবে। সারা বছর ধরে নাটকীয়ভাবে বিভিন্ন পর্যায়ের মধ্যে দিয়ে আজ আমরা অবশেষে একেবারে শেষের দিকে পৌঁছেছি — যেখান থেকে বলা যেতে পারে যে, সত্যিই এবার নামের পাশে নতুন তকমা লাগানোর সময় প্রায় আগত। তবে, বেশ কিছু সময় ধরে অনেক **act**, অনেক **scene**, অনেক চরিত্রের আনাগোনা য় নাটকটি প্রায় গ্রীসিয় নাটকের আদল নিয়ে ফেলেছিল। আমাদের সংগঠনের বিভিন্ন সদস্যদের প্রচেষ্টা, এতগুলো আইনের এতগুলো (লের নবনির্মাণ বড়ো কম কথা নয়। দায়িত্বপ্রাপ্ত যঁারা ছিলেন, তাঁদের বাদ-ই দিলাম(অন্তরালে থেকে যঁারা সমস্ত নিতানৈমিত্তিক কাজের ফাঁকে এই নতুন রূপরেখা দিলেন, তাঁদের কাছে সংগঠনের সমস্ত সদস্যদেরই কৃতজ্ঞ থাকার কথা।

২০০৮ সাল প্রায় শেষের দিকে। কিন্তু যে আশঙ্কা আমরা আমাদের দপ্তরের **E-governance** নিয়ে প্রথম থেকে করেছিলাম, তা-ই বোধহয় সত্যি হতে চলেছে। এখনও অবধি কোন **P.C.** তো দূরে থাক, যেগুলি অবশিষ্ট, সেগুলির অবস্থাই আরো খারাপ হয়েছে।

LAN নেই, **P.C.** খারাপ, কোন **maintenance** নেই। এরই মধ্যে হঠাৎ করে একদিন শোনা গেল, **E-way bill**, **E-declaration form** দেওয়া হবে পয়লা ডিসেম্বর থেকে। প্রগতি সবসময়ই স্বাগত। কিন্তু পরিকাঠামো সুনিশ্চিত না করে এগোনো বুদ্ধিমানের কাজ নয় — আর সেই কারণেই পয়লা ডিসেম্বর এসে চলে যাওয়া সত্ত্বেও রূপায়ণ সম্ভব হয়নি। যা সবচেয়ে হতাশজনক, তা এই যে, দপ্তরের প্রায় নব্বই শতাংশ কর্মী এই নতুন পরিকল্পনা ও কর্মপ্রণালী সম্বন্ধে ওয়াকিবহাল নন। আমরা জানি না, অথচ আমাদের প্রতিনিয়ত যঁাদের সঙ্গে কাজ করতে হয়, সেইসব ডিলাররা আমাদেরই কাছে **modus operandi** জানতে আসছেন! এ কি যথেষ্ট অসম্মানকর পরিস্থিতি নয়?

এরপর আসব দফায় দফায় প্রকাশ হওয়া সার্কুলারগুলির কথায়। একে তো সারাদিন নতুন নতুন কাজের ভারে সবারই নাভিঃধাস উঠতে চলেছে, তারই মাঝে হঠাৎ হঠাৎ এক একটা সার্কুলার বেরোতে থাকে — ‘এই করতে হবে, ওই করতে হবে’ ছল্লার ছেড়ে, যা রক্তচাপ বাড়ানোর পথে যথেষ্ট। আইনের কাঠামো তো আছেই, তার ওপর আবার এই সার্কুলার-রাজ প্রায় আষ্টেপৃষ্ঠে বেঁধে ফেলেছে সবাইকে। সবাই আমরা কর্মমনস্ক হব, সে তো বেশ কথা, কিন্তু আমাদের ন্যূনতম **infrastructural facility**-র ব্যাপারে কর্তৃপক্ষের ত্র(মবর্দ্ধমান উদাসীনতা খারাপ থেকে অসহনীয় লাগতে থাকে।

এটা পরিষ্কার যে, এখনও আমাদের অনেক রাস্তা হাঁটা বাকি, অনেক স্বপ্ন সফল হওয়া বাকি। যা এ বছরের প্রথমে বলেছিলাম, কোন কিছুই ‘মুশ্কিল’ বা ‘কঠিন’ বলে পাশে সরিয়ে রাখা যাবে না, সেটা আর একবার মনে করে নিচ্ছি। সংগঠনের আমরা সবাই যদি একসাথে কাজ করি, তবে আরেকবার বলি, **impossible is nothing!**

আগামী নতুন বছরে সমস্ত সদস্যবন্ধুদের প্রতি রইল আন্তরিক শুভেচ্ছা।

Results of the CTDOA Election, 2008, held one 12.12.08

President :
Shankar Kumar Roy

Vice-President :
Tapash Chandra Deb

Secretary :
Mousumi Chattaraj Choudhury

Joint-Secretary :
Goutam Ghatak, Arup Ratan Sarkar

Treasurer :
Barun Chakraborty

Joint-Treasurer :
Sonali Moitra

Members :
Khaled Aizaz Anwar (326)
Dipak Kar (315)
Buddhadeb Chatterjee (294)
Susanta Kumar Biswas (262)
Manick Lal Moitra (260)
Indranil Bhattacharyay (248)
Subrata Choudhury (242)
Raktim Dutta (231)
Debasish Basu (211)
Atanu Mazumder (210)
Soubhik Chaudhury (209)
Sanjib Raha (209)

সম্প্রতি অনেক সংগ্রামের পর পাওয়া গেল ৯টি ১৯ নম্বর বা Addl. CCT Post
নিম্নে প্রকাশিত হল সরকারি আদেশনামা। কিন্তু আমরা খুশী নই।

GOVERNMENT OF WEST BENGAL
Finance Department
Audit Branch

No. 9016-F

Kolkata, the 1st December, 2008

MEMORANDUM

The question of sanctioning a few additional posts in scale No. 19 under the WBS (ROPA) Rules, 1998 in respect of various State Services, has been under consideration of the Government for sometime past.

After careful consideration of the matter the Governor has been pleased to sanction additional post(s) in scale No. 19 under the WBS (ROPA) Rules, 1998 with effect from 01-12-2008 in favour of the State Services shown in the table below and the number of such additional post (s) as shown against each on the same terms and conditions as laid down in Finance Department Memo No. 6075-F, dated 21-06-90 read with F.D. Memo No. 3015-F, dated 13-03-2001 subject to the condition that equal number of post(s) in scale No. 16 of the respective State Service shall stand reduced with effect from the same date.

S. No.	Name of the State Service	Existing Cadre Strength	Number of Adcl. Posts In scale No. 19 allowed w.e.f. 01-12-08
01.	West Bengal Commercial Tax Service	1150	9
02.	West Bengal Agriculture Income-Tax Service.	56	1
03.	West Bengal Co-operative Service	197	2
04.	West Bengal Labour Service	197	2
05.	West Bengal Employment Service	244	2
06.	West Bengal Excise Service	250	2
07.	West Bengal Food & Supplies Service	280	2
08.	West Bengal Audit & Accounts Service	1094	8
09.	West Bengal Registration & Stamp Revenue Service	278	2
10.	West Bengal Secretariat Service	393	4

Sd/- S. K. Chattopadhyay
Special Secretary to the Government of West Bengal
Finance Department

No. 9016/1(15)-F

Kolkata, the 1st December, 2008

Copy forwarded for information & necessary action to :-

01. The Principal Accountant General (A&E), West Bengal
Treasury Buildings, Kolkata – 1.
02. The Director of Treasuries & Accounts, West Bengal.
New India Assurance Buildings, 4, Lyons Range, Kolkata – 1.
03. The Pay & Accounts Officer, Kolkata Pay & Accounts Office-I,
81/2/2, Phears Lane, Kolkata – 12.
04. The Pay & Accounts Officer, Kolkata Pay & Accounts Office-II.
Johar Buildings. P-1, Hyde Lane, Kolkata – 73.
05. The Accounts Officer, West Bengal Secretariat
Writers' Buildings, Kolkata – 1.
06. The Accounts Officer, West Bengal Secretariat
Bikash Bhawan, Salt Lake, Kolkata – 91.
07. The Finance Department, Establishment cell
Government of West Bengal.
08. The Finance (Revenue) Department, Government of West Bengal.
09. The Co-operation Department, Government of West Bengal.
10. The Labour Department, Government of West Bengal.
11. The Excise Department, Government of West Bengal.
12. The Food & Supplies Department, Government of West Bengal.
11A, Mirza Galib Street, Kolkata – 87.
13. The P. & A. R. Department, Government of West Bengal.
14. The General Secretary, West Bengal Secretariat Service Association.
15. The President, Convention of State Service Association, West Bengal.

He is requested to kindly arrange circulation of this Memorandum to each of the eight State Services (Sl. No. 1 to 8) organisation at the earliest.

Sd/- Illegible

Deputy Secretary to the
Government of West Bengal
Finance Department

To
The Principal Secretary
Finance & Revenue Department
Government of West Bengal
Writer's Buildings, Kolkata - 700 001

8.12.08

Kind Attention : Sri Dipankar Mukhopadhyay, I.A.S.

Sir,

Sub : inadequate sanction of posts in scale no 19 and 21

At the outset we would like to express our sincere gratitude for the recent sanctioning of nine (09) additional posts in scale no 19 to the WBCTS vide G.O. no 9016-F, dated 01.12.08. However, apropos to our earlier correspondences regarding the inadequacy of the number of posts in scale no 19 and scale no 21 for managing a cadre as big as 1150 in WBCTS, we would also like to register our heartfelt resentment as the order not only falls well short of the administrative requirement, but also fails to address the vital issue of inter-services disparity in any way.

In the first place, the G.O. only mentions about the sanctioning of nine (09) additional posts in scale no. 19, without making any announcement with regards to scale no 21. If better governance is the primary reason for the increase in the number of posts in scale no 19, we fail to understand the silence of the Government in the matter of scale no 21, despite having similar reasons. It is indeed a matter of concern to realize that the government fails to appreciate the fact that the Directorate of Commercial Tax has expanded from a Rs.3000 crore (in 1996-97) revenue generating body to a Rs. 9000 crore revenue generating one (in 2007-08), without any matching increase in the strength of the senior-most post. By all counts therefore, the number of posts in scale no 21 should have at least increased to nine (09). This would also have gone a long way to alleviate the grievances as regards to the disparity that WBCTS faces vis-a-vis the WBCS (Exe) in scale no 21, about which we have already elaborated in our earlier correspondences.

Moreover, even with regards to the sanctioning of additional number of posts in scale no 19, the number falls far short of the desired quantum. The enhanced strength of 45 (Forty-five) scale no 19 holders in WBCTS would certainly go on to add some strength to the fast diversifying structure of revenue administration. But at the sametime it needs to be appreciated that under the present VAT regime, an entire gamut of specialized revenue managing and monitoring cells have become operative, that requires the positive contribution of senior, and experienced personnel. With the upcoming GST this requirement would increase manifold. Under these changing circumstances our suggestion of increasing the strength of scale no 19 in WBCTS to 89 would go a long way to augment revenue collection apart from alleviating the inter-services disparity.

Thanking You

Yours truly

Mousumi Chattaraj Choudhury
Secretary, CTDOA



To
The Principal Secretary
Finance & Revenue Department
Government of West Bengal
Writer's Buildings, Kolkata - 700 001

8.12.08

Kind Attention : Sri C. M. Bachhawat, I.A.S.

Sir,

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Thanking You

Yours truly

Mousumi Chattaraj Choudhury
Secretary, CTDOA

ক্যানভাস ◆ অক্টোবর-ডিসেম্বর ২০০৮

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Combating Racketeering : A Potential Threat in the VAT regime

Raktim Dutta

The essential mandate for e-Governance is to offer good governance through citizen-centric measures, where Government would increasingly adopt the role of facilitator. However, for revenue authority, such an incarnation needs to be supplemented by strong anti-evasion mechanism, so that perpetrators of economic offences are not given free hand to exploit the systemic lacunae, if any.

