P. A. C. 343

PUBLIC ACCOUNTS COMMITTEE
(1972 - 73)

(FIFTH LOK SABHA)

FIFTIETH REPORT

(Chapter V of Audit Report (Civil) on Revenue Receipts, 1970 and Report of the Comptroller and Auditor General of India for 1969-70, Central Government, Revenue Receipts relating to Other Direct Taxes.)

LOK SABHA SECRETARIAT
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1723—L S.—1

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(1972-73)

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Shri B. B. Tewari—*Deputy Secretary.*

Shri T. R. Krishnamachari—*Under Secretary.*

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee do present on their behalf this Fiftieth Report of the Public Accounts Committee (Fifth Lok Sabha) on Chapter V of Audit Report (Civil), Revenue Receipts, 1970 and Report of the Comptroller and Auditor General of India for the year 1969-70, Central Government, Revenue Receipts, relating to Other Direct Taxes.

2. In the past a Combined Report on Income Tax and Other Direct Taxes was presented. In view of the importance of the subject the Committee considered it appropriate to present a separate Report on "Other Direct Taxes" from this year onwards.

3. The Audit Report (Civil) Revenue Receipts, 1970 was laid on the Table of the House on the 19th May, 1970 and the Report of the Comptroller and Auditor General of India for 1969-70, Central Government, Revenue Receipts was laid on the Table of the House on 21st July, 1971. The Public Accounts Committee (1971-72) examined the paragraphs relating to Other Direct Taxes at their sitting held on 14th October, 1971 (FN). This Report was considered and finalised at the sitting held on the 17th August, 1972 (FN). Minutes of the sittings form Part II* of the Report.

4. A statement showing the summary of the main conclusion/recommendations of the Committee is appended to the Report (Appendix VI). For facility of reference, these have been printed in thick type in the body of the Report.

5. The Committee place on record their appreciation of the assistance rendered to them in the examination of these paragraphs by the Comptroller and Auditor General of India.

6. The Committee would also like to express their thanks to the officers of the Ministry of Finance for the cooperation extended by them in giving information to the Committee.

ERA SEZHIYAN,
Chairman,
Public Accounts Committee.

NEW DELHI;
August 17, 1972.
Sravana 26, 1894 (*Saka*).

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CHAPTER I

Super Profit Tax/Sur Tax

General

1.1. During evidence the Committee pointed out the Super Profit Tax was introduced in 1963-64 as a disincentive to excessive profits and to help keep down the prices. As these considerations will be valid for a long time to come, the Committee desired to know whether Super Profit Tax/Sur Tax could form part of a separate Corporate Tax Act so that there may not be any need to have a separate return etc. The Finance Secretary stated: "Originally these Acts were brought as an emergency measure in 1963-64 and you will have noticed that the Super Tax was in operation for only one year. Then it was withdrawn and then reimposed. The history of this has been somewhat fluctuating, but I think the idea that you have raised, that is, if there is to be a permanent measure of disincentive to excessive profits or a permanent measure to keep down the prices, it would be helpful if these can be integrated into one. We will examine this suggestion."

1.2. The Committee feel that in case Sur Tax is going to be a permanent measure to provide a disincentive to excessive profits and to keep down prices, it would be helpful both to the Department and the assessees if it is integrated into the general tax structure, as stated by the Finance Secretary. They would accordingly suggest as a step towards simplification and rationalisation that there could be a separate Corporate Tax Act incorporating therein the provisions relating to Sur Tax.

Super Profits Tax/Sur Tax

Audit Paragraph

1.3. As per the Super Profits Tax Act, 1963/Sur Tax Act, 1964 and instructions of the Central Board of Direct Taxes of October 1963, reserves which are designed to meet any liability, contingency, commitment or dimunition in the value of assets known to exist as on the date of the Balance Sheet should not be included in the computation of capital.

1.4. In the assessments of four companies, for the assessment years 1963-64 to 1967-68, it was noticed that the following reserves which should not have been treated as capital were incorrectly taken as

capital and consequently there was short-levy of tax of Rs. 15,94.959 in all the four cases:

(1) Provision for repairs and replacement;

(2) Provision for capital redemption;

(3) Provision for plant renovation;

(4) Provision for stores and sales tax;

(5) Reserve for retiring gratuities;

(6) Reserve for revaluation of plant;

(7) Inventory reserve;

(8) Reserve for doubtful debts; and

(9) Surplus in Profit and Loss account.

1.5. The Ministry have accepted the mistake in one case involving tax of Rs. 3,10,618. Reply of the Ministry in the remaining three cases is awaited (March 1971).

[Paragraph 61(b)(i) of Report of the Comptroller and Auditor General of India for the year 1969-70:—Central Government (Civil), Revenue Receipts.]

1.6. The Committee enquired whether the assessments in all the cases under reference had been retified and if so, desired to know the additional tax demanded from the assessees and recovered so far. The Ministry, in a note furnished to the Committee, submitted the following information:

"In the case of two assessees involving four assessment proceedings, the Audit had objected to the inclusion of certain reserves in the capital computation of the concerned assessee companies. The Ministry found that none of the reserves, which the Audit had in view, had been created to meet any known liabilities and these were only appropriations out of the profits for various purposes. Hence, in view of the Supreme Court ruling in the case of the Metal Box Co. of India Ltd. [73 ITR 53], the Ministry disagreed with the Audit view. The assessments in the case of these two companies have not been revised.

The Audit objected in the case of another company involving two assessment years, that the capital base should not have included the following reserves:

(i) Reserve for renovation of plant;

(ii) Inventory reserve;

(iii) Reserve for doubtful debts; and

(iv) Surplus in profit and loss account.

