

Revenue Investigator Pressures

Posted on

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Are commercial pressures affecting the activities of Revenue investigators?

It is useful for readers to be referred to a report in the prestigious British taxation magazine, (Taxation -27 February 1997) which carries some observations on the "Trial CONVICTION and Imprisonment of Michael Allcock, formerly Group Leader of the UK. Inland Revenue (Tax Investigations) Special office. Michael Allcock, the report states, has been sentenced to five years imprisonment for fraudulently obtaining cash and other benefits from taxpayers as a result of his activities as a Group Leader at special office. The Report asks the question (very relevant to the tax scenario in Sri Lanka) whether 'the pressures for commercial success and profit-related pay are affecting the activities of Revenue investigators. The Report further states that the Allcock case has cast serious doubts on the British Revenue's insistence that the success of its investigators is not measured by reference to the amount of Revenue collected. Many taxpayers in Sri Lanka too complain that they have been the victims of official target oriented incentive payments made to Revenue officials.

Unanswered Questions

John T Newth FCA, FTII, FIIT comments on the implications of the Michael Allcock case.

The Trial Conviction and imprisonment of Michael Allcock, formerly Group Leader of Inland Revenue Special Office 2, raises far more questions than it answers.

Was this an isolated occurrence or have there been other unpublished cases of unacceptable or criminal behavior by Inland Revenue staff? Are the pressures for commercial success and profit-related pay affecting the activities of Revenue investigators? What unethical or even illegal exchanges of information took place between Special Office, other Government departments and sundry regulatory authorities? Is every taxpayer whatever his wealth (or lack of it) treated with 'equal

fairness' according to the new Taxpayer's Charter? And does not this case undermine the whole Revenue investigation and compliance offensive, particularly in the light of self-assessment?

The background

Michael Allcock, aged 47, has been sentenced to five years' imprisonment for fraudulently obtaining cash and other benefits from taxpayers as a result of his activities as a Group Leader at Special Office 2. He is a twin, his brother also being a civil servant, the son of a senior army officer and was educated at a minor public school in Suffolk.

He left school with five 'O' levels and joined the local tax office at Colchester at sixteen. The writer had just commenced in practice in that town at the time and is thankful in retrospect that they never crossed swords!

Michael Allcock's approach was so effective that he came to the attention of Special Office long before he joined them in 1983. Apparently he had sketchy technical knowledge of taxation law and practice but was a sharp commercial operator – ideal for special office! His subsequent progress to group leader by 1989 was swift, and it is reported that his group personally recovered \$100 million plus for the Revenue.

Because of his commercial success, his superiors overlooked his unconventional approach to the job, failure to provide adequate paper work and, more importantly, the dichotomy between his 'flashy and somewhat opulent lifestyle and his modest Civil Service salary. The rest is history, and well documented in every part of the national press but how ironic that this should have taken place within the portals of the 'crack' Revenue Investigation Agency.

Recent cases

Three very different cases have been publicised within the past year, where the behaviour of investigating Inland Revenue officials has been unacceptable. One is the current case, where as well as the imprisonment of Michael Allcock, a number of other Revenue Inspectors are facing disciplinary procedures which could lead to dismissal. The repercussions within the Revenue must be enormous and one speculates whether this case precipitated the eventual closure of Special Office and its amalgamation into the comprehensive Special Compliance Office with, presumably, much greater management control.

Whereas Special Office is at one end of the spectrum, the district investigation leading to the Special Commissioners' case of Farthings Steak House (Spe 91) is at the other end. This case was extensively reported by John Gwyer in *Taxation*, 24 October 1996 at pages 94 to 97. Suffice it to say that the Special Commissioner unprecedentedly condemned the actions of the investigating inspectors and awarded costs to the taxpayers. It is understood that changes have been made within the district concerned and, perhaps in order to deflect further adverse publicity, the Revenue decided not to appeal the decision which was wholly in favour of the taxpayer.

The third case is, again, quite different, *Revenue ex parte Kingston Smith* (1996) STC 1210. This case involved an investigation raid under section 20C, Taxes Management Act 1970. As well as the taxpayer's premises, the Revenue initiated a search of the office of his accountants. When this extended to the intention to remove the hard disk of a computer and back-up tapes, the accountants obtained an immediate telephone injunction from a High Court judge instructing the Revenue to desist from this intention.

The Revenue ignored this injunction and continued with the search and removed the hard disk. A furious Justice Buxton then ordered a personal appearance and apology from Steve Matheson, Deputy Chairman of the Board of Inland Revenue, failing which the Group Leader of the Special Compliance Office involved in the search would be jailed for contempt of court.

