CHAPTER III

ORGANISATION OF THE CHARGES AND RANGES
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As has been stated earlier All India Committee of 1921 had for the first time recognised the need for a regional control over the Income-tax machinery. It advised creation of the office of Commissioner of Incometax as provincial head, in place of the Board of Revenue or the Financial Commissioner of the province, and it sought to place such Commissioners under the control of the Centre. Under the Income-tax Act, 1922 a Commissioner of Income-tax was thus appointed for each province. This institution came to consolidate itself over the years and played today a pivotal role in administration of Direct Taxes in our country. In common parlance the jurisdiction of a Commissioner of Income-tax is known as 'Charge'. He has under his control several Inspecting Assistant Commissioner of Income-tax whose area of jurisdiction is popularly known as 'Range'. One Inspecting Assistant Commissioner has usually under his control about fifteen Income-tax Officers of mixed cadres of Groups 'A' & 'B'. One Commissioner of Income-tax has under his control about three or four Inspecting Assistant Commissioners. Thus, taking into account
the officers who directly work under the Commissioner at his Headquarters there are about fifty to sixty Income-tax Officers working under one Commissioner of Income-tax.

Chief Commissioners of Income-Tax:

Lately, there came into existence what is known as a Chief Commissioner of Income-tax (Administration) in the pay scale of Rs.2500/- Rs.2700/-. With special pay of Rs.250/-. With the expanding net work of officers and staff, which is necessitated by the vast expanding work of the Department, it became imperative to improve the operational efficiency. Hence the various areas of administration such as investigation and assessment of different categories of cases enquiry in cases of reported tax evasion, survey operations, collection and collation of intelligence, recovery of tax arrears, etc. required augmentation of manpower and periodical shuffling of duties, responsibilities of and personnel at different levels. With this end in view the new post of Chief Commissioner of Income-tax (Administration) has been created.

At the moment Chief-Commissioners are posted at Bombay, Delhi, Ahmadabad, Bangalore, Lucknow, Patiala
Madras and Calcutta. Apart from their statutory jurisdiction they exercise control over all administrative matters relating to the department which were hitherto under the purview of different Commissioners of Income-tax including Central, Investigation, Recovery and Appeal changes posted within the area now assigned to Chief Commissioners. The functions of the Chief Commissioner are as under:

1. Laying down principles for transfer and posting of gazetted officers and regulation of transfers and postings accordingly among the charges of the various Commissioners falling within his jurisdiction.

2. Laying down principles for transfers and postings of non-gazetted staff and to make inter-commissioner changes accordingly. These orders are, however, to be made in consultation with the concerned commissioners as far as the latter's personal staff is concerned. The Chief Commissioner's concurrence is required if the Commissioner has to effect changes of offices of staff within his own charge.

75. Details are given in instruction no. 1476 issued by the Board on 13.7.82.

76. Here, the instructions issued by the Board on 6.10.77 (F.No.A-22011/1/77-Ad.VII) has to be kept in view.
3. Disposal of matters relating to crossing of efficiency bar, increments and fixation of pay in respect of the gazetted staff.

4. Vigilance and matters relating to disciplinary actions relating to gazetted staff.

5. Action against staff under the Temporary Service Rules and Central Civil Service Classification, Control and Appeal Rules, 1965.

6. Disciplinary action against Income-tax Officers Group 'B' and the officials of group 'C' (through the concerned Commissioners).

7. Holding of Departmental Promotions Committees for promotion and confirmation of Income-tax Officers Group 'B'.

8. Sanction of Earned Leave to Assistant Commissioner.

9. Supervision regarding disposal of work by Appellate Assistant Commissioners and Commissioners of Income-tax (Appeals) including adjustments in jurisdiction of appellate authorities.

10. Keeping liaison with High Court and Appellate Tribunal for follow up and expeditious disposal of appeals involving higher revenue.

11. He is the Department's spokesman to media.
and also acts as Protocol Officer.

12. In the light of orders made by the Board the Chief Commissioners issues orders for postings and adjustments of Income-tax Officers of group 'A' service, among the Commissioner's charge under his jurisdiction. As far as special pay postings are concerned adjustments are made after clearance from the Board.

13. After writing the Annual Confidential Character Rolls of the officers and staff, the Commissioners have to submit these to the Chief Commissioners, in duplicate. The latter, in turn, retains one copy each and forwards the second copy (in case of group 'A' officers and above only) to the Board.