The objection relating to (i), (ii) and (iii) was not acceptable, because none of the three reserves had been created for specified, ascertained or known liability and not one of these reserves had been created by allowing a deduction in the computation of total income. But the objection relating to (iv), was acceptable in view of the Supreme Court decision in the case of Century Spinning and Weaving Mills Ltd., [24 ITR 499]. The SPT assessment for 1963-64 and Sur Tax assessment for 1964-65 will have to be made afresh by the Income-tax Officer. At present, he is pre-occupied with disposal of income-tax assessments which would soon be reaching limitation. The revised SPT and Sur Tax assessments are expected to be completed by him by May, 1972.

The Audit objection in the fourth case involving three assessment proceedings has been accepted in principle. The Sur Tax assessments for the assessment years 1965-66 to 1967-68 will be revised after the end of the current financial year."

1.7. The Audit objection regarding the treatment of certain reserves as capital for the purpose of levy of Super Profit Tax/Sur Tax in the case of four company assessees is based on the instructions issued in October 1963 by the Central Board of Direct Taxes themselves. The Ministry have, however, contended that in the case of two companies the reserves referred to by Audit, which were appropriations out of profits, had not been created to meet any known liabilities and that in view of a Supreme Court ruling the assessments need no revision. In another case, the Ministry have pointed out that the reserve viz. (i) Reserve for renovation of plant; (ii) Inxentory reserve; and (iii) Reserve for doubtful debts, had not been created for specified, ascertained and known liability and by allowing deduction in the computation of total income. The objection relating to 'surplus in profit and loss account' has been accepted in accordance with the judicial view on the subject. The Committee further note that the objection in the fourth case has been accepted in toto. They would like to await a report on the rectification of assessments and the details of recovery of tax in the case of the two companies.

1.8. The Committee desire to suggest that the treatment of various reserves should be examined carefully on the basis of judicial view and in consultation with Audit and Ministry of Law for issue of detailed revised instructions for the guidance of assessing officers.

CHAPTER II

Wealth-tax

Audit Paragraph

2.1. The actual receipts under the Wealth-tax Act during the year 1969-70 amounted to Rs. 15.62 crores. The receipts under the Wealth-tax Act for the last five years are compared with the Budget estimates in the table below:

(In Crores of rupees)

Year	Budget Estimates	Actual Receipts
1965-66	13·50	12·06
1966-67	14·00	10·73
1967-68	12·00	10·70
1968-69	11·00	11·11
1969-70	12·00	15·62

2.2. The total number of assessees in the books of the department as on 31st March, 1969 and 31st March, 1970 were as follows:

	As on 31st March, 1969	As on 31st March, 1970
Individuals	94,961	1,23,522
Hindu Undivided Family	11,551	5,113
TOTAL	1,06,512	1,28,635

[Paragraph 62(i) and (ii) of report of the Comptroller and Auditor General of India for the year 1969-70, Central Government (Civil) Revenue receipts.]

2.3. As per paragraph 33(iii) of the Audit Report there were 3,21,494 assessees having business income over Rs. 15,000 in each

case. The Committee pointed out that to earn an income of Rs. 15,000 a person should not have less than Rs. 1 lakh of wealth which is the limit laid down for purpose of wealth tax. Excluding about 27,000 company assessees about 2,94,000 assessees are to be borne on the rolls of the department for purposes of Wealth-tax. The number of assessees furnished by the Ministry and included in this paragraph, as on 31st March, 1970, is only 1,28,635. The Committee asked for the reasons for such a large variation. The Committee also desired to know what efforts were made to conduct an external survey and bring in more assessees into the books of the department. The Ministry furnished the following reply:

"Persons assessed to Wealth-tax are entitled to quite a number of exemptions under Section 5 of the Wealth-tax Act, the chief amongst which is an exemption upto Rs. 1 lakh in respect of a house belonging to him and exclusively used by him for residential purposes. The person would be liable to Wealth-tax only on the net wealth arrived at after allowing these deductions. The gross figure before such deductions should in most of the cases be about Rs. 2 lakhs. Working on the same basis as adopted by the Committee, it would mean that a person earning an income of about Rs. 30,000 per year would be a wealth tax assessee.

The number of assessees having business income of over Rs. 25,000 on 31st March, 1970, was 1,61,485 against 1,28,635 wealth-tax assessees on the same date. There was, therefore, not much of variation between the expected and the actual number of assessees.

The variation is chiefly explained by the following factors:

(a) Firms and Association of Persons are not liable to wealth-tax, and

(b) The exemption limit of wealth-tax for Hindu Undivided Families is Rs. 2 lakhs.

The Board have asked the Commissioners of Wealth-tax to conduct an extensive survey to bring more assessees into the books of the Department. They were asked to start a planned programme of survey from 1st April, 1971. This, they have been able to do on a selective basis, because of a shortage of Inspectors."

2.4. The Committee were informed by Audit that the total number of assessees and the tax collected during the years 1961-62 to 1969-70 were as follows:

Year	No. of assessees	Tax collected (in crores of Rs.)
1961-62	30,827	8·2[illegible]
1962-63	31,779	9·54
1963-64	32,876	10·50
1964-65	67,057	10·52
1965-66	83,022	12·06
1966-67	89,399	10·73
1967-68	94,511	10·70
1968-69	1,05,934	11·11
1969-70	1,28,635	15·62

2.5. On 31st March, 1970, though the number of assessees had gone up by more than four times to what it was on 31st March, 1962, the tax collection had gone up by less than two times only. Commenting on the fact that the proceeds from wealth-tax had been almost stationary in spite of rise in number of assessees the Public Accounts Committee recommended in paragraph 2.7 of their 117th Report (4th Lok Sabha).