It is understood that there are other outstanding complaints against the unacceptable activities of Special Compliance Office and district Inspectors involved in investigations. One can only surmise as to how many.

Commercial pressures

The success of Special Office depended wholly on the tax revenue recovered. This concept may now be spreading down the line to tax districts, whether they be the new integrated offices, taxpayer district offices or whatever. Now we have 'Spend to Save', introduced in the November 1996 budget.

One of our correspondents in *Readers Forum* consistently mentions profit-related pay within the Inland Revenue. Usually we delete that part of his reply - perhaps wrongly. However, one has to question whether a direct commercial objective invites such a case as that of Michael Allcock, notwithstanding that he had

his own ideas as to the meaning of profit-related pay! The Allcock case has certainly cast serious doubt on the Revenue's insistence that its investigators success in not measured by reference to the amount of Revenue collected. Allcock's evidence was clearly incompatible with this notion.

Exchange of Information

The Taxes Acts make provision for formal and informal exchange of information between the Inland Revenue, Customs and Excise and the Department of Social Security.

What the acts do not mandate is exchange of information between the Inland Revenue, Customs and Excise and the Department of Trade and Industry, Serious Fraud Office, and other regulatory organizations including the Stock Exchange Insider Dealing Unit.

Asil Nadir, founder of the collapsed Polly Peck conglomerate, has always blamed Michael Allcock for precipitating the demise of his business empire, and the Daily Telegraph of Wednesday, 19 February alleged that Allcock has privately admitted he used an indirect contact to tip off the Serious Fraud Office about Nadir. The mail on Sunday, 23 February 1997, discloses the investigation into South Audley Management, which handled Asil Nadir's personal finances. Elizabeth Forsyth subsequently served a prison term following allegations of fraud, but her case is still under appeal.

Such actions raise fundamentally serious questions about the activities of those in high places, and assurances are needed that large public bodies will operate within the boundaries of agreed discretion and privileged confidentiality. Failing this, the general public will lose what respect they have for those in authority.

The Taxpayer's Charter The new Taxpayer's Charter commences by stating 'you are entitled to expect the Inland Revenue to be fair. The Department then undertakes to:

- settle your tax affairs impartially
- expect you to pay only what is due under the law
- treat everyone with equal fairness.

Are readers really expected to believe that the small businessman or Schedule E taxpayer is treated the same way as the target of what was Special Office 2? Can they make 'deals' or 'horsetrade' with Inland Revenue Inspectors to the same degree?

Alternatively, it is fairly obvious that the wealthy foreign taxpayers dealt with by Special Compliance Office are not subject to the nit-picking rules and regulations about form filling, penalties, surcharges and interest. Such a scenario was and is palpably 'not on'. All, of course, of this is in pursuit of swelling the coffers of the Exchequer by as much as possible. But is it within the terms of the Charter?

Complaints procedure

In a press release from Levy Gee last week, John Gwyer makes a number of suggestions about the defects of current complaints procedures available to the disgruntled taxpayer, with which the writer heartily agrees.

It may be that initial complaints about Michael Allcock were defended by senior Revenue personnel. A similar controversy rages about the police investigation complaints against their own personnel. Is there not a case for complaints by taxpayers against the Revenue to go direct to the Adjudicator?

In addition, recent cases illustrate the unbalanced system regarding costs where cases are won before the commissioners. Perhaps it is time for the Lord Chancellor's Department to reconsider this aspect again, allow both the Generals' and the Specials' to award costs, and drop the "wholly requirement so that costs may be awarded merely when the Revenue has behaved unreasonably.

Revenue Credibility

One has to question the whole credibility of Inland Revenue investigation following recent events. On the one hand, we have draconian self-assessment provisions strict timetables, automatic penalties and interest, difficult record keeping requirements and the threat of a random audit.

All this is reinforced by codes of Practice, the Revenue Investigation Handbook and the move towards integrated Revenue offices with a compliance and investigation emphasis.

On the other hand, the press has described a maverick commercial operation

judged by the sole criteria of bringing in as much revenue as possible for the tax man-but without reference to all the rules, regulations and penalties other taxpayers are expected to face.

No doubt Special Compliance Office has reined in the excesses of what used to be Special Office personnel. Nevertheless, taxpayers and their agents will now take some convincing that the Inland Revenue is represented anymore by the bowler hatted 'Hector who her. alds self assessment.

Finally, Revenue credibility has been marred further by the allegations made against Brian Cleave, Head of the Revenue's Solicitor's Office, on the front page of The Sun on 19 February 1997. Those taxpayers who face automatic penalties for being slightly late with their return and tax payment in February 1998 will not be amused.