Generic categorization of evasion

The first kind is where the evader acts in total defiance of the system, brazenly takes up methods to flout rule of law and operate in clandestine manner. The stake, in these circumstances, is relatively high against the perpetrators. If caught by the authority, there is no escapade. They cannot take recourse to legal forum.

Thus, the second option, where the evasion is committed by exploiting the systemic lapses, gains preponderance. The offender further takes liberty of slack monitoring of authority, principally due to inadequate infrastructural and legal support and rigmroles of litigation. Racketeering falls in this category.

What is racketeering

It is an exercise of **providing statutory forms** either to facilitate transport of taxable goods (waybill) or for claiming concessional rates of taxes on transactions (declaration forms). This document is never utilized for the dealers' own trading, but is dealt in by other dealers whose identity would always remain unknown. It is seen that waybill racketeering, these days, have become very rampant.

Who are the Racketeers

They are merely registered dealers who do not have any tangible business of their own or have business unrelated to or not compatible to the nature of import done on the strength of waybills provided by them. They simply deal in waybill, as they provide this all-important document to facilitate movement of taxable goods into our state.

Territory of Operation

Quite expectedly, the important grazing ground for the racketeers is the checkpoints, like Duburdih, Chichira and Docks through which maximum import in the state is made.

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ক্যানভাস ◆ অক্টোবর-ডিসেম্বর ২০০৮

Quantum of evasion

Very conservative estimates indicate that direct evasion would go up to an annual figure of Rs. 125 – 150 crores¹. The figure is having a steady upward trend. But more importantly, in an insidious way, the practice is adversely affecting the morale of marginal but genuine dealers.

Genesis

We know that West Bengal is predominantly an importing state. Here exists a strong market with a sustained demand of various taxable items, while elsewhere lie the supply. The natural economic force would, in any way, drive goods into the state. The crux of the issue is to transport the goods in the state conforming the rule of the game. Any taxable goods entering the state need waybill to accompany. But at the same time, so many of the importers would not have waybill to bring in the goods. Either they might not be registered on one hand, or more importantly, they would prefer not to import goods under their own account! Rather they would look for facilitators to provide them the all-important document to ensure seamless movement of goods. This particular necessity had helped generate a type of operator, who essentially is a syndicate of transports and racketeers – a unique byproduct of the system - out to defeat skillfully the entire monitoring mechanism. Through this exercise, consignments of taxable goods, which otherwise are without valid documents, derives legality and very comfortably circumvent the multiple tiers of anti-evasion wing of the authority. The authority, it appears, knows that the racketeers operate, they thrive and what appears not known to them is how to contain the racketeers. So much so that these days, the racketeers are no longer challenged. Even the legal footholds, perhaps, are not strong enough to clinch battles in the Courts of Law.

Modus operandi

As portrayed in the preceding portion, racketeers simply provide waybills for safe passage of taxable goods into the state. The title of those goods and final destination are with the dealers who had actually paid for the goods. The pertaining invoices with which the vehicle had set off would accompany the goods till it reached the Bengal border. Here, depending on the number of consignees, the transporter would have to produce waybills per consignee to transport the consignments into the state. But in case he does not have the requisite waybills for each such consignee, the only viable way, where the stake would not be that high, is to procure a waybill from any such racketeer and prepare a fake invoice favouring the issuer of waybill as purported consignee and enlist the entire consignments

¹ Considering the worth of import through the related checkposts, proportion of likely incidence of such practice, extent of under-invoicing on an average, weighted-average of tax-rate reckoned.

of the taxable goods in that invoice. The checkpoint authority would preferably look for the all-important document, waybill for endorsement. There would not be a piece of item not covered under the said concocted transaction and the waybill !

Only a detailed physical checking of all such vehicles is going to unravel the tricks involved. Admittedly, this is not a feasible alternative, considering the vehicular pressure in checkposts like Duburdih. These forged invoices are made in such a cryptic manner that any subsequent attempt to cross-examine the invoices without the related goods, is likely to be an exercise in futility.

More interestingly, the racketeers, it is observed, are very particular about filing the quarterly returns, and also pay the due taxes (in terms of their own estimate). They also furnish statement of the business accounts whenever asked for and thus in essence, they generally abide by the provisions of taxation statute to the extent possible so that authority does not generally frown upon them.

Case Study I

A truck load of mixed taxable consignments were Intercepted by the anti-evasion wing, while it was entering in Kolkata. The goods have been brought from Delhi by transporter T. The taxable goods were accompanied with endorsed waybill, issued by consignee of Kolkata E, while the items are sold by consignor of Delhi C. The invoice contains every piece of the items being transported. There is apparently no flaw in the entire process !

But investigations threw up hosts of stunning findings that would catch one literally astounded. First, inquiry with the Delhi Sales Tax authorities revealed that there was no semblance of the stated consignor C in its declared place of business. Next, following a painstaking and sustained effort, the copy of the transit declaration (*behet*) of UP Sales Tax that the same vehicle had taken in course of its journey through that State could be obtained. And it was a thoroughly unmixed surprise.

The transit declaration of UP showed that the entire goods in the vehicle consisted of several consignments and accordingly having as many sets of consignor-consignee. The worth of each such consignment was separately quoted, followed by the cumulative figure for the entire goods (As per the statutory provisions of UP Sales Tax, the Checkpost officials examine the pertaining invoices of the consignments before countersigning the related transit declaration).

It was found that all those multiple consignments were framed as a single consignment, where a particular waybill provider (consignee E) becomes consignee and another fictitious dealer is framed as consignor and in this way an invoice is manufactured where the value of the same goods was brought down appreciably from its actual value, which was shown in the transit declaration of UP. Thus, apart from the apparent under-invoicing, the Checkpost officials have no clue that the entire transaction, as produced before them for endorsement of the accompanying waybill, is nothing but forged and fake.

It was also found that in two years period, the Consignee E had utilized as many as 2700 waybills to import taxable goods in the state. And in each waybill, on an average, Rs. 15000 to 20000 as tax had been evaded. To top it all, consignee E had been in business for the last 15 years.

The Arithmetic

The involved players operate on the basis of commission for the service their offer. At the same time, the actual importer (dealer) would not incline to pay any extra for the entire process, as he has to shell out the due taxes to the waybill provider also. No quarter is likely to budge from their own dues, except the hapless state revenue, which practically remains unguarded in the entire exercise. Therefore, the extra expenses incurred, had to be adjusted from the likely taxes that would arise out of the transaction. Since the invoice had already been forged to correlate it with the available waybill, tampering with value of the consignment remains merely a child's play. The values of goods are brought down to the extent so that the difference between tax on original value and that of reduced value is likely to accommodate the commission earning of the involved sectors. The racketeers would reduce their tax burden further by faking as consignment agents of the outstation non-existent consignors! Or would show exempted sales to almost unverifiable locations (like Arunachal Pradesh etc.) in his books of accounts.

Another variant

Not all racketeers would have pseudo-existence. The other prominent variant is, dealers who are engaged in trade of a particular commodity say, spices, locks, automobile parts, iron and steel, timber, marble etc but would provide waybill to import substantially more than what he actually deals in. This excess quantum is for other dealers, who have actually entered in the original transaction, but would like to remain behind the curtain. The authority never knows their identity. Here again revenue suffers, to provide for the commission earnings of the involved quarters. In the books of accounts, the waybill provider would show exempted fake sales to account for the excess import.

The likely impact on the system

As every involved players in this exercise of racketeering, elicits their commission, the revenue remains the worst sufferer. Once the invoice is being forged, not only the consignor-consignee is framed, but items are severely undervalued. Particularly, in cases of mixed consignments, unless the goods are physically checked, the extent of such under invoicing cannot be realistically gauged. As in those forged invoices, the quantities of items are given in very cryptic way with an attempt to escape vigil at subsequent stages. For example, hardware items, which are conventionally sold in pieces or pairs, would be given in kgs without specifying the dimension. It would render any subsequent attempt to verification simply futile.

Besides this direct impact on revenue, the practice, if indulged, is set to eat into the basic fabric of the Value added Taxation (VAT) system. Once the document is forged and the identity of importing consignee is not known, the incidence of tax for the entire subsequent value chain would simply fall through. The authority is going to get tax (of course at a much reduced rate!) from the provider of waybill (racketeer) only, but the actual traders would remain unidentified and predictably relax outside the tax net.

As we tend to take tolerant and non-interventionist approach towards racketeering, with the passing days, the exercise is simply gaining popularity across the board. Traders of various commodities, like spices, timber, marble, chemicals, lock, adhesive etc. are gradually getting into the foray; the mechanism is fast becoming the settled rule rather than remaining as exception. A twin advantage is driving them to such business. In the first place, provision of paying lesser tax (even after servicing the facilitators) and secondly the entire trade remaining outside the vigil of revenue authority. At the end of the day, the genuine trade practice is getting discouraged.

Beneficiaries

Every offence has got a motive. While, other players would settle for the commission earned in the process, it is the transporter who gains in terms of the volume of business. **Therefore, inquiry revealed, transporters are the main proponents of the syndicate in operation**, particularly in cases of mixed consignments. In many cases it is found that other entities are merely the pawns of transporter. **However, for any commodity specific trade like spices, timber etc, few registered dealers take the major role.**

Ways to combat

A. Reactive measure

- i) The fundamental aim would be to break the syndicate, primarily by weeding out spurious dealers (racketeers) and by bringing

the offending transporters to book. The present legal provisions are not strong enough to proceed for cancellation of registration, even when the racketeers are identified. The Court of Law had, time and again, observed that Sec 29 of the VAT Act is not stringent enough to restrict such wrong-doing.

Therefore, the cancellation provision u/s 29 of the Act should incorporate that ***in case dealers are found to be engaged in wrongful business or willfully submitting incorrect or/and false returns, his registration may be cancelled. Such registration may be revoked once the dealer makes good the amount evaded by way of submission of false returns.*** It would have sound legal standing, as Sec 93(7) mandates prosecution in case of commission of such an offence.

- ii) Special emphasis need to be given on doing inter-state and inter-departmental verification on a regular basis. It is precisely the want of such verification mechanism, is what the evaders are taking advantage of.