Some of these functions, however, have not yet been assumed by some Chief Commissioners as yet. It is good that the change is slow. It will ensured smoothness and will make room for adjustment in rules if necessary. At the same time is to be noticed that the Chief Commissioner enjoys no powers of implementation of any of the Direct Taxes laws. Yet he is an important cog in the administrative machinery.
The Central Board of Direct Taxes is over burdened with statutory (and administrative) responsibilities. Some of its functions are more or less routine yet these cannot be repealed from the statute. Some of these functions are: accordingly permission for entertaining a return of income which is out of time because of genuine reasons but which involves refund claim, approval for disclosure of information respecting assesses to outside agencies, approval for issue of notice to reopen assessment beyond a period of eight years, etc. These powers may be delegated to the Chief Commissioner. That will leave the Board with extra time to attend to more important jobs. It will also facilitate the working of the Department vis-a-vis officers as well as assesses and it will entail decentralisation and localisation. This will, however, require creation of more posts of Chief Commissioners. At present there are only eight Chief Commissioners while in all there are two hundred Commissioners (including Charges like Appeals, Central, Recovery and Investigation). Thus, there should be twelve more Chief Commissioners.

77. So that each Chief Commissioner will have under his control ten Commissioners or so.
All the twenty Chief Commissioners should be evenly spread over the length and breadth of the country keeping in view the strength of Commissioners posted from place to place. Only after this is done, the delegation of some of the statutory functions of the Board to the Chief Commissioner will work in a more plausible fashion and will serve the actual purpose of this changeover. In that case necessary changes will have to be incorporated in the Act.

COMMISSIONER OF INCOME-TAX

Commissioner of Income-tax is a very important functionary of the Department. He has multiple functions to perform and numerous duties to discharge. These functions and duties can be broadly categorised as under:

1. Judicial
2. Technical
3. Statistical
4. Intelligence
5. Public Relations
6. Administrative.

For helping the Commissioner and to certain
extent for deputising him sufficient number of Gazetted Officers are posted. In big places like metropolitan cities officers of the rank of Assistant Commissioners are posted at the Commissioners Headquarters. But usually only Income-tax Officers are deployed to do these jobs. The Inspecting Assistant Commissioner(Head-quarters)Administration or the Income-tax Officer(Headquarters)Administration is the de facto head of the Commissioner's office. Also, we can say, he is personal assistant of the Commissioner.

For looking after the judicial, technical and statistical matters separate officers are posted who are designated as Inspecting Assistant Commissioner(HQ)(Judicial) Technical, or Statistical etc.) or Income-tax Officer(HQ) (Judicial, Technical, or Statistical etc.) as the case may be.

: JUDICIAL FUNCTIONS :

Judicial functions of the Commissioner are very wide. He can call for and examine the record of any proceedings under the Act and if he considers that any order passed therein by the Income-tax Officer is erroneous in so far it is prejudicial to revenue he can pass such order thereon as the circumstances

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78. See Sections 263 and 264 of The Income-tax Act, 1961
OF THE case justify. That way he can even enhance or modify the assessment, or can cancel the assessments and direct fresh assessment. Before issuing such orders he can get any enquiries made and is duty bound to afford the assessee an opportunity of being heard. He can revise an assessment order while an appeal is still pending before the Appellate Assistant Commissioner. Similarly, the Commissioner can revise the order of registration pending the firm's appeal against the assessment order before or after the appeal is decided. These powers of the Commissioner are 'quasi-judicial' in character as has been held by the courts. Similarly, under section 264 even the assessee can apply to the Commissioner requesting him to call for the record in his case from the subordinate authorities. After considering his application the Commissioner can pass any order thereupon (but not an order which is prejudicial to the assessee), as he thinks fit.

79. C.I.T. V Amritlal Bhogilal, 34 ITR 130(Supreme Court)
80. C.I.T.V.Durgabati 43 I.T.R.228(Supreme Court)
81. C.I.T.V.Sunderlal 96 ITR 310.
He has the discretion to grant or refuse relief. In exercising such functions he does not surrender his judgment to the directions of the Board.