"This suggests that there is a large scope for improving the administration of tax. In the Committee's opinion, this would call for efforts in two directions. In the first place, it would be necessary to make concerted efforts to bring down the arrears in assessments. Later in this Report, the Committee have drawn attention to the fact that there are pending assessments dating back to 1963-64 and even earlier years. A programme for their expeditious clearance would have to be drawn up. Secondly, the procedures for valuation will have to be streamlined ...."

2.6. To which, the Ministry replied as follows:

"The first recommendation of the Committee that concerted efforts should be made to bring down arrears in assessment has been followed. During the recent conference of the

Commissioners of Income-tax held in May, 1970 special emphasis was laid by the Board on the need for liquidating the arrears of wealth tax assessments. The Commissioners were asked to deploy more Officers for the disposal of wealth-tax assessment during the financial year and to fix separate targets of disposals for such assessments. The Commissioner of Income-tax have since reported that they have taken proper action in the matter. Accordingly it is hoped that by the end of this financial year the number of such pending assessments would substantially come down .... "

2.7. Asked about the target dates fixed for the clearance of arrears in assessments, the Ministry stated: "The Board have not fixed any target dates for the completion of arrear assessments as during 1971-72 the same set of officers have to complete 3 time-barring income-tax assessments. Besides, greater stress is being laid on the quick completion of revenue yielding income-tax cases and on collections of arrear demands."

2.8. The Committee enquired whether there were any checks over the work of valuers to ensure that valuation is done correctly and fairly. The Ministry, in a written reply stated:

"Under the existing provisions of law, no control over quality of valuation work done by Valuers appointed under Section 4(3) of the Estate Duty Act is possible. However, wherever the Wealth-tax Officer suspected the valuation made by such Valuers, the matter was referred for proper valuation to the Valuation Cell of the Central Board of Direct Taxes, manned by Engineers on deputation from the Central Public Works Department. It may be stated that under the Taxation Laws (Amendment) Bill, 1971, which is before the Parliament, adequate provisions are proposed to ensure proper valuation by private (registered) valuers."

2.9. The Committee feel that there is scope for improving the Wealth Tax administration especially to ensure that all the assessees liable to pay Wealth Tax are borne on the books of the Department. They would accordingly like to suggest that the Income-Tax returns of all the assessees having business income of over Rs. 15,000 should be reviewed to see whether all those having taxable wealth are submitting returns of wealth. Such a review is called for in view of the fact that as against 2,94,000 Income-tax assessees (excluding companies) having business income of over Rs. 15,000 as on 31st

March, 1970, the number of wealth tax assessees was only 1,28,635. It can be reasonably presumed that to earn an income of Rs. 15,000 per annum a person should have wealth of not less than Rs. 1 lakh, which is the limit laid down for the purpose of wealth tax. In this connection the Committee wish to observe that the exemption of Rs. 1 lakh for self occupied houses referred to by the Ministry does not appear to be relevant to cases of purely business income. As regards house property, the Committee would urge Government to intensify the survey on the basis of municipal records etc.

2.10. The Committee would further wish to reiterate their earlier observation contained in their 117th Report (Fourth Lok Sabha) that it is necessary to make concerted efforts to bring down the arrears in assessments and that the procedures for valuation will have to be streamlined as the increase in wealth tax revenue has not been even two-fold with a four-fold increase in the number of assessees during the past 9 years. They observe that no target dates for the completion of arrear assessments have been fixed. They expect that the arrears should be cleared as early as possible under targetted programme so as to get the taxes due. The concrete steps taken to streamline the procedures for valuation of assets and bring down the arrears in assessments may be reported to the Committee.

Mistakes in calculation of tax or in the computation of net wealth.

Audit Paragraph

2.11. (a) The wealth tax assessments of an individual assessee for the asessment years 1959-60 to 1961-62 and 1964-65 to 1967-68 were completed on 24th January, 1968. The total wealth tax payable for all these years according to the rates laid down for the respective years worked out to Rs. 36,920. However, the Wealth-tax Officer calculated the demand as Rs. 22,450 only and issued notice for the same. Thus there was a net under-charge of wealth-tax of Rs. 14,470 due to incorrect application of rates. The department have accepted the mistake. Report regarding rectification and recovery of the tax is awaited.

(b) For the assessment year 1967-68 completed on 1st December, 1967 the total net wealth of an assessee worked out to Rs. 4,48,012. However, the assessing officer computed the net wealth as Rs. 2,48,012 resulting in under-charge wealth of Rs. 2 lakhs from tax.

(c) In another case for the assessment year 1965-66 total net wealth assessable worked out to Rs. 3,26,487. However, the Wealth tax Officer took the net wealth as Rs. 2,26,487 resulting in under charge of wealth of Rs. 1 lakh from levy of tax.

(d) While computing the net wealth of an assessee for the assessment year 1962-63 the Wealth-tax Officer inadvertantly assessed the wealth as comprising 5,000 shares of a company as against 50,000 shares of Rs. 10 each of that company. The error in adopting the number of shares resulted in under-assessment of wealth by Rs. 4,50,000. The department have since accepted the mistake and raised additional demand Report regarding recovery is awaited.

[Paragraph 71(ii) of Audit Report (Civil), Revenue Receipts, 1970.]

2.12. Referring to sub-para (a), the Committee enquired whether all the assessments have been verified and additional demand recovered. It was stated, in a written note, that the assesssments had been rectified as a protective measure but recovery had not been pressed for. The Committee pointed out that the assessments for all the 7 years from 1959-60 were completed only in January, 1968 and desired to know the reasons for such an inordinate delay in the completion of assessments. The Ministry, in a note, explained that the delay was due to the litigation regarding the ownership of the property in question.

2.13. To a question as to how the mistake occurred in this case, the Ministry stated that it occurred in adopting an incorrect rate of tax. The Committee asked whether the assessments were looked into in Internal Audit. According to the reply of the Ministry, the assessments were not checked by the Internal Audit.