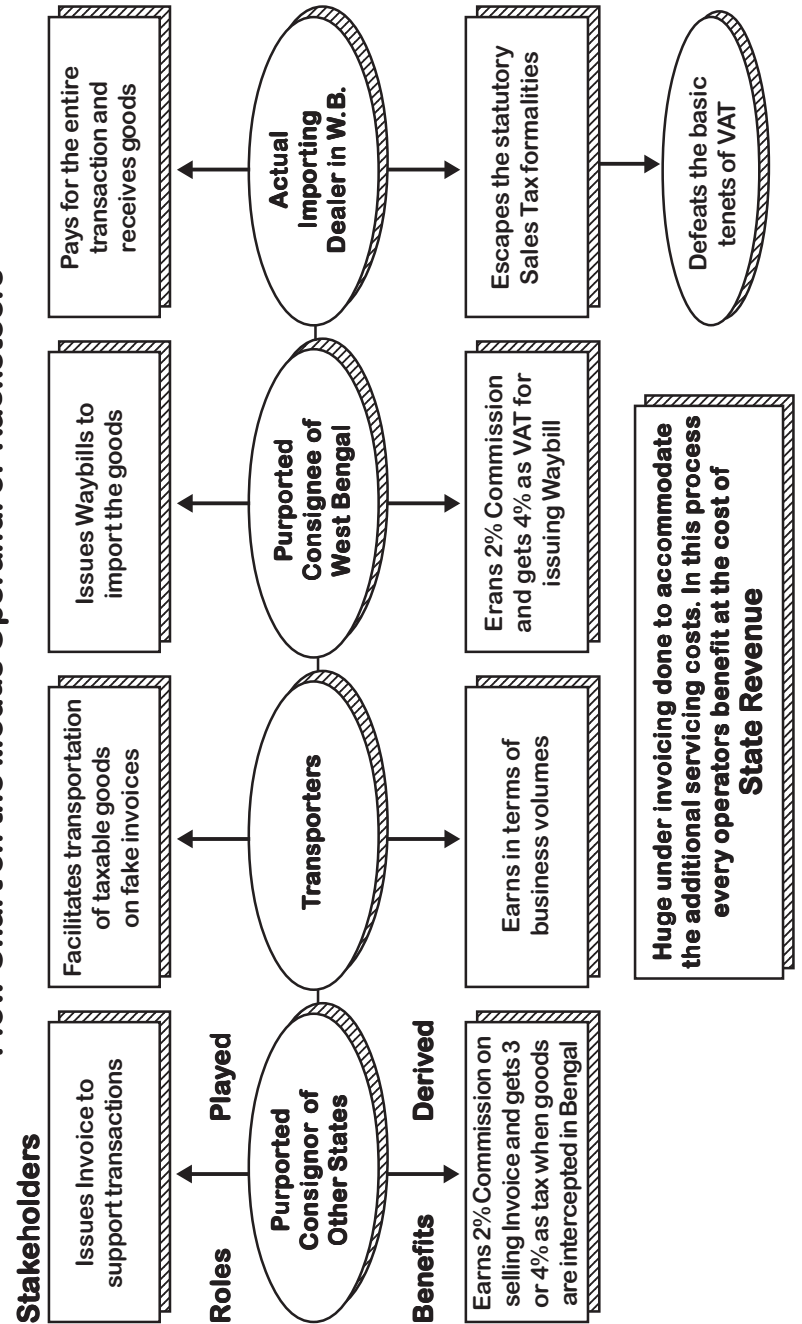
B. Proactive measure

- i) Bringing transporters and clearing agents under the fold of revenue authority is a very important parameter, in order to have sway over the evaders. They are the principal facilitators, and in case of commodity taxation, a crucial stakeholders too, for the revenue authority. Though legal provision enjoins transporters to take enrolment, very few have taken it and more importantly, no veritable database exists with the authority. The offending transporters literally outwit the authority simply by changing trade names when identified.

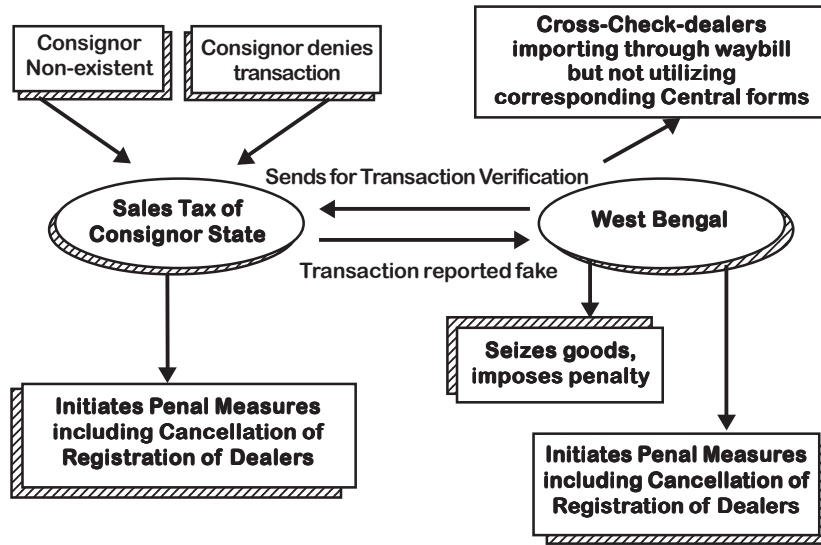
Thus, alike tax-payers under Profession Tax and VAT Act, an electronically maintained, comprehensive database needs to be prepared for the transporters and clearing agents too. Transporters compliance to be monitored by anti-evasion wing like Range and Central Section. The process can be carried out, as the Ranges are going to be connected in the next phase of WAN.

- ii) The racketeers, though engaged in inter-state transactions, invoking concessional rates of tax, do never utilize statutory forms under the CST Act. We may contemplate creating electronic cross-checking system, by way of utilization of Central forms by these racketeers, before issuing them subsequent waybills.

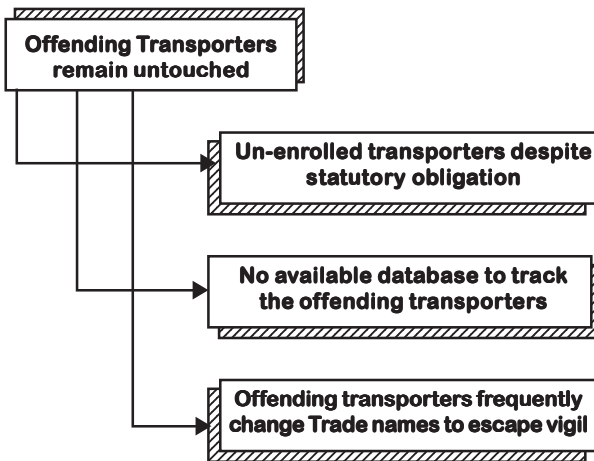
Flow Chart on the Modus Operandi of Racketeers



Preventive Measures



Grey Areas



The financial markets across the globe are in the jitter. This mayhem with full blown credit crisis is primarily triggered by sub-prime mortgage meltdown in the US and is now threatening to engulf the whole world. Is the world facing the threat of returning the Great Depression ?

The Federal Reserve's (America's central bank) easy money policy created huge demand for housing. The housing market boomed and everyone wanted to own a property. A person with unstable income or low creditworthiness (sub-prime borrower) having failed to meet the stringent requirements set by banks for availing loans, went to financial institution (FI) for housing loan. Sensing the eye-propping return, the FIs with sound credit ratings stepped into mortgage financing market and borrowed fund from banks. The borrowed funds then distributed among the sub-prime borrowers at a rate much higher than the market rate. The FIs then without waiting for repayment from the retail borrowers bundled and converted these sub-prime loans into financial securities which carry a certain rate of interest. This is called securitization. The FIs then recouped the money by selling the securities to institutional investors and cleared the loans taken from the banks. These institutional investors include hedge funds, insurance companies and foreign banks. ICICI Bank has a huge exposure in the mortgage backed securities. In the process, the EMIs & collateral mortgages were transferred to the institutional investors. The FIs then took fresh money from the banks and extended loans to newer sub-prime borrowers and the party went on with property prices skyrocketing.

In July '07, the US housing prices came crashing because of interest rate hardening (interest rate rose almost ten fold within two years from 2004 to 2006). This causes widespread defaults, primarily by sub-prime home loan borrowers. Institutions those extended loans to sub-prime borrowers are failing to manage risk and unable to service debts taken from banks. On the other hand, those who subscribed to the securities issued by FIs, are hit the most as the debts turned bad and mortgage backed assets proved worthless. The net worth of the institutions is wiped out. Realty sectors are struck with huge unsold property stocks and unable to repay the loans taken for constructions of the properties. Suddenly the virtuous cycle (i.e. higher sales, soaring property prices) turned vicious. Of course sub-prime crisis alone could not have caused such mayhem, although it is to blame for the beginning of the end.

This crisis is spreading from sub-prime to prime mortgages, home equity loans, to commercial real estate, to unsecured consumer credit (credit cards, student loans, auto loans), to leveraged loans that financed reckless debt-laden leveraged buy outs, to municipal bonds, to industrial and commercial loans, to corporate bonds, to the derivative markets whose risk are indeterminate, etc. All the asset classes are sinking and the money is flowing into safe Govt treasury. The flight to safety saw the 3 month US Treasury bill yields fall to an absurd 0.02%, last seen in the early 50s. The spread between investment grade & speculative grade papers is widened to a level last seen in 1933.

It has been a total systemic failure that has its roots in the US real estate and the sub-prime loan market. The world's largest financial companies have posted more than \$ 635 billion in write-downs and credit losses since the sub-prime crisis broke out. Bear Stearns, one of the most revered America's financial institutions, has gone bust last March. US Govt. has to step in to rescue Freddie Mac & Fannie Mae to avert larger financial debacle. Merrill Lynch, another financial behemoth, is sold to Bank of America for a song. Lehman Brothers Holding Inc, 158 year old and 4th largest investment bank in America with \$613 billion debt filed for bankruptcy in September. American International Group (AIG), the largest US insurer, has been taken control by the US Govt. through a bail out package costing \$ 85 billion. Rumors are rampant around that going down of several hundreds of US Banks is imminent.

American President Mr. George Bush has said that the US is in the midst of serious financial crisis as market is not functioning properly. He added that there has been a widespread loss of confidence and major sectors of America's financial system are at the risk of shutting down. The US government has placed a \$ 700 billion bailout package to instill confidence among investors and to tide over the crisis. Following the Freddie Mac & Fannie Mae debacle, the analysts are eyeing at derivatives. Most at risk are credit default swaps (CDS), an insurance against corporate bond and loan default. The CDS premiums are soaring to record levels raising fears that the crisis will force many businesses to go under. The CDS market is believed to be in the size of a staggering \$ 62 trillion, four times the GDP of the US (the US GDP is in the order of \$15 trillion while China's & India's GDPs are 3 & 1 trillion US dollars respectively-1 trillion US dollar means 50 lakh crore of rupees). The rescue package of \$ 700 billion christened as Troubled Asset Relief Programme (TARP), announced by the US government, appears to be not enough to stem the rot. In such a scenario, the crisis will deepen and keep worsening the economy across the globe. As the credit crisis has crossed the Atlantic and hit Europe, the claims of European model with heavier government regulation being

superior to American model sound hollow. The European financial markets are freezing up like American ones. A host of European banks are rescued by their respective governments. Dexia, the world's biggest lender to the local government has been rescued for a whopping 604 billion euro. Iceland, a small European country, having one of the highest per capita incomes in the world is on the brink of becoming the first national bankruptcy of the global financial meltdown. Kaupthing, Iceland's largest bank has been rescued by the government by extending \$680 million loan. Argentina, a Latin American country, is on the brink of default. The Argentine government has announced the plan to seize \$29 billion of pension funds to service its debt obligations. The crisis is fast spreading across the countries and more and more unpleasant events will keep on unfolding. The worst ever credit crisis is yet to scale its peak. A major recession seems unavoidable and the world is on the threshold of seeing the rerun of the Great Depression.

Japan and some European countries are suffering from negative growth since June quarter. The US is believed to be slipped into recession from September quarter. The British economy is teetering on the brink of recession. European Central Bank (ECB), Bank of England (BOE), Bank of Japan (BOJ) and the other central banks are re-hydrating their economies by way of rate cuts and cash infusion in a coordinated way to keep their credit lines lubricated and to prevent the widening crisis from tipping the global economy into prolonged recession. The meltdown of stock markets saw the collapse of nearly 70 hedge funds in Asia. All the emerging markets are slowing down and emerging economy companies will face severe problems in rolling over \$111 billion of debt falling due over the next year as any recession is associated with high degree of default on corporate bonds. Extreme pessimism is gripping the global economy. So, the greatest financial crisis since the great depression of 1930s is looming large. As the man-made tsunami rips through the world of finance, altering the landscape for ever, efforts are on to figure out the contour of the new order.