The Commissioner's judicial functions also include directing the subordinate assessing authorities to appeal to the Appellate Tribunal against orders passed by the Appellate Assistant Commissioner or the Commissioner of Income-tax (Appeal). Similarly, references to High Court and Supreme Court are also made at the instance of the Commissioner. For this purpose the I.A.C.(judicial) or I.T.O.(Judicial) keeps liaison with field officers regarding calling for second appeal reports. Besides, he keeps in touch with Departmental Representatives before the Appellate Tribunal and authorised representatives before the High Court and Supreme Court regarding disposal of appeal pending at different stages.

: TECHNICAL FUNCTIONS :

A very important function of the Commissioner is to keep the field officers informed of the latest decisions pronounced by the Appellate Tribunals.

High Courts and Supreme Court. Besides, he 
circulates among them the up-to-date instructions 
and circulars issued by the Board giving interpretations 
and explanations of the various legal provisions and 
the Rules. On the other hand, the field officers 
make references to the Commissioners in various 
matters, in case there is a doubt in their mind 
as to the correct import of law or Rules or 
instructions. In turn, the Commissioner, of his 
own or after seeking directions from the Board or 
the law Ministry, issues clarifications to the 
field officers.

Also, the Commissioner has to levy 
84 certain fines on assesses for which powers have 
not been given to field officers. Similarly, he 
has to issue, in his discretion, approval to field 
85 officers for retention of assesses's account books, 
impounded by them, beyond a certain period. He 
has to issue prior approval, in his discretion, 
86 to authorise the field officers to with-hold refund 
in certain cases in the interest of Revenue. He

84. Section 285A.
85. Section 131 and 132.
86. Section 241.
has to give in his discretion, previous approval for provisional attachment of assessee's assets even though no demand is pending against him. He has to grant recognition under section 12A and 80G to charitable institutions giving them exemption from Income-tax or giving other benefits. For all these functions he has to depute an I.A.C. (HQ) (Technical) or I.T.O. (HQ) (Technical) who maintains the required liaison with field officers and makes all background preparations before the matter is put up before the Commissioner for taking decision.

: STATISTICAL FUNCTIONS :

Collection, despatch, collation and analysis of various statistical data regarding manpower, assessment, recovery and appeals etc. has got its own significance particularly for the purpose of progressive steering of the Department. It is also needed for evaluation of the performance of 87. Section 281B
The Commissioner's job includes collection of statistical data from field officers periodically and its consolidation and despatch to the Board or the directorates within the prescribed time schedule. To assist the Commissioner in this work there is an I.A.C.(HQ)(Statistics) or I.T.O.(HQ)(Statistics) working under him.

INTELLIGENCE FUNCTIONS:

A vital pillar of the Income-tax Department is regular collection of intelligence against tax evaders and taking necessary follow up action thereupon. For this purpose there is an Assistant Director of Inspection(Intelligence) posted under the Commissioner(in bigger charges there are many such officers and even one or two Deputy Directors of Inspection). The A.D.I. receives informants and written intimations from them. Also, he collects information from other sources like media, other intelligence agencies of various departments, etc. Thereafter, he undertakes extensive tours clandestinely and satisfies himself that there is a case for carrying out
search and seizure operation. He carries out complete recky incognito, then he puts up proposal before the Commissioner. If the latter is satisfied that the case has sufficient potential he signs warrants of authorisation in the name of the field officers. The field officers are called upon to reach a particular place from where they are guided by the A.D.I. to the premises to be searched, along with sufficient strength of police personnel. The officers who are issued the warrant of authorisation by the Commissioner are designated as Authorised Officers. After the search is over the seized material is handed over to the A.D.I. who ensures their safe custody to Bank. Thereafter, guiding the assessing officer in making investigation of the case and passing necessary statutory orders is the duty of the Commissioner. For all this, the A.D.I. helps the Commissioner.

This intelligence section of the Commissioner's office also carries out surveys whenever and wherever it considers necessity thereof. Some of the tax evasion petitions received by this section are forwarded to the respective assessing officers for enquiry and
follow up action. It is also responsible for processing the proposals submitted by the field officers for launching prosecutions. Before launching prosecution Board's approval is required as per administrative instructions. It is the Commissioner's office which gets this vetting done from the Board. This work is also entrusted to the A.D.I's section. Also, the Commissioner has powers to compound any offence either before or after the institution of any proceedings. The sanction of the Court is in no case necessary for such compounding.