2.14. As regards sub-para (b), the Committee were informed in a note that the assessment had since been rectified and additional demand of tax recovered. Asked whether there was any arrangement in regard to check of assessments before the demand notice was issued, the Ministry stated that there was no such arrangement.

2.15. To a query whether the assessment had been checked in Internal Audit, the Ministry, stated that this information was not readily available.

2.16. The Committee referred to sub-para (c) and enquired about the present position of the recovery of additional demand. It was stated by the Ministry that rectification of the assessment and recovery of additional demand had since been done.

2.17. The Committee desired to know the steps proposed to be taken by the Ministry so as to avoid recurrence of such mistakes in future. The Ministry, in a note, stated that suitable instructions would be issued for the avoidance of such mistakes.

2.18. Asked whether additional demand in respect of sub-para (d) had been recovered, the Ministry replied in the affirmative. As regards the total wealth returned by the assessee, it was stated that the net wealth declared was Rs. 1.28 crores. The Committee were further informed that the assessments for 1962-63 and 1963-64 were completed on 11-10-1967 and 17-10-1967 respectively and on 16-4-1969, the Audit objection was received. The Committee were informed by Audit that the assessment was not subjected to check by the Internal Audit. Asked as to why the Internal Audit did not take up the case for review in time, the Ministry, in a note, replied that the explanation of the Internal Audit Party for its failure to review this case in time was being called for.

2.19. The Committee find that in two out of four cases mentioned in the Audit paragraph although the total net wealth worked out to Rs. 4,48,012 and Rs. 3,26,487 respectively, the assessing officer computed the net wealth as Rs. 2,48,012 and Rs. 2,26,487. In another case a mistake in computation of net wealth leading to underassessment of wealth by Rs. 4,50,000 was committed in taking the number of shares owned by the assessee as 5,000 instead of as 50,000. Such mistakes could have been prevented with a little more care on the part of the assessing officers and hence the Committee desire that responsibility should be fixed for appropriate action. The Committee further feel that these point to the need for counter-check of assessments before they are finalised and demand notices issued. This is all the more necessary in the case of big assessments such as the one reported in sub-para (d), the net wealth declared in which being Rs. 1.28 crores. They trust that Government will take effective steps to avoid recurrence of such mistakes.

2.20. In one case, the Ministry are unable to state whether the assessments were looked into by Internal Audit whereas two cases were not checked by them although the assessments were completed in October, 1967 and January, 1968 respectively. All these suggest that Internal Audit have not been giving importance to the check of Wealth-tax assessments that it deserves. The Committee hope that the situation will be remedied.

Audit Paragraph

2.21. The wealth-tax return form provides several columns to indicate the various kinds of assets owned by an assessee, located in and outside India, such as movable and immovable property, business assets, stocks, shares, bank balances etc. The form also requires the assessees to draw up an abstract and indicate the total wealth. It was noticed that in eleven cases assessed in five Commissioners'

charges the wealth-tax officers did not charge to tax total wealth of Rs. 27,35,294 shown by the assessees in their returns of wealth. The resultant under-assessment of tax was Rs. 33,349. The department have accepted the mistake in six cases and their reply in regard to the remaining three* cases is awaited (March, 1971).

[Paragraph 62(a)(ii) of Report of the Comptroller & Auditor General of India for the year 1969-70, Central Government (Civil), Revenue Receipts.]

2.22. The Committee were informed by Audit that three assessments out of eleven mentioned herein, were checked by the Internal Audit but the omission remained undetected. The Committee desired to know the scope and extent of Audit conducted by Internal Audit Party on Welath-tax assessments. The Committee also enquired whether the omission in the 3 cases were looked into by the Ministry. The Ministry have submitted the following reply:

"The scope and extent of the Internal Audit check was enlarged in June, 1969 as detailed in the annexure. (Appendix I of this Report).

In the instant case the I.A.P. had checked the case before June, 1969, when they were required to check only the arithmetical calculations."

2.23. In this connection, Audit have made the following comments:

"The Ministry have indicated duly the scope of internal audit but not extent of internal audit. For instance, the income-tax, the following quanum of audit is prescribed:

(a) all company cases

(b) other cases:

income of Rs. 20,000 and above	1% of cases
Rs. 20,001 to Rs. 50,000	10% of cases
Rs. 50,001 and above	100% of cases

Similarly on the wealth-tax side any percentages prescribed by the Board for check by the Internal Audit are required to be intimated to the Public Accounts Committee."

2.24. The Ministry, in a note, intimated the present position of rectification of assessments and their subsequent recovery as follows:

"The objection in all the eleven cases has been accepted by the Ministry. All the relevant assessments, excepting three which were set aside in appeal, have been revised

*Should be five.

and an aggregate additional demand of Rs. 19,336 raised. Out of this, a sum of Rs. 16,273 has been collected. Information regarding the collection of the balance demand of Rs. 3,063 and completion of three set-aside assessments is awaited."

2.25. With reference to the above reply, Audit have stated that: (a) "Only two assessments for the years 1957-58 and 1958-59 were set aside by the Appellate Assistant Commissioner and in the fresh assessments made the audit objections were taken into account and the demand created included the tax of Rs. 8,924 pointed out in Audit. Only in the case of the revision appears to be still pending.

(b) Hence the additional demand created in the ten cases aggregated to Rs. 28,260 and not as Rs. 19,336 as stated in the Ministry's reply.

(c) So far as collection of tax is concerned, Audit has stated that recovery was Rs. 10,309 only. In one case with tax effect of Rs. 5.944 the Ministry's file indicates that refunds due were to be adjusted against the demand. Completion of action in this regard is not evident from the file."

2.26. The Committee referred such widespread omissions which were reported in the paragraph as well as in para 71 (iii) of Audit Report, 1970, and asked what action the Ministry proposed to take to prevent recurrence of such lapses. To this, the Ministry stated (February, 1972) that the Board were considering simplification of the return form so as to avoid such mistakes.