Back home in India, stock market is plummeting in sync with the global markets. The decoupling theory - a concept that believes that emerging economy, e.g., India, will thrive even if the US enters into a recession- is not working as our economy is inextricably linked to the US economy. Any weakness in the US economy will have a direct bearing on Indian economy. According to Mr. Marc Faber, recession in the US economy shall spell disaster for Asian economy. Fiscal deficit is ballooning and it is expected to surpass budgetary estimate quite handsomely. Trade deficit (it is the balance of export and import of merchandise) for April-August 08 is at \$49.14 billion compared to \$34.54 billion during the corresponding period last year and expected to cross \$100 billion in the current fiscal. Trade deficit is largely financed by remittances, investments and service exports

(invisibles). If aggregate of such incomes eclipses trade deficit, we see current account surplus and if incomes fall below, we get the current account deficit. The current account deficit (CAD) for the June quarter stands at \$10.70 billion, the highest since 1990. As more and more financial institutions have gone bust in the western world, our service sector industries are facing with the diminishing orders and the services export growth is tapering off. Our IT solution companies are quivering as they derive almost 40% of their revenues from BFSI (banking, financial services & insurance) sectors in US who are tottering. Besides BFSI companies, every other companies across sectors are pruning their IT budgets. Layoff fear runs high among IT firms. The foreign institutional investors (FII) are faced with severe liquidity crunch in their home countries and are liquidating whatever assets they have in India and repatriating the proceeds. Instead of investments we are witnessing flight of capital from India. India received \$110 billion of foreign investments in the fiscal 2007-2008. The aggregate of net foreign inflows stands at a paltry \$5 billion for the first five months in the current fiscal. Rupee is losing its sheen and crashing to multiyear low against a basket of major currencies. CAD is expanding alarmingly and looks worrisome. Our export sectors are struggling hard to secure orders as the US consumers are closing their wallets. Exporters with heavy forex derivative exposure also hit hard by the volatility in the currency market. Dwindling consumer goods exports will aggravate the situation. Job destruction in several sectors cannot be ruled out. Credit-funded consumption led Indian economy is hit by liquidity crunch. Inter bank call money rate shoots through the roof and scaled 23% a few weeks ago. ICICI Bank, the second largest bank in India by asset size, announced in last March a mark-to-market (MTM) loss of \$ 263 million in overseas credit derivative market. The same bank is reported to take a hit of \$ 28 million on Lehman Brothers fall. The Axis Bank has booked \$ 2 million loss on Lehman collapse. We are now struck in a vicious loop where the credit crisis is spreading its wings from financial sector to the real economy. The biggest problem we are now facing is the exchange rate issue in the currency market. Rupee is continued to be getting hammered and has fallen over 21% against Dollar so far this year, being the second worst-performing Asian currency. At the time of writing (in the last week of October) rupee breaches the 50-mark against the US dollar. Easing of external borrowing norms and heavy intervention by RBI in the forex market to stem the rupee slide goes in vein. But any intervention by RBI by way of dollar sale will suck out liquidity which the RBI cannot afford at this stage. Companies with foreign currency loans and FCCB outstanding are in for a rude shock as they have to fork out extra rupee to service the redemption obligation. We are now bewilderingly close to the slowest growth year of the decade. To avert the impending credit & liquidity crisis, the RBI in an

unprecedented move slashes cash reserve ratio (CRR) by 2.5% in three stages in seven days and thereby releases in excess of one lac crore of rupees into the banking system. The Repo rate (the rate at which banks borrow from RBI) is also cut by 100 basis points at one stroke. Prime Minister holds unscheduled & emergency meeting with bankers for tackling the credit crisis. All round slowdown is being witnessed. Driven by steep fall in manufacturing activity, index of industrial productions (IIP) is plunged abysmally to a 10-year low of 1.3% in August compared with 10.9% in August last year. Growth in cement production fell to a 24-month low of 3.3% in August' 08 compared with 17.3% a year ago. Demand slump prompts steel industry to cut output. Although Excise Duty grew 2.30% to Rs.46,122 crore for the first half in the current fiscal but it faltered in September when the collection declined by 3.80% (from Rs.10,186 crore in September'07 to Rs.9,800 crore in Sep'08). The stupendous growth rate of Service Tax in the last few years appears to have vanished. The Service Tax expanded only 13.10% in August, much lower than the cumulative growth of 25.90% recorded in the April-August 2008. Sales Tax in our state for the period Apr-Aug'08 swells by 16.75% compared with the corresponding period last year. This is superlative performance by any standard. But given the macro-economic conditions it will be extremely difficult to keep the growth rate steady as consumption and investment, the principal drivers of our economy, are faltering and commodity prices nose-diving. In view of the situation, policy makers may consider to prune the exempted list of commodities to bolster the revenue.

ক্যানভাসের বিগত সংখ্যায় আমরা দেখিয়েছিলাম কিভাবে **Special Pay**-কে কেন্দ্র করে রাজ্য সরকারের বৈষম্য নীতি সর্বসাধারণের কাছে ত্র(মশঃ প্রকাশ হয়ে পড়ছে। প্রথমে **BDO/SDO** সাহেবদের জন্য বিশেষভাৱে, তারপর ব্যক্তিগত টেলিফোন। গত ১৯শে আগস্ট, বিশেষ সরকারি নির্দেশিকা — **5822/1(130)-F** অনুযায়ী ১লা সেপ্টেম্বর থেকে **WBCS(Exe)** সার্ভিসে কর্মরত ১৮ নম্বর স্কেল উপভোগকারি সব উপসচিবরা তাদের ব্যক্তিগত টেলিফোনের খরচা বাবদ দু'মাস অন্তর ৬০০ পাবেন। শুধু শর্ত হল টেলিফোনটি **BSNL** বা **VSNL** হতে হবে আর খরচের উর্দ্বসীমা ছ'শো টাকার বেশী হওয়া চলবে না।

আপনাদের স্মরণ করিয়ে দিই যে, গত ১৬ই ফেব্রুয়ারী **Joint Convention of State Services**-এর বার্ষিক সভায় উপস্থিত হয়ে স্বয়ং অর্থমন্ত্রী অসীম দাশগুপ্ত নিজে এ কথা ঘোষণা করেন যে শীঘ্রই আধিকারিকদের ব্যক্তিগত টেলিফোনের খরচ সরকার দেবেন। স্বভাবতঃই কনভেনশন-এর সদস্যরা আশ্চর্য হয়েছিলেন যে আধুনিক শাসন ব্যবস্থায় অফিসের নির্ধারিত সময়সীমার বাইরেও যে আধিকারিকদের বিভিন্ন প্রয়োজনে ব্যক্তিগত টেলিফোন প্রায়ই ব্যবহার করতে হয়, তা সরকার উপলব্ধি করেছেন। কিন্তু ১৯-এ আগস্টের নির্দেশিকা আমাদের সকলকে হতাশ করেছে।

এই নির্দেশিকা থেকে এ কথা পরিষ্কার যে সরকার এক কদর্য বিভাজনের খেলায় নেমেছেন। তারা চাইছেন **Constituted State Service**-গুলির মধ্যে একটিকে বিশেষ বিশেষ সুযোগ সুবিধা দিয়ে বশ করবেন আর বাকিদের পাহাড় প্রমাণ বঞ্চনায় নিঃ প করবেন। কিন্তু সরকার একটা সহজ কথা ভুলে যাচ্ছেন যে, এই বৈষম্য যতো বাড়বে তিক ততোটাই প্রশাসনের সার্বিক অবনতি হতে বাধ্য। কারণ প্রশাসন শুধু **WBCS(Exe)**-দের নিয়ে নয়। অন্যান্য স্টেট সার্ভিসগুলির অসহযোগিতায় প্রশাসন মুখ থুবড়ে পড়তে বাধ্য। আর একই পরী(া (**WBCS**) দিয়ে অপে(াকৃত ভালো ফল করেও যদি কোনও সার্ভিস বঞ্চনার শিকার হয় তাহলে অসন্তোষ দানা বাধাই স্বাভাবিক। এই অসন্তোষের কথা জানিয়ে আমরা গত ১২ই সেপ্টেম্বর অর্থমন্ত্রীকে চিঠি দিই (পরিশিষ্ট-১) এবং আমাদের (ে(াভের কথা ব্যক্ত(করি। বলা বাহুল্য যে, **Special Pay** এবং **Personal landline telephone bill reimbursement**-এই দুটি সুবিধা অবিলম্বে বিত্র(য় কর দপ্তরের আধিকারিকদের জন্য বরাদ্দ না হলে আমাদের বৃহত্তর আন্দোলনের পথে পা বাড়তে হবে।

To
The M.I.C. Finance
Writers' Buildings, Kolkata - 700 001

Kind attention : Dr. Asim Dasgupta
(Through CCT/WB)

Sir,

This is to draw your kind attention to the announcement you had made regarding the sanction of allowance on personal landline telephone bills incurred, uniformly to all officers recruited under the WBCS & Allied Services, as per rank and pay scale. Kindly recall that this facility was announced at the Annual General Meeting of Joint Convention of State Service Associations, held on 16th February, 2008 and that this facility was agreed upon for immediate sanction.

In consonance with that announcement, this facility has already been granted to the members of WBCS (Exe), on 19.08.08 [ref. No. 5822/1(130)-F], from the rank of Dy. Secretary onwards, in isolation. As a service of co-equal status and pay scale, this certainly means a discrimination for us.

Moreover, in this age of revolutionary development of communication technology, office works are not limited only to desks. In the interest of administration, we do perform many functions from our residences, through our personal telephone. In such a situation extension of the same facility of reimbursing the cost of personal BSNL landline telephone bills, with the maximum limit of Rs. 600/= bimonthly., should be extended to the West Bengal Commercial Tax Service immediately in the interest of public service.

Thanking You,

Your's truly

Mousumi Chattaraj Choudhury
Secretary, CTDOA

C.C. Sri Dipankar Muldierjee, IAS,
Principal Secretary, Finance, Govt. of W.B.
Sri C.M. Bachwat, IAS
Principal Secretary, Revenue, Govt. of W.B.

বেতন কমিশনের কাছে স্মারকলিপি

গত ১৪ই নভেম্বর পঞ্চম বেতন কমিশনের কাছে পেশ করা হল CTDOA-এর দাবি দেওয়া সম্মিলিত স্মারকলিপি। পঞ্চাশ পৃষ্ঠার এই স্মারকলিপিতে বেতন বৃদ্ধির দাবি ছাড়াও চাওয়া হয়েছে সানিটি নতুন ভাষা এবং প্রচলিত পাঁচটি ভাষার বর্ধিত হার। রাজ্য অর্থনীতির সতত পরিবর্তনশীল প্রেক্ষাপটকে মাথায় রেখে **West Bengal Commercial Tax Service**-এর কঠামোগত কিছু পরিবর্তনের প্রস্তাবনাও রাখা হয়েছে এই স্মারকলিপিতে। মাস দেড়েকের অক্লান্ত পরিশ্রমের মধ্যে দিয়ে তৈরী এই বিশেষ স্মারকলিপি এক কথায় আমাদের যাবতীয় সার্ভিস-সংক্রান্ত আশা-আকাঙ্ক্ষা (১৫ সন্মক প্রত্যাশা)। **CANVAS**-এর এই সংখ্যায় আমরা তাই এই স্মারকলিপির **Summary** অংশটি প্রকাশিত করলাম এ্যাসোসিয়েশনের সকল সদস্যের কাছে, যাতে তারা তাদের সুচিন্তিত মতামত আমাদের দপ্তরে পৌঁছে দিতে পারেন। আপনার মতামত পাঠাতে পারেন লিখে অথবা আমাদের **Website – ctdoa.org**-তে **Fifth Pay Commission/Comments** কলামে।

বেতন কমিশনের এই স্মারকলিপি প্রস্তুত করায় যাদের নাম না করলেই নয় তারা হলেন — সপ্তর্ষি রায়, রঞ্জিত ম দত্ত, সৌমেন গায়েন, সৌভিক দত্ত, শৈবাল সাহা, সুশান্ত কুমার বিদ্যাস, খালেদ আইজাজ আনোয়ার, অনিন্দ মিত্র, মাণিকলাল মৈত্র, তাপস দেব, নিশীথ চক্রবর্তী, রাজশেখর বন্দ্যোপাধ্যায়, বুদ্ধদেব চট্টোপাধ্যায় এবং অবশ্যই শ্রী উমাশঙ্কর ঘোষ ও আমি মৌসুমী চট্টরাজ চৌধুরী।

BRIEF SYNOPSIS OF SALIENT POINTS

COMMERCIAL TAXES DIRECTORATE OFFICERS' ASSOCIATION (C.T.D.O.A) represents officers directly recruited to the **West Bengal Commercial Tax Service (W.B.C.T.S.)** through the combined West Bengal Civil Service (W.B.C.S) Examination, Group A, and are required to work in the **Directorate of Commercial Taxes** and elsewhere. Members of the association include officers in different tiers starting from Commercial Tax Officer in existing scale no. 16 to Special Commissioner in existing Scale 21.