All this work is looked after in the Commissioner's office by the A.D.I's section which is helped by at least two/three (or more in bigger charges) Inspectors of Income-tax. Information received by the Commissioner from external agencies such as payment of dividends by companies, award of contract by Directorate General of Supplies and Disposal etc. is passed on to the respective assessing officers by the A.D.I's section. Follow up action thereupon is also watched by it. In some charges a separate office

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90. I.T.O.V. D. Ramchand Multanimal, 36 ITR 70
of the rank of Income-tax Officer is posted for this job who is designated as I.T.O. (CIB-Central Intelligence Branch).

: PUBLIC RELATIONS:

In bigger charges the public relations wing in the Commissioner's office is now headed by an Assistant Commissioner. In smaller mofussil charges an Income-tax Officer is appointed to look after this job on behalf of the Commissioner. This section has a full complement of staff and the head of this section (I.T.O.) is designated as public Relation Officer. Where the I.A.C. heads this section he is designated as Chief Public Relations Officer. This section assists the assesses in filling up various forms including returns of income, etc. It also supplies forms and the brochures and booklets which are brought out by the Directorate of Inspection (RS&PR) from time to time for assistance and guidance of the assesses. These publications are known as Taxpayers Information Series. In case the assesses or other visitors to the Commissioner's office have any grievance against the Department, the P.H. section comes forward to their help and gets the
bottleneck sorted out in consultation with the concerned officers.

As per Board's guidelines the P.R.O. may also move out of the office and may visit disabled persons, widows or pardanashin ladies, if they so wish, for giving them advice and assistance. He may also visit commercial establishments and government offices for this purpose.

If an advice or clarification is sought by the public on matters which require an interpretation of the Income-tax Act (or other Direct Taxes Laws) the P.R.O. brings such representation to the notice of the Commissioner of Income-tax, for disposal by the latter.

ADMINISTRATION

Administration of the Charge is the most important function of the Commissioner of Income-tax. In big charges this work is assigned to an Assistant Commissioner of Income-tax but usually an Income-tax Officer looks after this work. He is designated as Income-tax Officer (HQ)

51. Circular no. 516 dated 18.5.1965 (F.No. 81/27/65/-IT(B)
administration (or I.A.C. HQ Admin.). This section has same importance for the whole Charge as breathing system has for a living body. The functions of the Commissioner of Income-tax which are performed through this section are as under:

1. Recommendation to the Board regarding postings of Assistant Commissioner in the charge.
2. Recommendation to the Board regarding abolition of existing posts and creation of new posts of Assistant Commissioners.
3. Recommendation to the Board regarding adjustment in jurisdiction of Assistant Commissioners.
4. Writing Annual Confidential Character Rolls of Assistant Commissioners.
5. Supervision and control over and monitoring of the work of Assistant Commissioners, granting them casual leave and recommending their Earned Leave applications.
6. Transfer and posting of Income-tax Officers posted in the charge and of all other subordinate officials; granting casual/Earned leave and all other kinds of leave (except casual leave) to Income-tax Officers.
7. Inspection of Assistant Commissioners and Income-tax Officers.
8. Disciplinary proceedings under Rules.
9. Attending of Departmental Promotion Committee as per Rules.
10. Countersigning Annual Confidential Character Rolls of Income-tax Officers.
11. Appointment of Group 'C' and 'D' staff as per Rules and their postings among the various Ranges.
13. Sanction of applications for advances from provident fund and house building advances etc.
14. Drawing and disbursement of pay and allowance of all officers and officials posted in the charge.
15. Monitoring of purchase and construction of land and building for office and residence of officers and staff throughout the Charge in consultation with and after approval of Board.
16. Control of the expenditure budget of the entire Charge.
17. Provision of adequate working conditions in the Charge like proper sitting space, water, cleanliness, recreation, canteens, library, ladies room etc.
18. Holding of joint consultative machinery (J.C.M.) meetings with staff periodically.

20. Maintenance of proper sitting space and other facilities for taxpayers, their consels and visitors.


22. Awarding of rewards for outstanding work and punishments for acts of insubordination etc.

23. Inspection of the work of all Assistant Commissioners and Income-tax Officers working in the charge including those posted in the Headquarter.

24. Inspection of the work of Departmental Representatives (who are Assistant Commissioners of Income-tax) before the Appellate Tribunal.

**MISCELLANEOUS:**

Some more units function in the Commissioner's office which do various jobs. Accounts of receipts of Direct Taxes and expenditure in the charge are maintained by the Unit headed by Zonal Accounts Officer. He also maintains G.P's and all other similar accounts of all the officers and staff members of the Charge.