2.27. The Audit paragraph brings out omission on the part of the welath-tax officers to assess various kinds of assets returned by the assessees in their wealth-tax returns. In eleven cases total wealth of Rs. 27,35,294 was not charged to tax. The Ministry have accepted the lapse in all these cases. The Committee would like to leave the recovery of additional demands to be watched by the Ministry/Audit. The Committee find that such lapses are fairly widespread. The Ministry have informed that simplification of wealth tax return is stated to be under consideration to avoid recurrence of such lapses. The Committee await a further report in this regard.

2.28. The Committee were informed by Audit that three out of eleven assessments were checked by the Internal Audit but the omission remained undetected. The Ministry have explained that the cases were checked before June, 1969 when the Internal Audit

Parties were required to check only the arithmetical calculations. The Comimttee note that the scope of the Internal Audit check has since been enlarged. In this connection they desire to urge that the quantum of check by Internal Audit of various categories of wealth tax assessments should also be laid down specifically in consultation with statutory Audit.

Audit Paragraph

2.29. The wealth-tax assessments of an assessee for the years 1963-64 to 1967-68 revealed the following mistakes leading to under-assessment of wealth by Rs. 14.20,880 with consequent short-levy of tax of Rs. 71,195:—

(i) The value of a dwelling house was taken as Rs. 2,61,640 for the assessment years 1963-64 to 1967-68. The Appellate Assistant Commissioner while deciding the Income-tax assessment for the assesment year 1963-64 determined the value of the property as Rs. 4,01,880. The enhanced value of the property decided by the appellate authority was not adopted in the wealth-tax assessments for the years 1963-64 to 1967-68.

(ii) Vacant land valued at Rs. 41,220 referred to in the appellate orders was not considered in the computation of taxable wealth for the four assessment years.

(iii) House property valued at Rs. 5,13,580 for the assessment year 1964-65 to 1967-68 was not included in the computation of wealth.

2.30. Ministry's reply to the audit paragraph forwarded in October, 1970 is awaited (March, 1971).

[Paragraph 62(a)(iii) of Report of the Comptroller & Auditor General of India for the year 1969-70, Central Government (Civil), Revenue Receipts.]

2.31. The Committee pointed out that the assessee in this case appeared to fall in the category of "big wealth-tax assessees" and wanted to know whether there were any arrangements for exercising counter-check before assessments are finalised and for a check before demands actually raised, and whether such checks were exercised in the case under examination. The Ministry, in a written reply, stated that:

"The checking is confined to the calculation of taxes and not the computation of net wealth. The Wealth-tax Officer

himself is expected to exercise proper caution in handling big cases. Such cases are also looked into by the Assistant Commissioners of Income-tax at the time of inspection.

In the case in question, the under-charge reported by the Audit is based on a mode of computation different from that of the Wealth-tax Officers in computing the net wealth of the assessee."

2.32. Asked whether the same wealth-tax officer completed the assessments for all the five years, the Ministry stated that the assessments were made by three different officers.

2.33. According to Audit, the reply to the paragraph, which was forwarded to the Ministry in October, 1970 had not yet been sent. The Committee wanted to know the reasons for the delay. The Ministry furnished the following written reply:

"The reply in this case was sent on 19-11-1971 after a little over one year from the receipt of the objection. The delay, mainly caused by settling the points of difference between the Audit and the Ministry, is regretted."

2.34. As regards the additional demand of tax raised and recovered, it was stated, in a note, that the assessments had been re-opened under section 17 and were pending.

2.35. In this case a number of mistakes have been committed in the assessments for the years 1963-64 to 1967-68 involving short-levy of wealth-tax of Rs. 71,195. The Committee understand that the assessments had been reopened under Section 17 of the Wealth Tax Act. A report regarding rectification of the assessments and recovery of additional demand may be sent to the Committee.

2.36. The Committee have earlier in this Report stressed the need to have counter-check of assessments before they are finalised and demand notices issued. Such a counter-check should not be confined to calculations of tax only but should also cover computation of net wealth.

2.37. Incidentally, the Committee would like to impress upon the Ministry the need to give prompt replies to Audit paragraphs forwarded to them before their inclusion in the Report of the C&AG, as in this case it took, regrettably, more than a year to furnish the replies.

Omission to levy or incorrect levy of additional wealth-tax on immovable properties

Audit Paragraph

2.38. (a) In seven cases relating to four Commissioners' charges, additional wealth-tax on immovable properties (or rights therein) valued at Rs. 54.40 lakhs situated in large cities and towns was omitted to be levied. In all the cases the department have accepted the omission. Report regarding rectification and recovery of tax is awaited.

(b) An assessee, owned in a city having a population exceeding 4 lakhs but not exceeding 8 lakhs, immovable properties valued at Rs. 69.73 lakhs as on 31st March 1965. He was entitled to exemption from the additional tax on property of Rs. 3 lakhs. Contrary to the provisions in the Act, the assessee was given exemption on Rs. 5 lakhs value of such property and this resulted in under-statement of net wealth assessed to tax by Rs. 2 lakhs for the assessment year 1965-66. Report regarding rectification and recovery of additional tax is awaited.

[Paragraph 71(iv) of Audit Report (Civil), Revenue Receipts, 1970.]

2.39. The Committee were informed in a written note by the Ministry that the assessments have since been rectified and the additional tax recovered in all these cases.

2.40. Asked whether the Board have issued any instructions regarding the levy of the additional wealth tax on the value of urban immovable properties, the Ministry in a note stated that instructions were issued on 25-9-1971, a copy of which is reproduced in Appendix II. The instructions contemplate *inter alia* a review by the assessing officers to find out if any other completed assessments in such cases require rectification under Section 35 of the Wealth Tax Act. However no target date for the completion of review has been prescribed and a report is also not required to be submitted to the Ministry in the absence of which it is not possible to ensure that a review was actually conducted and the assessment rectified wherever necessary.