↓ The members of C.T.D.O.A play a pivotal role in mobilization of resources of the Government of West Bengal as they are entrusted with the job of collecting State Sales Tax, Central Sales Tax, Value Added Tax (VAT), Profession Tax, Coal Cess and Cess on Petrol, Diesel for Infrastructure Development Fund that together account for well in excess of Sixty percent of state's own tax revenue.

↓ However, with the onset of tax reform, advent of new technology, arrival of novel marketing strategies, the challenges of revenue collection are steeply on the rise. There has been a paradigm shift in the approach towards revenue monitoring. The erstwhile system of physical control is fast giving way to intelligence-based surveillance. A tax officer is required to be more cerebral and analytical than ever before. It is imperative that the very best talents join the service and strengthen the revenue mobilization effort, which is so important for the State to prosper and enable it to deliver welfare services to its people.

↓ The Directorate of Commercial Taxes is an organization with rapidly expanding base. Only a little more than a couple of years back it has shifted to a multi-point Value Added Tax system from the erstwhile single point Sales Tax regime. Within the next two years it is going to greet a change of even bigger magnitude in the form of **Goods and Service Tax (GST)**. The deadline to introduce GST has been set at 1st. April 2010 and this is billed as the biggest ever indirect tax reform in independent India.

↓ As the Directorate of Commercial Taxes is poised for a big leap, it needs a major overhauling of its administrative setup.

↓ Present Structure of Pay :

Scale no.	Scale of pay (Rs.)	Name of the post	Time required to attain it
16	8000-275-13500	CTO	On joining WBCTS
17	10000-325-15200	CTO	After 8 Years
17	10000-325-15200	ACCT	<i>Depends on vacancy. Usually after 14-15 yrs.</i>
18	12000-375-18000	ACCT	After 16 years
18	12000-375-18000	DCCT	<i>Depends on vacancy. Usually after 26-27 yrs.</i>
19	14300-420-18300	Addl. CCT	<i>Depends on vacancy. Most of the officers do not reach this level.</i>
21	18400-500-22400	Special CCT	<i>Only 2 posts. Very few officers can reach here.</i>

In the lines of order passed with regard to other state services, the Government had recently declared introduction of Scale Linked Designation in WBCTS vide G.O. No. 585 F.T dated 4.4.08. The scheme is to be implemented, as soon as the procedural formalities including amendment of VAT Rules are completed. After full implementation of Scale Linked Designation in WBCTS, the situation will change to –

Table – VI

Scale no.	Scale of pay (Rs.)	Name of the post	Time required to attain it
16	8000-275-13500	CTO	On joining WBCTS
17	10000-325-15200	DCCT	After 8 Years
18	12000-375-18000	Joint CCT	After 16 years
18	12000-375-18000	Sr. Joint CCT	After 24 years
19	14300-420-18300	Addl. CCT	<i>Depends on vacancy. Most of the officers do not reach this level.</i>
21	18400-500-22400	Special CCT	<i>Only two posts. Very few officers can reach here.</i>

- ↓ **Present Promotion Policy** : At present there are two promotional avenue to members of W.B.C.T.S. - (1) Promotion to the post of Special Commissioner and (2) Promotion to I.A.S.
- ↓ The number of post of Special Commissioner is only two. So, the scope for promotion to the post of Special Commissioner is extremely narrow.
- ↓ **Promotion to I.A.S.** In West Bengal the WBCS (Executive) is recognized as the only State Civil Service (SCS) and WBCTS is considered a non- State Civil Service (non-SCS) for the purposes of promotion to IAS. 85% of the total number of posts filled in by way of promotion and selection occupied by the members of WBCS (Executive) service and members of WBCTS are made to share the remaining 15% posts with all other remaining constituent state services. As a result, the scope for promotion to I.A.S from W.B.C.T.S. is extremely limited at present. In fact at present, there is not a single serving member in the IAS who has been promoted from WBCTS.

- ↓ We demand immediate end to this irrational and prejudicial interpretation of State Civil Service (SCS) and demand recognition of WBCTS as a State Civil Service (SCS) for the purpose of promotion to IAS which accounts for the lion's share of state revenue.

INTER-SERVICE DISPARITY : Inadequate number of higher posts and lack of opportunities of promotion to IAS leads to another major irritant – **inter-service disparity**, particularly vis-a-vis the WBCS (Executive). A comparative summary in terms of the number of higher posts in absolute number as well as a percentage of their respective cadre strength will give a clear picture about the extent of discrimination.

Table – VII

	WBCS (Exe)	WBCST
Cadre Strength	1767	1150
No of posts in scale 19	137	36
No of posts in scale 19 as percentage of cadre strength	7.75	3.13
No of posts in scale 21	13	02
No of posts in scale 21 as percentage of cadre strength	0.74	0.17
Present no of officers promoted to IAS	63	0
Total no of higher posts beyond C-A-5	213	38
Percentage of higher posts to cadre strength	12.05	3.30

The source of recruitment of WBCTS and WBCS (Executive) is the same and many members join the former as a matter of choice and not as result of compulsion. Most of the officers who have decided to join WBCTS could have also opted for WBCS (Exe) service. So any subsequent discrimination in career opportunities leads to simmering resentment in the rank and file of WBCTS.

We urge upon the Commission to eliminate all discrimination and restore parity in matters of pay and career opportunities.

SUGGESTIONS FOR CHANGE :

- ↓ The name of the service is proposed to be changed from West Bengal Commercial Tax Service (WBCTS) to **West Bengal Civil Service (Revenue)** [see para 5.9]

- ↓ Immediate creation of a Five member **State Board Of Commercial Taxes (SBCT)**, comprising of The Chief Commissioner (as Chairman), and Four Commissioners of Commercial Taxes (as Members) – [see Para 3.3, 3.4, and 3.5.]
- ↓ Integrated Service should be extended to the post of Commissioner and Special Commissioner Commercial Taxes, [see para 5.10]
- ↓ Assured Career Advancement Scheme should start from Junior Time Scale and extended up to Super Time Scale within a span of 16 years (preferably in a 4-9-13-16 format) from the date of joining (see para 5.8).
- ↓ Creation of 51 posts in the rank of Special Commissioner Commercial Taxes is proposed and the functional requirement is shown in table X (pages 25 to 27)
- ↓ Creation of 10 posts of Commissioner of Commercial Taxes is proposed and functional responsibility is shown in table IX (page 25)
- ↓ The restructured WBCS(Revenue) [previously W.S.C.T.S] should comprise of the following posts – Assistant Commissioner, Deputy Commissioner, Joint Commissioner, Senior Joint Commissioner, Special Commissioner and Commissioner of Commercial Taxes in the following pay scales –

Time period/ no. of posts	Pay Band (Rs)	Grade Pay (Rs)	DESIGNATION
On Joining	15600-39100	5400	Assistant Commissioner
After 4 Years	15600-39100	6600 + two increments	Deputy Commissioner
After 9 Years	15600-39100	7600 + two increments	Joint Commissioner
After 13 Years	15600-39100	8700 + two increments	Sr. Joint Commissioner
After 16 Years	37400-67000	10000	Additional Commissioner
Fixed no of posts 51	37400-67000	11000	Special Commissioner
no of posts 10	37400-67000	12000	Commissioner

Increment should @ 4% of basic pay (including grade pay)

At present there is hardly any scope for deputation posting outside the Directorate of Commercial Taxes, in the interest of state revenue as well as to promote industrialization in the state, we propose that officers in the rank of Additional Commissioner of the Directorate of Commercial Taxes be

deputed to such departments as **Municipal Affairs, Panchayat and Rural Development, PHE, PWD, Irrigation, Commerce and Industry**(page 29).

↓ The recommendations of the Fifth Pay Commission should come into effect from 01,01.2006 (see para 5.12).

↓ Introduction of some new allowances as under

a) Special Allowance

A Special Allowance has been sanctioned selectively to one service, denying the same to many others, despite fulfilling the same criterion. We demand the same for all members of the WBCTS for performing a job of very special nature (see para 6.4 to 6.6)

b) Special Pay for the State Representative

Despite the rejection of the proposal for Special Pay to the State Representatives, we feel the need for re-emphasis, as the job of the SRs are certainly special and exclusive in nature, demanding legal skills of very high order to match the best legal and accounting brains. Contrary to the wrong notions, an SR's scope of work extends beyond the ambit of his regular activity (see para. 6.7 to 6.11)

c) Sumptuary Allowance

The job of the WBCTS officer requires constant interaction with executives from the business community who need to be hosted with a certain level of dignity. It is only too reasonable to demand a sumptuary allowance to meet these day-to-day expenditures of tea/coffee, in the interest of state revenue (see para 6.8 to 6.12)

d) Conveyance Allowance

Considering the nature of the job that necessitates that all quasi-judicial officers maintain a distance from all litigants and lawyers, while traveling to and fro from work, for safety and other reasons, a conveyance allowance of Rs. 3500/- is proposed. This proposition has already been accepted by the Central Pay Commission (see para 6.24 to 6.29).

e) Transfer Relocation allowance

Considering the fact that a WBCTS officer is transferred a number of times in his career and has to get settled in those places of work along with all the logistical support, he must be supported by a Transfer Relocation allowance (see para 6.39 and 6.40)

f) Robe Allowance

The job of the Departmental Representative and State Representative requires a certain dress code, including attires that are recommended by the court of law. For maintaining the standards of attire a Robe Allowance of Rs. 12000/- is proposed (see para 6.41 and 6.42)

g) Personal Telephone re-imburement

In consonance with the G.O regarding the re-irnburement of telephone bills from the rank of Dy. Secretary and above, the same should be extended to the DCCTs and above (see para 6.32).

h) Concurrent/ Additional Charge Allowance

A WBCTS officer often has to bear the additional responsibility of a fellow officer's job for days and months, when the later is on leave. This additional work-load needs to be compensated with additional pay in the form of Concurrent/Additional Charge Allowance (see para 6.34 and 6.35).

i) Allowance for Law books and Periodicals

A WBCTS officer constantly needs to consult law hooks and law journals for which an annual grant of Rs.6000/- is proposed (see para 6.39 and 6.40).

j) Training in Professional courses.

A WBCTS officer should constantly upgrade his knowledge of law and personnel management to be in tune with the changing trends of revenue administration (see para 6.36 to 6.38).

↓ Changes in existing allowances

- Increase in House Rent allowance from 15% to 30% without any upper limit (see para 6.16 to 6.19).
- Disbursement of Dearness Allowance at par with the recommendations of 6th Central Pay Commission (see 6.0 to 6.30).
- Introduction of cashless Insurance scheme covering life, health and accident benefits instead of Medical Allowance (see para 6.22).
- Extension of Leave Travel Concession and Home Travel Concession to once in a year (see para 6,20).
- A personal BSNL landline telephone bill reimbursement of Rs. 600/- every two months should be extended to the officers of WBCTS from the rank of DCCT onwards (see para 6.32).