92. Details given in Instruction issued on 24.9.81 by Director of Inspection(Income-tax)(1/15/80/IT)
A second unit headed by Junior Accounts Officer is in charge of issue of cheques and drafts etc. for disbursement of pay and other allowances.

Valuation Cell is headed by Valuation Officer who is an Executive Engineer of the Central Public Works Department. He is assisted by Assistant Valuation Officers who are Asstt. Engineers. Field Officers refer to them valuation of immovable properties for purposes of assessment. On receipt thereof they give opportunity of being heard to the assessee and also visit and inspect the property on the spot. After that they submit their valuation reports to the concerned officer which is binding upon him under the Wealth Tax Act and is advisory in nature under the Income-tax Act.

There is one Hindi Officer (re-designated as Assistant Director-Hindi in some Charges) posted in the Commissioner's Charge. He assists the Commissioner in looking after the progress of use of Hindi as National Language. He convenes periodical meetings of officers and staff and receives progress reports from

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94. See instruction no. 217 dt. 17.9.1970 and Rules 111AA and 111AB.
field every quarter. On the basis of these reports
the Commissioner keeps a watch over progressive use
of Hindi in the Charge and also he sends his own
report to the Directorate of Inspection (RS&PR).

Working relating to Audit by representatives
of the Auditor General as also by the Internal Audit
Parties of the charge is looked after by an officer
of the rank of Income-tax Officer. Under each Chief
Commissioner an Assistant Commissioner is exclusively
posted to look after this work. Special Audit Parties
headed by a Chief Auditor (an I.T.O.) are also formed
to look after settlement of major objections raised
by CAG. Inspectors of the audit parties are utilised
for important circles like company circles, Central
Circles etc. This audit unit in the Commissioner's
office also looks after the follow up action. If an audit
objection involves revenue exceeding Rs. 10,000/-, the
Commissioner asks for explanation of the officer
concerned. In case this figure exceeds Rs. 25,000/-
the explanation is forwarded to the Board along with
Commissioner's comments.

We thus see that the task of the Commissioner
is multi-faceted. He is the pivot around which the entire
for implementation of its plans and policies and from him only the Board receives proper feedback which is utilised for updating the various rules and procedures. He is a link between the field formations and the Board. He is the vital connecting link between the top and the bottom.

Apart from these regular postings there are some more posts for Commissioners of Income-tax. These are C.I.T. (Appeals), C.I.T. (Recovery) and C.I.T. (Investigation). Regarding C.I.T. (Appeals) we will talk later in a separate chapter devoted to appellate hierarchy.

Five posts of Commissioners of Income-tax (Recovery) were created in 1981. These were stationed at Bombay, Calcutta, Delhi, Ahmedabad and Madras. His duties include monitoring the work relating to recovery of tax dues from assesses. He controls the functioning of all the Tax Recovery Officers and Asstt. Commissioners in charge of tax recovery work. He exercises control over granting of stay or instalments of tax arrears. He is a member of the Committee which is authorised to permit write off of arrear demand.

Similarly creation of eight posts of Inspecting Assistant Commissioners of Income-tax (Investigation) is also a recent development. His functions include detailed investigation in certain cases, coordination of survey work and supervision and control over Central Intelligence Branches in some places.

Section 117 of the Income-tax Act, 1961 authorises the Central Government to appoint as many Inspecting Assistant Commissioner of Income-tax at it thinks fit. It is an intermediate level functionary in the administration of Direct-Taxes. To effectively supervise the working of odd Income-tax Officers may create a lot of difficulties for the Commissioner. Therefore, the existence of this intermediary cog in the hierarchy helps a great deal not only for the Commissioner's functioning but also for the Income-tax Officer who has not to run all the way to the Commissioner everytime a difficulty arises. Thus, this level of officers takes care of the span of Commissioner's control without jeopardising the unity of his command as every
such functionary is under direct control of
the Commissioner. Jurisdiction of the Inspecting
Assistant Commissioner (I.A.C.) is laid down
by the Commissioner. He is also subordinate to the
Director of Inspection. In respect of any specified
case or classes of persons or classes of persons
the I.A.C. may also be directed to exercise the
powers and functions of Income-tax Officer. He
can exercise and perform concurrently certain
powers and functions of the Income-tax Officer.