2.41. The Committee were informed by the Ministry that such mistakes might not occur in future. To a question whether any instructions were issued for the guidance of the Internal Audit Party requiring them to look into the aspect of levy of this additional wealth tax, the Ministry replied that no such instruction had been issued.

2.42. Under the schedule to the Wealth Tax Act, 1957, as amended by Finance Act, 1965, additional wealth-tax at graduated rates is leviable on immovable properties other than business premises situated in urban areas with population of more than 1 lakh. The Committee are distressed to note a number of cases of non-levy of the additional wealth-tax on immovable properties valued at Rs. 54.50 lakhs and incorrect levy leading to under-assessment of net wealth by Rs. 2 lakhs. This shows that the assessing officers are not quite conversant with the relevant provisions of the Act. The Committee, however, note that the assessments in all the cases have been rectified and additional tax recovered. The instructions dated 25th September, 1971 issued in this connection contemplating inter-alia **a review by the assessing officers to find out if any other completed assessments in such cases require rectification under Section 35 of the Wealth Tax Act are too general in the sense that no target date for the completion of review has been prescribed and that a report is also not required to be submitted to the Ministry. In order to ensure that the contemplated review is promptly conducted and the assessments rectified wherever necessary, the Committee desire that a suitable target date should be fixed for the completion of the review and a report regarding the follow-up action taken should also be obtained by the Ministry. The Committee would also like to be apprised of the outcome of the review.**

2.43. The Committee further desire that the Internal Audit should be specifically instructed to look into the levy of additional tax on urban immovable properties in the course of their check in view of the large scale omissions which have been brought to the notice by Statutory Audit.

Non-levy/Incorrect levy of additional wealth-tax on immovable urban properties.

Audit Paragraph

2.44. Under the Wealth-tax Act from assessment year 1965-66, in addition to the wealth-tax chargeable at the prescribed rates, where the net-wealth of an individual or Hindu Undivided Family includes building or land (other than business premises) or any right on such building or land situated in any areas falling in specified categories, additional tax worked out with reference to the value of assets determined in the prescribed manner is chargeable. Where an assessee owns land or building falling in areas covering more than one category, additional wealth-tax is to be charged on the aggregate value

of buildings and lands in all categories after allowing statutory exemptions.

(i) In the case of two assessees who during the assessment year 1965-66 owned assets falling in two categories, the additional wealth-tax on assets falling in each category was charged separately instead of charging the same after aggregating their values. This resulted in under-charge of tax of Rs. 23,032. The audit paragraph was forwarded to the Ministry in October, 1970 and their reply is awaited (March, 1971).

(ii) In eighteen cases the additional wealth-tax was not levied on urban immovable properties valued at Rs. 158.62 lakhs and the tax involved was Rs. 37,296.

[Paragraph 62(b)(i) & (ii) of Report of the Comptroller & Auditor General of India for the year 1969-70, Central Government (Civil), Revenue Receipts.]

2.45. Finding the omission to levy or incorrect levy of additional Wealth-tax on immovable property to be widespread, the Committee enquired whether a review of all cases in which additional wealth-tax on urban property are leviable to find out whether taxes had been properly levied having regard to the classification of the city and additional tax leviable on properties situated therein. The Ministry have submitted the following reply in this regard

"Yes. The Ministry feel that the desired review can be taken up only after 31-3-1972, when income-tax assessments for as many as three assessment years would be reaching limitation."

2.46. To a query about the present position of the cases in the matter of recovery of additional demands, the Ministry of Finance submitted a note which is reproduced below:

"Assessments in respect of thirteen assessees have been revised and an aggregate additional demand of Rs. 35,011 raised. In one case the Appellate Assistant Commissioner has cancelled the rectificatory order and the Department has filed a second appeal. In the remaining six cases information regarding the amount of additional demand raised is awaited."

2.47. The Committee have, in the preceding section of this Report, dealt with the non-levy/incorrect levy of additional tax on urban

immovable properties. That such omissions and mistakes are wide-spread is clear from the fact that this Audit paragraph has brought out further 18 cases of non-levy of additional tax on properties valued at Rs. 158.62 lakhs and two cases of incorrect levy. The Committee note that an aggregate additional demand of Rs. 35,011 has been raised in thirteen cases. The recovery of this additional demand as also the rectification of assessments and recovery in other cases may be reported to the Committee.

2.48. The Committee wish to stress the need to expeditiously complete a review to find out whether taxes had been properly levied in such cases. They would await the outcome as indicated earlier.

Incorrect exemptions and deductions allowed to assessees.

Audit Paragraph

2.49. Wealth-tax is not payable by an assessee on the value of Post Office National Plan Certificates, Treasury Savings Deposit Certificates, Post Office National Savings Certificates, etc. subject to the following conditions:

(1) The exemption is limited to the extent to which the amount of the certificates does not exceed in each case the maximum amount permitted to be invested, and

(2) the investments are held by the assessee in his name.

2.50. In a case the excess value of the certificates of Rs. 7,50,000 over the prescribed maximum amount held by an individual was not included in net wealth for the assessment years 1962-63 to 1968-69. The wealth-tax under charged was Rs. 14,563. Reply of the Ministry to whom the matter was reported in August 1970 is awaited (March, 1971).

* * * *

[Paragraph 62(c)(i) of Report of the Comptroller & Auditor General of India for the year 1969-70, Central Government (Civil), Revenue Receipts.]