↓ Retirement age should be extended to 62 years (see para 7.0)

↓ Interest rate on Provident Fund should be hiked to at least 10% (see para 7.2)

↓ Full pension eligibility should be brought down to 30 years of service instead of 33 years (see para 7.3).

↓ Leave Encashment limit should be extended from the present 300 days to 500 days (see para 7.4).

↓ The upper limit of Gratuity should be scrapped, (see para 7.5).

Truth may be stranger than fiction, but advertisements are not. They are fiction, but in fact a notch higher than truth. If that is so, then take note of a host of active and self-confident elderly characters, playing important roles in advertisements of wall clocks, medicines, clothings and even diamonds. It wouldn't perhaps be an overstatement to say that these advertisements, rather silently, portray the changing face of the post-retirement life of Indians.

Only 25 to 30 years ago a well-placed salaried person, at the end of his service life, would have preferred to move over to an idyllic semi-rural setting, trying to come to terms with the self-imposed reclusiveness. He would then gladly devote himself to time consuming preoccupations like gardening, reading, meditating or simply gossiping. And for all the young ones in the family, he would be the 'grouchy old fela', who kept a hawkish eye on any moral misdemeanours. This scenario has altered beyond recognition. Today, he continues to be very much a part of active family life. And in order to retain his position of prominence as before, he is promptly getting re-employed, instead of entirely depending on a paltry pension, and giving all necessary attention to health.

That, post-retirement do-nothing is a distant nightmare is aptly exemplified by the change in the attitude of younger age-group people vis-a-vis their elderly and retired family members. Hyperactive elderly or aged people are rapidly becoming easily identifiable characters in Indian Middleclass society; so much so, that they are found to be widely sought after models for market-stimulation. This is literally personified by the come back of Amitabh Bacchanas the tallest and most sought-after brand identity.

So, how did all this happen? Acquaintance with western life-styles was certainly an eye-opener. Western movies, western journals, and last but not the least, western paperback fictions giving a kaleidoscopic view, showed us how life can still be full of vigour even after retirement. But then there were other reasons too. The sheer economics had much to do in this change. The fact that the post-independence urban populace did not have large landed property to fall back upon, and the rising unemployment keeping many of their adult offspring away from jobs, made many retired people to remain on the job-hunt only to maintain the same living standard of their families. Hence many senior citizens despite being disinclined to work, after retirement, actually went on to work. And if some did out of compulsion, many others did by choice.

Apart from this financial compulsion , change in the life-expectancy also played a major role. The fact that the average life-span of an urban middleclass Indian went up from approximately 50 years in 1951-1961 to 70 years in 1991-2001, also made these people psychologically much younger. While a 55year old person in 1951-1961 thought that he had outlived himself long ago, his counterpart in 1991-2001 thinks that he has fifteen more years of his life to be enjoyed. And of course there were the improved medicines that increased their vitality and immense lust for life.

So. What then are the tangible gains from this transformation? Yes. there has been an optimum utilization of available human resources which can make any nation proud of. But in a surplus-labour economy like ours it also implies that a potential job-hunter would be kept waiting in the wings which means an under-utilization of available, perhaps a qualitatively better human resource. And in any scale of comparison this is a loss. To put it rather bluntly, we are now confronted with a situation where we have an energetic horde of twenty-plus, educated , white-collar job-seekers, whose potential have to be wasted in order to accommodate a re-energized sixty-plus white-collar work-force . And there lies the paradox.

If this threatens to haunt us till that time when India becomes a job-surplus economy, there is another closely related paradox. The effort versus output ratio is certain to take a nosedive in such an eventuality, because as we know. human productivity drops sharply after the age of sixty And any country having a predominantly over-age work-force would sooner or later show it's negative impact on the nations economy. On the flip side there might appear a very strong improvement in material standards of middle and upper-middle classes, in the sense that many of them can now boast of a greater surplus family income. But then the resultant rise in consumption pattern instead of being permanent may change frequently. In other words the usual corollary of a general expansion of market succeeding a growth in surplus income will not hold good in this case.

If economically there weren't much to be mentioned, this phenomenon does seem to have a telling effect on our culture and age-old traditions. Thirty years ago kids had a great time listening to stories in their grandfathers or grandmother's lap. With changing times they are however not as lucky as before. Earlier grandparents used to be our childhood playmates. Today's children would consider themselves privileged if they are able to enjoy the company of their grandparents. Many of us were even lucky enough to have been tutored by our grandparents during our school days which is certainly a distant memory today. Transferable jobs and cellular families did lighten the key position of these elderly members but it has been made a stronger reality by their changed working status.

It is true that social configurations revise themselves positively. With changing times people's desire to work is certainly a positive change. Yet. certain indelible impressions associated with post-retirement life continue to haunt middle-class memories. Despite the compulsions of materialism, the dominant influences of western values, financial insecurities, and rising personal ambitions, have still not succeeded in removing them completely. It is needless to say that this uneven admixture has generated greater confusion among the retired urban middle-class. Changing social mores and emphatic spiritualism, which grew up as a sort of self-structured combat mechanism, has started showing up loudly in the recent times. Quick sprouting of yoga schools and meditation centres have become the order of the day and the number of old-age stress-management cases reported at these centers are showing a quick rise. Even orthopaedic, pulmonary and other physiological complications, as reported by doctors in respective streams are also on the rise. Not that old-age was ever free from these maladies; they were always there; not that mental drudgery was unknown to old-age; they were present too; only they have shown clear symptoms of rising alarmingly. But for individuals like us the real reason for lamenting are not medical alarm-bells. It is more of a nostalgia; a mild feeling of pain, in loosing, for ever, some magnificent moments, some memorable images which would never recur for the kids of future generations.

A swiftly moving gray-haired man with razor-sharp instincts may fit the celluloid image of a modern nation, but for the so-called Orientalists like us the images of post-retirement are a sweet combination of rumination, leisure, and lots of love for the posterity. Only time may prove which one of these two will last. Till then life after retirement remains at an unenviable cross-road.

এক অনড়, স্থবীর কতৃপ(

বিগত দুটি CANVAS-এ প্রিয় সদস্য নিশ্চয়ই ল(্য করেছেন যে, Scale নম্বর ১৯ ও ২১ নিয়ে সরকারের আন্তঃসার্ভিস বৈষম্যের আমরা তীব্র বিরোধিতা করে এসেছি এবং ত্র(মাগত আমাদের বিরোধকে প্রতিবেদনের মাধ্যমে ব্যক্ত করেছি। এ ব্যাপারে আমরা Special Secretary (Revenue) শ্রী সি. এম. বাচোয়াং ও Special Secretary (Finance) শ্রী দিপাঙ্কর বন্দ্যোপাধ্যায়ের সঙ্গে দীর্ঘ আলোচনায়ও বসি। সেই সঙ্গে State Convention of Service-এর প(থেকেও অর্থমন্ত্রীর কাছে সা(1৭ করে এই বৈষম্য দূর করার জন্য জোরালো আবেদন করা হয়। শোনা গেছে যে সরকার এ ব্যাপারে কিছু ইতিবাচক পদ(ে প নিতে চলেছেন এবং সম্ভবতঃ সেই পদ(ে পগুলি বেতন কমিশনের রিপোর্ট প্রকাশ করার আগেই কার্যকরী হতে চলেছে। কিন্তু আমাদের পূর্বে লিখিত আবেদনগুলির আজও কোনও জবাব না পাওয়ায় এবং এ ব্যাপারে কতৃপ(ে র সম্পূর্ণ নিরবতার প্রতিবাদস্বরূপ গত ১৮ই নভেম্বর আমরা অর্থমন্ত্রীকে এ ব্যাপারে একটি reminder letter পাঠাই (পরিশিষ্ট-১) এবং প্রিয় সদস্যদের জানাই যে এই তৃতীয় চিঠিরও উত্তরের অপে(1য না থেকে আমরা আগামী দিনে বৈষম্য দূরীকরণের দাবিতে বৃহত্তর আন্দোলনে নামার জন্য প্রস্তুত হব।

পরিশিষ্ট—১

To
Dr. Asim Kumar Dasgupta
M.I.C. Finance,
Writers Buildings, Kolkata - 700 001

(Through CCT/WB)

Sir,

Sub: Increase in the number of posts in scale no. 19 & 21

Kindly recall our letter dated 21.07.08 and the addendum on the same subject on 14.08.08. Our sincere expectations were that the State Government would appreciate the seriousness and urgency of the matter and respond adequately. We reiterate once more that our request for increase in the number of posts in both the above-mentioned scales are needed for resolving the acute inter-services disparity as-well-as for addressing the much-required senior, specialised manpower shortage which has long standing revenue implications.

It may also be recalled that time and again we have stressed the need for such skilled and experienced manpower for effective fiscal management under the WBVAT regime and more so under the approaching GST, We are extremely pained to see the State Governments' apathy in addressing both the issues.

We therefore request for your early response on the above-captioned subject, attaching the importance it deserves. As stated earlier, we are always ready for an across the table discussion on the subject.

Awaiting an early response

Yours truly

Mousumi Chattaraj Choudhury
Secretary, CTDOA

দূরভাষের দুরভিসন্ধী

সরকারী আদেশনামা ৭৫২২ বের হওয়ার পর প্রায় দুমাস কেটে গেছে। প্রথম অনুসঙ্গ টি Deputy Secretary ও Joint Secretary থেকে Deputy Director ও Joint Director-এ দূরভাষের খরচের সাহায্য পরিবর্তিত করেছে। কিন্তু রাজ্যের অন্যতম বৃহৎ দপ্তর বিত্র(য়করে যে সমগোত্রীয় পদাধিকারীর নাম Deputy Commissioner ও Joint Commissioner তা বোধহয় অর্থ দপ্তর ভুলেই গেছে। এ বিষয় তাই আমাদের পাঠানো reminder letter (পরিশিষ্ট-২)-টি এখানে প্রকাশ করা হল। আশা রাখি যে অর্থদপ্তর তাদের ভুল শুধরে আরও একটি addendum প্রকাশ করে Deputy Commissioner ও Joint Commissioner-দের এই শুবিসধার আওতাভুক্ত করে নেবেন। তা না হলে বুঝে নিতে হবে এ হল দূরভাষের দুরভিসন্ধী।

পরিশিষ্ট—২

To
The Principal Secretary,
Finance (Revenue),
Writers Buildings, Kolkata - 700 001

(Through CCT/WB)

Sir,

Sub : Reimbursement of cost of telephone bills

In response to the G.O no, 7522 dated 26.09.08, sanctioning reimbursement of personal telephone bills, first, selectively to officers above the rank of Deputy Secretaries of the Directorate of Finance, and then to the officers of the Food and Supplies Department, I am to draw your kind attention that there exist no such posts of Deputy Secretary or Deputy Director under The Directorate of Commercial Taxes. Instead, the equivalent posts under the Directorate of Sales Tax are Deputy Commissioner, Joint Commissioner, Senior Joint Commissioner, Additional Commissioner and Special Commissioner.

Since this G.O has become operational for the holders of Scale no. 18, 19, and 21 under the Directorate of Finance and under the Food & Supplies Department, from 26.09.08 itself, it means that similar scale holders in this Directorate are suffering financial losses straightaway.

Considering this aspect of financial loss of the officers of WBCTS and the highly discriminatory implications among the various constituted state services, we request you to kindly make necessary amendments at the earliest.