The I.A.C. can issue to the Income-tax
Officer general or special instructions. He can
issue specific directions in certain cases.
Between 1976 and 1984 in certain cases the draft
of a proposed assessment order was to be submitted
to him for his scrutiny and directions. He is
empowered to impose penalties in certain cases.

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98. "Section 125 - ibid.
99. Section 125A - ibid
100. Sections 119(3) and 125A(3) - ibid.
101. "Section 144A-ibid.
102. Sewa Singh Gill V. CIT 46 ITR-152.
103. See Finance Act, 1984 which rendered section 1443
     of the Income-tax Act 1961 ineffective w.e.f. 1.10.84
The I.A.C. is incharge of a "Range" consisting of a number of Income-tax Officers which is on the average at twelve. He is responsible for smooth functioning of his Range and for achievement of the targets laid down by the Board and allocated to him by the Commissioner. He functions as a link between the Income-tax Officer and the Commissioner. All matters between these two functionaries are routed through the I.A.C. He gives his comments while forwarding the I.T.O.'s letters to the Commissioner and gives his directions while the Commissioner's directions or requirements trickle down to the Income-tax Officer. His functions can be divided into the following categories -

1. Judicial
2. Technical
3. Supervisory
4. Administrative
5. Miscellaneous

We shall now enumerate the specific functions of the I.A.C. under these broad heads.

Judicial functions.

The I.A.C. has unfettered powers to issue
any directions to the Income-tax Officer who is bound by these directions. These sweeping powers are described in sections 119(3) and 125A(3). As has been referred above, till October 1984 the Income-tax Officer was bound to forward to the I.A.C. draft assessment order in every case in which he proposed to make an addition in income exceeding one lac rupees. It was only after receiving his approval that the I.T.O. could proceed to pass the assessment order. For giving any directions prejudicial to the assessee the I.A.C. had, however, to give the assessee an opportunity of being heard. The Finance Act, 1984 has withdrawn this requirement on the part of the I.T.O. w.e.f. 1.10.84. Since that date onwards for making addition in income of any quantum the I.T.O. is not statutorily required to obtain clearance from the I.A.C. Yet the I.A.C's powers to give directions of his own or when sought by the I.T.O. remain intact.

105. For details, Explanatory Notes to Finance Act 1984 may be referred to.
Previous approval of the I.A.C. is a must for I.T.O's functioning in several other matters also. In certain cases, the I.T.O. can determine actual cost of an asset (for the purpose of calculation of depreciation) for which I.A.C's previous approval is required. In case of understatement of actual consideration for transfer of an asset to a relative the I.T.O. is empowered to adopt the actual fair market value of the capital asset for calculation of capital gains. This is by virtue of Section 52(1). However, for invoking this provision the object of transfer should be avoidance of tax. Even then, for doing so, the I.T.O. requires the I.A.C's previous approval. The I.T.O. can require a company to pay Income-tax on a part of income shown by it as if distributed as dividends but actually, in I.T.O's opinion, no so distributed. Section 107 incapacitates the I.T.O. for doing so if the I.A.C's previous approval is lacking. During the course of investigation of

a case for assessment, the I.T.O. can ask for all assets and liabilities not shown in assesssee’s account books with the I.A.C’s previous approval only (Sec. 142). In case the I.T.O. has made an assessment without requiring the assessee to attend before him and without seeing his account books and the assessee has accepted such assessment, the ITO can reopen the assessment with the IAC’s previous approval if the former is of the view that it is necessary to verify the correctness and completeness of the return.108 The I.T.O’s powers to cancel registration of a firm (under Section 136) depends upon obtaining previous approval of the I.A.C. Any demand raised under the Act (except Advance-tax) is to be paid within thirtyfive days of the receipt of notice of demand. But in case of suspected jeopardy to Revenue a lesser period may be allowed by the I.T.O. with the previous approval of the I.A.C. (Section 220). If the concealed

108. See Section 143(2)(b) of the Income-tax Act,1961. Exercising his powers under this Section the I.A.C. need not give the assessee an opportunity of being heard.