2.51. The Committee asked how the Government kept watch that investments, individually or jointly were made only upto the maximum limits laid down. The Ministry stated in a note that in the course of assessment proceedings, the wealth-tax officers checked up whether the maximum limits of investments had been exceeded. Asked further whether there were any penal provisions under the schemes mentioned in the paragraph if investments were made in excess of the limits laid down, the Ministry intimated that no penal

provisions under the Wealth-tax Act have been provided to discourage the investments exceeding the prescribed limits; but when an assessee exceeded the maximum amount permitted to be invested in the relevant certificates, the balance was not allowed exemption.

2.52. Asked if the assessments in the first case for the years 1962-63 to 1968-69 had been revised, the Ministry furnished the following information:

> "The audit objection in this case covers the assessment years 1962-63 to 1968-69, out of which rectificatory action can be taken only for the last two assessment years for which the Income Tax Officer has been directed to take action under Section 35 as a precautionary measure. It is, however, not clear at this stage whether the assessee should be assessed in the status of an H.U.F. and if so, whether any such rectification under Section 35 would be possible."

2.53. The incorrect tax exemption allowed for the investments in certain small savings in excess of the permissible limit, referred to in the Audit paragraph, raises a basic question as to how it is ensured that such investments are made only upto the maximum limits laid down in the relevant schemes. The Ministry's statement that no penal provisions under the Wealth Tax Act have been provided to discourage investments exceeding prescribed limits does not meet the point raised by the Committee. Such a penal provision can only be in the relevant savings schemes. The Committee would, therefore, like Government to consider this aspect taking into account the purpose of fixing the limits.

Omission to correlate wealth-tax assessments with income tax assessments.

Audit Paragraph

2.54. While completing wealth-tax assessments, the assessing officer is expected to look into the income tax assessments of the assessees with a view to ensuring that no sources from which incomes is assessed to income-tax are left out of wealth-tax assessments. This primary check was found to have not been exercised by the Wealth-tax Officers in some cases. A few such cases are illustrated below:

(a) As per the instructions of the Central Board of Direct Taxes issued in October 1965, intangible additions made in the Income tax assessments of a firm are to be considered for purposes of assessment of individual partners

under the Wealth-tax Act unless it is proved that any part of such addition has acutally been gifted. As per the original assessment of a firm for the assesment year 1963-64, the share income of six partners thereof amounted to Rs. 1,11,296. The assessment of the ' firm was subsequently revised upwards and as a result of revision the total share income of the six partners went up by Rs. 25,05,705. Though the revised share income was communicated by the Income-tax Officer assessing the firm to the Income-tax Officer assessing the partners in August 1965 the wealth-tax asssessments of the partners for the assesssment years 1963-64 to 1966-67 were not revised charging the difference in the share income due to addition of intangible items in the revised assessment of the firm, till the omission was pointed out in November 1968. The Ministry have accepted the mistake. Report regarding recovery is awaited.

[Paragraph 71(v)(a) of Audit Report (Civil), Revenue Receipts, 1970.]

2.55. The Committee enquired whether this case was checked by Internal Audit. The Ministry, in a note, have stated that it was not. Asked why the Board's instructions were not followed by Wealth Tax Officers, the Ministry replied that the Wealth Tax Officers failed to follow the instructions of the Board due to inadvertence. The Ministry further stated that the assessments were completed by eight different Wealth Tax Officers.

2.56. The Committee were informed by Audit that a settlement was effected between the firm and the C.I.T. concerned in 1968-69 and in accordance with the settlement, the additions made in the six partners' asssessments were brought down from Rs. 25,05,705 to Rs. 2,47,653. The Committee desired to know the circumstances leading to the settlement and the person who gave the final approval for the settlement. The Ministry submitted the following information in this regard: "The six persons mentioned in the audit paragraph belonged to a group which included two limited companies and a number of other partnership firms. All the six were partners in one such firm. During the course of investigations carried out by the Department, the group came forward with a disclosure of concealed income, as a result of which an additional income of Rs. 43,87,963 was assessed in the hands of various units constituting the group. The assessments of this additional income were done on settlement basis which necessitated the readjustment of some of the assessments already made.

Originally, in the assessment of the firm in question for the year 1963-64, the following additions had been made:—

	Rs.
(*i*) Value of Closing stock	13,93,820
(*ii*) Inflation in shandy purchase	3,89,812
(*iii*) Other sources	7,28,049
	25,11,681

On settlement, the addition of Rs. 7,28,049 was deleted, as the amount was found to represent the income of only two individuals belonging to the group. Actually, the same was considered in working out the overall peak deficit in the cash transactions in relation to the bank accounts of the various concerns of the group. It was this peak deficit which was to be taxed in the hands of the two individuals belonging to the group.

The addition on account of inflation of purchases in shandy also was reduced on settlement by 50 per cent., because it was thought reasonable to ascribe a part at least of the higher cost to the better quality of skin purchased.

Against Rs. 13,93,820 added by the ITO on account of under-valuation of closing stock. the IAC found in the course of the penalty proceedings that an addition of only Rs. 46,979 could be maintained. The assessee agreed to the addition of a round sum of Rs. 47,000.

The additions to be made finally as a result of the settlement were, therefore, as under:

	Rs.
(*i*) Value of closing stock	47,000
(*ii*) Inflation in shandy purchases	1,94,906
	2,41,906

The first approval for the settlement was given by the concerned Commissioner of Income-tax.

2.57. To a question whether there are enabling powers in the Income-tax Act for effecting such settlements by the officers concerned, the following reply has been furnished by the Ministry:

- "The Income-tax Act as such does not contain any term called 'settlement' nor is there any procedure prescribed for

settlement of income. What the Act provides for is assessment on the basis of evidence produced by the assessee or those in the possession of the Department. Quite often, however, the quality or quantum of such evidence is not adequate enough for enabling a firm assessment to be made. In such cases, it has been the practice of the Department to arrive at what may be termed as 'agreed assessments' on the assessee acquiescing to be assessed on certain income, which would have little chance of being sustained but for such acquiescence. Such agreed assessments are made, invariably with the concurrence of the Commissioners of Income-tax. It has been the Department's experience that such agreed assessments are ultimately in the interests of revenue, because expensive litigation is avoided and the tax too is collected promptly. The assessees also feel that it is perhaps better to arrive at such settlements rather than expend energy and resources on prolonged litigation."