Thanking you

Yours sincerely

Mousumi Chattaraj Choudhury

Secretary, CTDOA

IN THE WEST BENGAL TAXATION TRIBUNAL

Present :

The Hon'ble : Mr. Pradipta Ray, Chairman
The Hon'ble : Mr. Deb Kumar Chakraborti, Technical Member
and
The Hon'ble : Mr. Saikh Abdul Motaleb, Judicial Member

Case No. **RN-488/2001**

World Wide Commodities Trading Ltd. & Another
-vs.-
ACCT, Radha Bazar Circle & 3 Others

For Applicant (s) : Mr. G.C. Mookerji, Advocate
Mr. P. Dudhoria, Advocate

For Respondent (s) : Mr. T.N. Banerjee, State Representative

Heard on : 07.06.2007

Judgement on : 27.03.2008

Hon'ble Justice Pradipta Ray, Chairman — In this application the petitioners have challenged the legality of the assessment order dated November 9, 2001 in case no. 24 (A/99-2000) for four quarters ending on March 31, 1999 passed by the Assistant Commissioner of Commercial Taxes, Radhabazar Charge.

2. The petitioner no. 1, a limited company, was engaged in trading and importing various commodities like sugar, palm oil etc. from countries outside India. Assessment of petitioner's tax liability during the year 1998-1999 was taken up for hearing. None on behalf of the petitioner appeared before the Assessing Officer on the date of hearing. The Assessing Officer by his order dated November 30, 1999 disposed of the assessment proceeding assessing petitioner's tax liability along with interest and penalty payable on the assessed amount of tax. Tax was levied @ 4% on the sugar imported by the petitioners from other countries. On the basis of the assessment order demand notice in Form no. 30 was served on the petitioner company directing it to pay a sum of Rs. 3,28,64,331/- (Rupees three crores twenty eight lakhs sixty four thousand three hundred thirty one only) on or before February 15, 2000. Against the aforesaid assessment order the petitioner preferred an appeal before the appellate authority. In the mean time on September 29, 2000 a Division Bench of the Calcutta High Court delivered its judgment in Prime Impex Ltd. and Another

vs. Assistant Commissioner of Commercial Taxes and Others and other similar cases [(2002) 127 STC 23]. In the said judgment the Calcutta High Court accepted the view of West Bengal Taxation Tribunal that sugar is a goods of special importance declared by section 14 of the Centra] Sales Tax Act, 1956 and rate of tax thereon would not be more than 4%. Calcutta High Court further held that the State Government had no power or authority to fix rate of tax retrospectively and as such there was no rate of tax prescribed by the State Government on sales of imported sugar covered by serial no. 70A of schedule IV before April 1, 1999. Aforesaid judgment of the High Court was placed before the appellate authority at the time of hearing of the appeal. The appellate authority by order dated July 16, 2001 set aside the assessment orders for the years 1997-1998 and 1998-1999, remanded the assessment proceedings to the assessing authority, directed the assessing authority to take into consideration the judgment of the High Court at the time of re-assessment, to examine the books of accounts of the dealer seized by the Central Section in order to determine the taxable sale of the petitioner and to make fresh assessment. After such remand the assessing authority re-heard the assessment case and by his order dated November 9, 2001 disposed of the assessment proceedings taking into consideration the amendment of the West Bengal Sales Tax Act, 1994 effected by the West Bengal Finance Act 2001 with retrospective effect from May 1, 1995. Being aggrieved the petitioner has moved this Tribunal with the present application.

3. At the time of hearing of this application Mr. Dudhoria, Id. Advocate adopted the arguments advanced by Mr. Bajoria, Id. Senior Advocate-in RN-536/2003 (Sri Haroon M. Adam vs. Assistant Commissioner of Commercial Taxes, South Circle & 4 Others). Although the questions involved in the present application are almost similar to those raised in RN-536/2003 there are two vital differences. First, the present petitioner did not challenge imposition of sales tax on imported sugar and the relevant amendments of the 3994 Act for such purpose in any Court of law. Second, the appellate order passed by the appellate authority in the petitioners appeal was also not similar to the appellate order passed in the appeal of the petitioners in RN-536/2003.
4. Thus there was/is no judgment or decision of a competent court of law finally determining the rights and liabilities of the present petitioners. They wanted to derive the benefit of the judgment of the Calcutta High Court delivered in writ applications filed by some other importers. In the present case we are to consider the effect of the amendment of section 18 of the 1994 Act with retrospective effect from May 1, 1995 in absence of any inter party binding judgment.

5. State of West Bengal was not initially treating sugar imported from other countries as 'declared goods' under the CST Act and levied 12% tax on imported sugar on the basis of residuary item at serial no. 8 of Schedule-IX of the West Bengal Sales Tax Act, 1994. "Sugar manufactured or made in India" was included at Serial no. 79 of Schedule-I of the 1994 Act as tax free goods by an amendment effective from May 1, 1995. Goods, sales of which were taxable at the rate of 4%, were included in Schedule-VII to 1994 Act.
6. Several other importers of sugar from abroad moved this Tribunal in R.N.309 of 1998 challenging levy of sales tax on imported sugar at the rate of 12% and alleging discrimination between sugar manufactured in India and sugar imported from outside the country. Petitioners therein contended, inter-alia, that indigenous sugar having been made tax free, it would be discriminatory to treat imported sugar differently and levy sales tax on sales of imported sugar. Several other grounds were also urged to question the State's power to levy tax on imported sugar.
7. State of West Bengal and authorities of the Sales Tax Directorate contested the case. According to the State imported sugar was a declared goods under section-14 (viii) of the CST Act, 1956 but section-14 did not prohibit levy of sales tax thereon by the States at rates prescribed by the States. Referring to entry no. 8 of schedule-IX the State of West Bengal contended that it was competent to levy sales tax on imported sugar at the rate of 12%.
8. During pendency of R.N.309 of 1998 in this Tribunal the State legislature by West Bengal. Finance Act, 1999 (W.B.ACT UI of 1999) published in the Calcutta Gazette on March 31, 1999 inserted new serial no. 70A in schedule no. IV with retrospective effect from May 1, 1995 (date of commencement of 1994 Act), new serial no. 137 in schedule-IV and omitted description of goods in column no.2 against serial no.1 of schdudle-VII.

Newly inserted entries in serial no. 70A and in serial no. 137 of schedule-IV were :-

Schedule-IV

"7QA – Sugar other than sugar manufactured or made in India its specified against serial no. 79 of schedule-I."

"137. – Goods referred to in section-14 of the Central Sales Tax Act, 1956 (74 of 1956) excluding those specified in this schedule or in any other schedule."

9. By its judgment dated October 8, 1999, reported in (2001) 121 STC 134, this Tribunal dismissed the application being R.N.309 of 1998.

Conclusions reached by the Tribunal in its judgment may be summarised thus :-

- a) Imported sugar or sugar not manufactured or made in India is a goods of special importance and covered by section-14(viii) of the CST Act, 1956. (para no. 20 of the judgment.)
 - b) Prior to amendment of 1999 imported sugar was covered by Entry no. 1 of Schedule-VII and sales thereof was taxable at the rate of 4% only and at a single stage. Consequently, imported sugar was not covered by serial no. 8 of schedule IX. (para no.22 of the judgment.)
 - c) After amendment of 1999, imported sugar was not tax free but was exigible to sales tax at 4 p.c. on first sales in West Bengal, (para no. 24 of the judgment)
 - d) Amendment of 1999 merely shifted imported sugar from schedule-VII to schedule-IV but did not affect or alter the character of such sugar as declared goods under section-14 (VIII) of CST Act, 1956 and did not change the rate of tax as single point levy, (para no. 25 of the judgment)
 - e) Impugned amendments and levy of tax at the rate of 4% as single point of levy was constitutionally valid.
10. Section-18 of the 1994 Act empowered the State Government to fix rates of tax by notification on sale of goods specified in schedule-IV not exceeding 30 p.c. of taxable turnover of sales. Originally power to fix rate of tax retrospectively was not conferred on the State Government.
 11. By amendment of 1999 imported sugar was shifted from schedule-VII to schedule-IV (serial no. 70A) with effect from May 1, 1995. Goods referred to in section 14 of the C.S.T. Act excluding those specifically specified in schedule-IV or any other schedule were included in serial no. 137 of schedule-IV with effect from April 1, 1999. However, the legislature did not fix any rate of tax on imported sugar covered by serial no.70A of schedule-IV. The State Government in exercise of the power derived from section-18 of the 1994 Act issued Notification No. 946-F.T. dated April 1, 1999 fixing rate of tax at 4 % on the goods covered by serial no. 70A with retrospective effect from May 1, 1995. On the date of the aforesaid Notification i.e. April 1, 1999 section-18 of the 1994 Act did not empower the Suite Government to fix rate of tax retrospectively.
 12. Against the judgment of the Tribunal aggrieved importers of sugar moved the Division Bench of the Calcutta High Court under Article-226/227 of the Constitution being W.P.T.T. no. 435 of 2000 and other similar cases. The State Government also moved the Calcutta High Court against findings of the Tribunal against its contentions.

13. By judgment and order dated September 29, 2000, reported in (2002) 127 STC 23 the Hon'ble Division Bench of the Calcutta High Court upheld and confirmed all the findings of the Tribunal. The High Court, however, allowed the writ applications of the petitioners – importers by accepting the contention that the State Government had no power or authority to fix rate of tax retrospectively and there was no rate of tax for imported sugar covered by serial no. 70A of schedule-IV prior to April 1, 1999. According to the High Court as no rate of tax was fixed prior to April 1, 1999 no sales tax was payable on imported sugar under serial no. 70A of schedule- IV up to March 31, 1999.
14. The State of West Bengal moved the Supreme Court against the aforesaid judgment of the High Court but its Special Leave Petition was dismissed.
15. By West Bengal Finance Act, 2001 (W.B.Act no. XVI of 2001) the State Legislature amended Section-18 of the 1-994 Act with retrospective effect from May 1, 1995 conferring on the State Government power to fix rate of tax with prospective or retrospective effect. By the said Act of 2001, serial no. 70A in schedule-IV was omitted with retrospective effect from May 1, 1995.
16. It is significant that no validating provision was incorporated to obliterate the effect of the judgment of the High Court. Thus the judgment of the Division Bench of the High Court which reached finality after dismissal of the Special Leave Petition in the Supreme Court and continued to remain operative among the parties therein.
17. Pursuant to amendment of the 1994 Act by West Bengal Finance Act,' 2001 Trade Circular no. 1 of 2001 dated August 1, 2001 was issued. Paragraph-11 of the ' said trade circular clarified that rate of tax on imported sugar would be at 4 % under section-17(1)(f) of the 1994 Act on the goods covered by serial no. I of schedule-VII or the period from May 1, 1995 to March 31, 1999 and at the same rate of 4 % for the future period from April 1, 1999 under section-17(1)(c) of the 1994 Act on the goods covered by serial no. 137 of schedule-IV.
18. We have delivered our judgment in Haroon M, Adam vs. ACCT, South Circle and Others on March 7, 2008 and have held therein that retrospective amendment without any validating provision can not take away the effect of a concluded judgment by a competent court of law on the parties in the concerned proceeding. The petitioners in the present case did not move any court of Jaw and did not have any judgment in their favour in any proceeding initiated by them or in which they were parties.

19. It is now well settled that the Legislature is competent and has authority to make retrospective amendments to remove the basis of any judgment striking down any provision of law or any administrative or quasi-judicial order but the Legislature cannot directly overrule or set aside any judgment or order of a competent court of law. We have considered the legal position in our judgment in Sri Haroon M. Adam and expressed our considered views.
20. Undisputedly Amendment of 2001 amending section 18 of the 1994 Act with retrospective effect from May 1, 1995, did not contain any validating provision enforcing the retrospective part of the amendment irrespective of any judgment or decree or order of any Court of law. In our view absence of a validating provision does not help those who do not have any binding judgment in their favour in any proceeding in which they were parties. All post-amendment decisions will have to take into consideration the effect of the retrospective amendment unless a dispute was finally and conclusively decided before such amendment. It has been explained by the Supreme Court in Polaki Motors vs. State of Orissa (1993) 88 STC 259.