109. See also Rameshwar Goemka V ITO 77 ITR 421.
income exceeds twenty-five thousand rupees, penalty cannot be levied by the I.T.O u/s 271 without obtaining the previous approval of the I.A.C. Besides, the I.A.C. has to call for report from the I.T.O. in connection with recommending filing of second appeal against orders of the Appellate Assistant Commissioner or Commissioner of Income-tax (Appeals). For this purpose he first scrutinises the appellate orders. He prepares briefs in respect of appeals against his own orders. He scrutinises draft remand reports of I.T.Os. He forwards parwise comments on writ petitions. He scrutinises briefs to Authorised Representatives. He follows up references to Tribunal and consults the standing counsel wherever necessary.

Having been duly authorised by the Commissioner of Income-tax, the I.A.C. can distribute jurisdiction among the Income-tax Officers (Sections 124 and 129A). He can also perform concurrent jurisdiction (Section 125A) with the Income-tax Officer if so ordered by the Commissioner.
The I.A.C. has the same powers as are vested in a court under the code of Civil Procedure, 1908 when trying a suit in respect of discovery and inspection, enforcing the attendance of any person and inferring him on oath, compelling the production of books of account and other document and issuing commissions. For non-compliance on the part of assessee the I.A.C. can impose penalty of five hundred rupees for every such default. He can also impound and retain books of account etc. (Section 131). The I.A.C. can carry out search and seizure operation after having been authorised by the Commissioner so to do. He can even authorise the I.T.O. to perform such functions. He can requisition books of accounts belonging to the assessee from any other officer or authority in whose custody these are lying (Section 132A). He can call for any information from any body (Section 133), can survey the assessee's premises (Section 133A), can inspect Registers of Companies (Section 134), can make enquiries (Section 135) and any proceedings.

110. The I.A.C. was so empowered w.e.f 1.4.1965 through the Finance Act, 1965
before him are deemed to be judicial proceedings within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (XLV of 1860).

**Technical Functions.**

The Inspecting Assistant Commissioner has full technical control over the Income-tax Officer. He gives prior approval for issue of refunds exceeding one lac rupees and for giving appeal effects resulting in reduction of tax of one lac rupees and above. He scrutinises at least a dozen cases of income or loss exceeding Rs. 50,000/- done by the I.T.O. every year, to see that all rules have been correctly applied in determining admissibility of various statutory allowances. He gives prior approval to appeal effects which would lead to demands under Wealth-tax or Gift-tax Act exceeding Rs. 25000/-.

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111. Instruction no. 36/5/64 dated 18.7.1964.
He checks all refunds exceeding Rs.5,000/- and ten percent of all other refunds. He periodically scrutinises the I.T.O's Demand and Collection Register. He grants approval for references to valuation cells. He gives advice to I.T.O. in cases where claim towards head office expenses in any year exceed one lac rupees. He inspects the Register for issue of clearance certificates. He earmarks the cases to be taken up for sample scrutiny by the I.T.O. every year. He checks to ensure that the additional demand arising out of appellate orders have been raised duly by the I.T.O. He approves ex parte assessment orders of the I.T.O. where income has been enhanced by one lac rupees or more. He watches recovery of arrears where outstanding demand exceeds twenty-five thousand rupees. He keeps a watch that the I.T.O. does not irregularly collect amounts to make good the shortfall of budget estimates.

115. Instruction no. 562 dated 27.6.63.
117. Instruction no. 785 dated 11.11.74.
He has to ensure compliance of instructions issued from time to time with a view to maintain coordination of assessments made under the various Direct-taxes Laws. His prior concurrence is necessary before declaring a case fit for prosecution under the Income-tax Act, 1961 where concealment involved is twenty-five thousand rupees or more. Similarly under the Wealth-tax/Gift-tax laws this limit is one lac to five lac rupees. He fixes reserve price in certain cases where the Tax Recovery Officer proceeds to collect arrear demand by resort to latter's powers under I.T.C.P.Rules 1962.

: Supervisory Functions:

Office of the Inspecting Assistant Commissioner is a reservoir of authority over the working of Income-tax Officers. As we have been seeing all through he can check anything anytime. But as a matter of rule he has to carry out the following inspections periodically.

