

TERMS OF REFERENCE OF THE FIFTH FINANCE COMMISSION

Paras 4 and 5 of the Presidential Order dated 29th February, 1968 containing the terms of reference of the Fifth Finance Commission are reproduced below:-

4. The Commission shall make recommendations as to the following matters:-

- (a) the distribution between the Union and States of the net proceeds of taxes which are to be, or may be, divided between them under Chapter-I of part XII of the Constitution and the allocation between the States of the respective shares of such proceeds;
- (b) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India and the sums to be paid to the States which are in need of assistance by way of grants-in-aid of their revenues under Article 275 for purposes other than those specified in the provisos to clause (1) of that Article and other than the requirements of the Five Year Plan, having regard, among other considerations, to:-
 - (i) the revenues resources of those States for the five years ending with the financial year 1973-74 on the basis of the levels of taxation likely to be reached at the end of the financial year 1968-69;
 - (ii) the requirements on revenue account of those States to meet the expenditure on administration, interest charges in respect of their debt, maintenance and upkeep of plan schemes completed by the end of 1968-69, transfer of funds to local bodies and aided institutions and other committed expenditure;
 - (iii) the scope for better fiscal management as also for economy consistent with efficiency which may be effected by the States in their administrative, maintenance, developmental and other expenditure;
- (c) the changes, if any, to be made in the principles governing the distribution amongst the States of the grant to be made available to the States in lieu of the repealed tax on railway passenger fares;
- (d) the changes, if any, to be made in the principles governing the distribution amongst the States under Article 269 of the net proceeds in any financial year of estate duty in respect of property other than agricultural land;
- (e) the desirability or otherwise of maintaining the existing arrangements under the Additional Duties of Excise (Goods of Special Importance) Act, 1957 in regard to the levy of additional duties of excise on sugar, textiles and tobacco in lieu of the States' sales taxes thereon, with or without any modifications, and the scope for extending such arrangements to other items or commodities;
- (f) irrespective of the recommendation made under item (e) above, the change, if any to be made in the principles governing the distribution of the net proceeds in any financial year of the additional excise duties leviable under the 1957 Act aforesaid on each of the

following commodities, namely:-

(i) Cotton fabrics

(ii) Silk fabrics

(iii) Woolen fabrics

(iv) Rayon or artificial silk fabrics

(v) Sugar, and

(vi) Tobacco including manufactured tobacco, in replacement of the States' sales taxes formerly levied by the State Governments. Provided that the share accruing to each State shall not be less than the revenue realised from the levy of the sales tax for the financial year 1956-57 in that State;

(g) the principles which should govern the distribution of the net proceeds of such additional items or commodities as may be recommended under item (e) above for levy of additional excise duties in lieu of the States' sales taxes thereon;

(h) the scope for raising revenue from the taxes and duties mentioned in article 269 of the Constitution but not levied at present;

(i) the scope for raising additional revenue by the various State Governments from the sources of revenue available to them; and

(j) the problem of unauthorised over-drafts of certain States with the Reserve Bank and the procedure to be observed for avoiding such over-drafts.

5. The Commission in making its recommendations on the various matters aforesaid shall have regard to the resources of the Central Government and the demands thereon on account of the expenditure on civil administration, defence and border security, debt servicing and other committed expenditures or liabilities.

6. The Commission shall make an interim Report by the 30th September, 1968 covering as many of the matters mentioned in para 4 above as possible and in particular, in respect of the financial year 1969-70; and make the final Report by the 31st July, 1969 on each of the said matters and covering a period of five years commencing from the 1st day of April, 1969, indicating in its Reports the basis on which it has arrived at its findings and making available the relevant documents." The supplementary reference dated 1.5.1969 made to the Commission is reproduced below:-

"Whereas since the commencement of the Constitution, Advance Tax collections made under the Income Tax Act have been taken into account in determining the net proceeds of taxes on income for purposes of article 270(2) of the Constitution only on completion of regular assessment;

And whereas successive Finance Commissions have recommended the distribution between the Union and the States of the net proceeds of taxes on income under article 280(3) (a) of the Constitution on the said basis;

And whereas the Comptroller and Auditor General of India has also certified the net proceeds of taxes on income under article 279(1) of the Constitution in each of the financial years until and including 1966-67 on the said basis;

And whereas it is now considered that the Advance Tax collections made in a financial year should be taken into account in determining the net proceeds of taxes on income in that year and not be left over for such determination in subsequent years on completion of regular assessment as hitherto;

Now, therefore, in pursuance of sub-clause (a) and (c) of clause (3) of article 280 of the Constitution of India the President is pleased to refer to following further matters to the Finance Commission, constituted by S.O. No. 812 dated the 29th February, 1968, namely:-

- (a) The distribution of the Advance Tax already collected and not included in the net proceeds of taxes on income in the financial years until and including 1966-67 as certified by the Comptroller and Auditor General of India;
 - (b) The changes, if any, in the distribution between the Union and the State of the net proceeds of taxes on income as prescribed in the Constitution (Distribution of Revenue) Order, 1965, in so far as the taxes on income collected in the financial years 1967-68 and 1968-69 are concerned, in the event of the net proceeds thereof being certified by the Comptroller and Auditor General of India after taking into account the Advance Tax collected in the respective years; and
 - (c) The distribution of the net proceeds of taxes on income in each of the financial years 1969-70 to 1973-74 as determined on the revised basis.
2. The Commission shall take into account the effect of the recommendations made by them on the matters specified in paragraph 1 above in making their recommendations under S.O. 812 aforesaid, as to the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them and the allocation between the States of the respective share of such proceeds under sub-clause (a) of clause (3) of Article 280 of the Constitution and also as to the determinations of the sums to be paid as grants-in-aid of the revenues of the States in need of assistance under clause (1) of Article 275 of the Constitution."