“Thus the effect of retrospectively amending the provisions would, for all legal purposes be that amended provisions shall be deemed to have been included in the original Act from April 1, 1979 and all consequences and incidences which if this amended provision had been there since April 1, 1979 has to be carried to its logical conclusion.”
21. Only limitation to such power and legal consequence is that a retrospective amendment without any validating clause, cannot obliterate and/or destroy effect of a concluded binding judgment upon the parties therein.
22. In the present case there was no judgment or order of any court of law in any proceeding initiated by the petitioner. Petitioner preferred appeal against the assessment order. The Appellate Authority followed the judgment of the High Court in Prime Impex (Supra), and remanded the assessment proceeding to the assessing authority with the following order :-

“In view of the discussion made hereinabove all the assessment orders for the two periods of assessment mentioned hereinabove are remanded back to the Id. Assessing authority with a direction to examine the books of accounts of the dealer seized by the Central Section in order to determine the taxable sale of the petitioner and also to make assessment afresh. The petitioner is also directed, as agreed, to cooperate with the assessing authority for the purpose of scrutiny of the books of accounts seized by the Central Section.”

23. In Haroon M. Adam there was a direct decision in a proceeding initiated by the concealed dealer declaring that no tax could be levied on him prior to April 1, 1999. The Appellate Authority gave effect to a binding inter-party judgment, set aside the assessment order and directed to issue fresh order in the light of the said binding decision. It was specifically recorded in the appellate order that "In W.P.T.T. no. 422 of 1999 the Hon'ble Calcutta High Court allowed applicant's writ petition." The Assessing Authority was to follow the said decision and to pass a revised order.
24. In the present case the authorities were following a decision of the High Court on a question of law on the principle of binding precedent, Retrospective amendment of section 18 of the 1994 Act took away the value/force of the judgment as a precedent and the authorities were to apply the law as it stood on the date of re-determination. Binding force of a judgment on the parties in the proceeding and the force of a judgment as a binding precedent is not the same thing. Precedent value of a judgment may be lost because of subsequent retrospective amendment or subsequent pronouncement by competent court but effect of an inter-party judgment on the concerned parties can not be avoided except by an appropriate judicial order in connection with the same proceeding or by retrospective amendment of the provision of law along with the necessary validating clause.
25. Thus, the petitioner herein, can not claim legally that the retrospective amendment is not applicable because of the judgment of the High Court in Prince Apex (Supra). Our decision in Haroon M. Adam delivered today, does not support the petitioner's case.
26. For the reasons aforesaid, we do not find any illegality or infirmity in the impugned assessment order requiring our interference.
27. Application is thus dismissed.
28. No order as to costs.

Sd/-
Pradipta Ray
Chairman

I agree.

Sd/-
Deb Kumar Chakraborti
Technical Member

I agree.

Sd/-
Saikh Abdul Motaled
Judicial Member

From No. TT/G-1

IN THE WEST BENGAL TAXATION TRIBUNAL

Present :

The Honourable : Mr. Saikh Abdul Motaled, Judicial Member.
The Honorable : Mr. Deb Kumar Chakraborti, Technical Member,
and
The Honourable :

Case No. RN-260 & RN-261 of 2006

M/s. J. S. Vyaper Pvt. Ltd.

-Vs.-

ACST, Central Section & 2 Ors.

For Applicant (s) : Mr. P. Dudhoria, Advocate,

For Respondent (s) : Mr. P. Mukherjee, State Representative.

Heard on : 14.02.2007

Judgment on : 07.6.2007

Hon'ble Mr. Saikh Abdul Motaled, Judicial Member :- In these applications under section 8 of the West Bengal Taxation Tribunal Act, 1987, the petitioner company, J.S. Vyaper Pvt. Ltd. has challenged the re-assessment orders passed by the Assistant Commissioner of Commercial Taxes, Raja Katra charge on 14.09.2005 in respect of the period from 27.11.1999 to 31.03.2000 and 4 QE 31.03.2001 and the notices of demand issued thereafter and on the grounds stated therein.

- The undisputed** facts on record are that the petitioner company filed returns for the said assessment periods and also paid the admitted tax thereon in time and the Assistant Commissioner of Commercial Taxes, made the assessment on 09.06.2003 and sent demand notices on 23.06.2003. Alleging assumption of the jurisdiction of the Deputy Commissioner of Commercial Taxes, Central Section by the A.C.C.T, the petitioner company moved before this Tribunal challenging the authority of the concerned officer and the said orders of assessment and issuance of the notices and by the order dated 22.09.2003 this Tribunal set aside the orders of assessment and notices of demand for reassessment and for that the respondents had a fresh period of limitation of 2 years for passing the orders of assessment afresh, i.e. by 21.09.2005.
- It is now the** case of the petitioner company that in August, 2006 it received orders of reassessment and notices of demand from the respondent No.1 Assistant Commissioner of Sales Tax, Central

Section and thereby was shocked and surprised to know that the respondent No. 1 had passed the said orders of reassessment behind the back of the petitioner and without any notice of hearing of the reassessment proceedings and thereby providing no opportunity to the petitioner company of being heard and, therefore, the orders of reassessment and the notices of demand are wholly illegal, arbitrary, malafide and in fact had been so passed and issued beyond the period of limitation and hence these applications.

4. **The respondents** are contesting the applications by filing affidavits-in-opposition and thereby denying all the material allegations and averments made against them and specifically contending inter alia that after the order of this Tribunal dated 22.09.2003 the respondent No.1 issued notices fixing the dates of hearing of me rs-assessniient cases and the office accordingly issued the notices for service upon the petitioner by post and under office Memo.No. 2123 dated 02,08.2005 and thereafter under office Memo. No.351S dated 25-08.2005. It is the categorical assertion of the respondents that the petitioner was duly intimated regarding fixation of the date of hearing and the above notices were also duly delivered to the petitioner company and the concerned Post Office has also confirmed the delivery by its office Memo. No. BO/CRO-2A/11/2006/1335-1336/COM-2 dtd. Kol.-0l the 21.11.2006 and hence the question of denying opportunity of being heard to the petitioner does not and can not arise at all and, therefore, pressed for dismissal of the applications with cost.
5. **It will be** worth mentioning here that the petitioner company has filed affidavits-in-reply against the affidavits-in-opposition of the respondents and thereby has only denied the aforesaid statement of service of the notices as to the date of hearing of the reassessment proceedings.
6. **Mr. P. Dudhoria**, Ld. Advocate for the petitioner company emphatically argued that the impugned reassessment orders dated 14.09.2005 and the issuance of notices under form-30 dated 14.09.2005 are wholly illegal and malafide orders on the part of the respondent No. 1 and mainly on the grounds :

1) that the orders have been passed behind the back of the petitioner company and without service of any notice of hearing, 2) that from the facts and circumstances on record it has been revealed that the impugned orders of reassessment were passed after the period of 2 years limitation and, therefore, after ceasing of jurisdictional competency of the respondent No. 1 and 3) for fabrication and

manipulation of documents, papers and files by the concerned authorities and hence pressed for quashing the orders impugned. It is also the submission of the Ld. Advocate for the petitioner that it would be evident from the envelop containing the reassessment orders and the notices of demand dt. 14.9.05 that those were dispatched for service on 1st August, 2006 and thereby demanding the payment of the alleged reassessed dues on/or before 28.08.2006 and thereby giving the petitioner company less than one month time for payment which is illegal, unnatural and indicative to the fact that the impugned orders of reassessment were passed long after the purported date of 14.09.2005 and definitely after the expiry of the Limitation period on 22.09.2005 and hence the orders of impugned reassessment and the notices of demand are invalid and liable to be quashed. In support of his contention the Ld. Advocate has cited and relied on the decisions reported in 93. STC.406; 33.STA.169; 37.STA.214 & 127.STC.337.

7. **In refuting the** above contentions of the Ld. Advocate for the petitioner it is argued by Mr. P. Mukherjee, Ld. SR., that the revenue has asserted and conclusively proved by documents that by office Memo.No.2123 dated 02.08.2005 and 3518 dated 25.08.2005 the petitioner was duly informed the fixed dates of hearing of the reassessment proceedings and the service thereof by Speed-post has also been confirmed by the concerned G.P.O. authority by office Memo. No. mentioned in affidavits-in-opposition and, therefore, there is no scope at all for the petitioner to impugn the orders of reassessment and to challenge the legality and validity of the demand notices on the grounds above submitted by the Ld. Advocate for the petitioner and hence there is no merit in the cases to succeed to any extent.
8. **On cumulative** consideration of the respective contentions of the parlies and the submissions of the Ld. Advocate and the Ld. S.R. with reference to the documents submitted by the respondents there is and cannot be any doubt at all that the respondent No. 1 fixed the date of hearing of the assessment proceedings on 17.08.05 and thereafter again on 13.09.05 for re-assessment of , the return submitted by the petitioner company and the notices thereof were duly issued for service by speed-post and those were delivered to the petitioner company as per document submitted by the concerned authority of the G.P.O. where the notices were put to post for service. There is no iota of evidence on the part of the petitioner company to substantiate that the impugned orders of reassessment were not so passed on 14.09.2005 and/or it was actually passed on any other day after 21.09.2005, i.e. after expiry of the period of limitation as alleged. Mere

denial of service of the aforesaid notices and/or mere assertion of passing of the impugned orders on any ante date appear not sufficient to disbelieve the speed-post document and the confirmed letter of deliver.' issued by appropriate G.P.O. authority. The mere fact of issuance of the demand notice dated 14.09.2005 after a long gap on 01.08.2006 and thereby giving the petitioner company a time of less than one month for payment of the reassessed tax alone cannot reasonably be treated as sufficient to create any circumstances to conclude that the orders of reassessment were actually passed after the period of limitation and to hold the orders impugned as barred by law. However, as the revenue has failed to offer any reasonable explanation and/or any explanation whatsoever as to why the impugned notices dated 14.09.05 were so put into service upon the petitioner company at an inordinate delay, i.e. on 01.08.06 and further without giving the statutory period of 30 days for payment, the same cannot be held legal and binding upon the petitioner to comply.

9. **In the result** both the impugned reassessment orders of the aforesaid cases though stand valid but the impugned demand notices dt. 14.09.05 served on August 06 stand invalid and not binding upon the petitioner company to comply. However, in the interest of justice the revenue is given an opportunity to serve such notices upon the petitioner company as per law within 30 days from the date thereof. Similarly the petitioner company is also given the opportunity to take legal steps, if any, against the reassessment orders within the prescribed period from the date of service of such notice upon it.
10. **Bothe the Case Nos.** RN-260/2005 & 261/2005 thus stand disposed of accordingly but in the facts and circumstances without any cost.

Sd/-
Saikh Abdul Motaleb
Judicial Member

I agree.

Sd/-
Deb Kumar Chakraborti
Technical Member

Our neighbouring state of Bihar is a phenomenon by itself. Whether it is general misadministration, mismanaging of public finances, social discriminations, or economic bankruptcy, Bihar always has an unique story to tell. And it's crowning glory lies in it's caste-based medievalism.

A hapless friend from Bihar, was lamenting the other day for having enrolled in a well-known Bihar university for his doctoral thesis. Right from the day one Readers of the university constantly went on discouraging him, making him feel a bit disgusted. Unable to bear this nuisance, he ultimately asked one of them, "Sir, tell me, where am I wrong?"

The elderly Professor hesitantly quipped, "The problem is that, you are a Kurmi".

– Yes. But what is the problem?

– You should have selected anything on Political Science or Philosophy. History and Archeology actually belongs to the Yadavs.

Visibly shocked to know the caste-based sharing of education in Bihar, our friend mumbled, "Goodness heavens! Sir, would you please tell me the fate of the science subjects?"

The professor nonchalantly replied, "Physics and Chemistry belongs to Bramhins. Botany and Zoology to Bhumihars, and the engineering faculty to the Rajputs."

Needless to say that our friend decided to pack his bags and leave the state as quickly as possible