1. Vigilance Inspection.

2. Regular Inspections.

The I.A.C. has to carry out surprise vigilance inspection of every Income-tax Office in his Range once every year. There is a prescribed proforma in which he has to make entries emanating from his inspection report. He inspects the work of the I.T.O. pertaining to administration as well as assessment. This report of the I.A.C. has a bearing upon the Annual Confidential Character Roll of the Income-tax Officer. Besides, the I.A.C. has to inspect the assessment work of at least one-third of the ITOs working under him, every year. He selects four files and makes detailed inspection of the work done therein and assesses the quality of assessment. An equal number of files is given to the I.A.C. by the I.T.O. out of latter's choice. Therein also similar inspection is done. Also the upkeep and maintenance of all relevant registers is scrutinised. Follow up action entailing from assessment is also looked into. Work of collection and recovery undertaken by the ITO in these cases is also inspected. Apart from seeing the ITO's work in
In these eight selected cases, the I.A.C. also comments upon general working of the I.T.O.

**Administrative Functions:**

The Inspecting Assistant Commissioner has a duty to ensure orderly functioning of all the Income-tax Officers under him. He controls and guides their work. He monitors the progress of periodical achievements of Action Plan targets set by the Board as well as by the Commissioner.

His other functions can be stated as under:

1. Transfer and posting of employees belonging to Groups C and D, working in his Range.
2. Countersigning the Annual Confidential Character Rolls of such staff.
3. Monitoring complaints addressed to him.
5. Granting their casual leave and recommending their Earned Leave applications to the Commissioner.
6. Granting leave of staff in the Range, exceeding thirty days.
7. Countersigning T.A. And Medical Bills.
8. Ensuring fair and equitable distribution of work among the officers and staff working in his Range.
9. Coordination of assessment and recovery work under various Direct Taxes statutes.
10. Obtaining monthly progress reports, compiling them and sending a consolidated report to the Commissioner.
11. Carrying out periodical checks of receipts and despatch sections of the Range.
12. Organisation surveys.
13. Getting demand and collection registers pertaining to arrear demand checked.
15. Acting as Head of Office of his own office.
17. Participation in meetings and conferences.

Miscellaneous Functions.
1. Checking of how the information sent by the Central Information Branch of C.I.T. Office has been utilised by the Income-tax Officers.
2. Sending and forwarding proposals for search and seizure operations to the Commissioners.
3. Inspection of cases where clearance certificate
have been issued and to see whether due utilisation thereof has been made while making regular assessment.

4. Keeping a watch on disposal of cases pertaining to search and seizure, survey, etc., including disposal of tax evasion petitions.

5. Writing of irrecoverable arrear demand up to a certain limit.

b. Keeping a watch over top one hundred cases of the Range.

Thus we find that the Inspecting Assistant Commissioner is a very important functionary in the hierarchy of the income-tax Department. However, on closer scrutiny we find that some of the IACs are posted to carry out other than these normal functions. As has been described earlier in bigger charges the IACs are posted as the heads of various section of the Commissioners or Chief Commissioner's office. I.A.C. (Audit) is perhaps the most important of such functionaries. The entire audit work emanating from C & A.C. and ending up back there or in the Public Accounts Committee of Parliament routes through the I.A.C. (Audit). He is the virtual head of the audit net work in the Commissioner's charge.
Some of the IACs are posted as IAC(Acquisition).

From 1972 till 1986 there was in the Income-tax Act Chapter XXA which empowered the Central Government to acquire immovable property in certain cases of understatement of sale-value.

Still some more IACs are posted as IAC(Assessment). They have under their direct jurisdiction assessment and allied functions pertaining to a select groups of important cases. In some cases they have concurrent jurisdiction with the ITOs. Some of the IACs are posted as Junior Departmental Representatives before the Appellate Tribunal. They represent the Department before the Tribunal in second appeals against orders of the Appellate Assistant Commissioner or Commissioner of Income-tax (Appeals). Yet some IACs were posted as IAC(Recovery) who look after recovery of tax dues. Keeping functions such as those described in the immediately foregoing paragraph under the IAC has its own significance. He is a senior officer and commands obedience from the Income-tax Officers. This helps in smoother functioning of the Department.

Yet we find that there is lack of decentralisation of powers in the Department. Original powers to order searches is that of the Commissioner only. While making a comparative study with other departments we find that the Income-tax Department lags behind in this respect. It is suggested that there should be gradual decentralisation from the Commissioner to the I.A.C. atleast as far as ordering searches is concerned. At the moment the I.A.C. can order consequential searches only. In fact he is an officer senior enough to be entrusted with original powers of ordering searches. There should of course be adequate provision of infrastructure like vehicles, offices, strong rooms and armed security staff in order to make this proposed change a success.