2.58. As regards the present position of recovery of additional demand, the Ministry stated that the assessments had been rectified and that out of the additional demand of Rs. 11,330 an amount of Rs. 11,021 had been collected.

2.59. The Audit paragraph has brought out omission to charge as wealth in the hands of six partners certain intangible additions made in the income-tax assessments of the firm for the year 1963-64 which resulted in under-assessment of wealth of Rs. 25,05,705 for the years 1963-64 to 1966-67. The Committee regret that no action was taken to revise the Wealth Tax assessments till the omission was pointed out by Audit in November, 1968 although the revised share income was communicated by the Income-Tax Officer assessing the firm to the Income-tax Officers assessing the partners in August, 1965. The non-observance of the instructions of the Board in this regard by as many as eight Wealth-tax Officers associated with this case is deplorable. Further, the case was not at any time checked by the Internal Audit. The Committee would like to be informed of the action taken against the erring officials and the remedial steps taken to prevent recurrence of such mistakes.

2.60. The Committee were informed that the group of two limited companies and a number of partnership firms in one of which the six assessees mentioned in the Audit paragraph were partners, came forward in 1968-69 with a disclosure of concealed income as a result of which an additional income of Rs. 43,87,963 was assessed in the

hands of various units. The assessments of this additional incomes were done on a settlement basis which necessitated the readjustments of some of the assessments already made. Accordingly, the additions originally made in the six partners' assessments were brought down from Rs. 25,05,705 to Rs. 2,47,653. Although there are no enabling powers in the Income-tax Act for effecting such settlements, the Ministry stated that "it has been the practice of the Department to arrive at what may be termed as 'agreed assessments' on the assessee acquiescing to be assessed on certain income, which would have little chance of being sustained but for such acquiescence." The Committee would suggest that suitable guidelines in this regard should be written into the Income-tax laws in order that there may be no scope for abuse on either side—the assessee's or the Department's.

2.61. The Committee note that the Wealth-tax assessments of the six partners have been rectified.

2.62. They hope that on the basis of disclosure of concealed income by the group of two limited companies and a number of Partnership firms, wealth-tax assessments of all the partners would have been revised and additional demand recovered.

Audit Paragraph

2.63. An assessee was assessed to income-tax on income from house property with effect from assessment year 1961-62. The net wealth comprising the house property was not charged to wealth-tax for the years 1961-62 to 1963-64. Neither the assessee filed the returns of wealth for these years nor were they called for by the Wealth-tax Officer. Thus a net wealth of Rs. 1,96,414 for the year 1961-62, Rs. 2,71,450 for the year 1962-63 and Rs. 2,95,444 for the year 1963-64 escaped assessment.

[Paragraph 71(v)(c) of Audit Report (Civil), Revenue Receipts, 1970.]

2.64. The Committee asked about the present position of the revision of assessments and recovery of additional demand from the assessee. The Ministry stated that all the three asesments had been revised raising demands of Rs. 120, Rs. 405 and Rs. 1,128 for the years in question. It was further stated that no report regarding recovery had been received so far. To a question whether any action had been taken on the assessee for concealing the particulars

of wealth for the assessment years 1961-62 to 1963-64 the following reply was given by the Ministry:

> "The wealth-tax assessment of the assessee was made for the first time for the year 1964-65. He had not filed any return for the assessment years 1961-62 to 1963-64. An action for concealment can be taken only if an assessee files a return and understates his net wealth. This was not such a case."

2.65. The Committee have received an impression that there is a fairly large scale omission to correlate the wealth tax assessments with income tax assessments. In this case, though the Wealth Tax Officer completed the wealth-tax assessment for the year 1964-65, he failed to notice that the wealth returned for 1964-65 was also existing in the earlier years from 1961-62 to 1963-64 and that the assessee had failed to file the returns of wealth. The Committee desire that in addition to taking suitable action for the failure, remedial measures should be taken to prevent recurrence of such omissions and lapses.

2.66. Further, the Committee find from the explanation of the Ministry that an assessee who has not declared the wealth of all initially is in a favourable position when compared to another who has declared a part of his assets inasmuch as action for concealment can be taken at present only if an assessee files a return and understates his net wealth. The Committee would, therefore, like Government to examine this lacuna in the Act and take appropriate measures including proposals for the amendment to the Act to deter effectively evasion of tax by not filing return of wealth.

Incorrect valuation of assets

Audit Paragraph

2.67. (a) Partners of a firm are assessable to wealth-tax on their interest in the net wealth of the firm. Under the Wealth-tax rules the value of their interest is determined with reference to the excess of the firm's assets over its liabilities. The rules inter alia provide that reserves of all kinds should not be considered as liabilities for this purpose.

2.68. In the wealth-tax assessments of eleven partners of two firms assessed in different Commissioner's charges, the balance in the Development Rebate reserve appearing in the Balance Sheets of

the firms was incorrectly allowed as liability in computing the value of the partners' interest in the firms. The consequent under-assessment of net wealth was Rs. 75,97,270 for assessment years 1962-63 to 1967-68.

[Paragraph 71(vii)(a) of Audit Report (Civil), Revenue Receipts, 1970.]

2.69. Having learnt that assessments were completed during the years 1962 to 1968, the Committee desired to know whether the assessments were at any time subjected to check by Internal Audit. The Ministry in a written reply stated that this was being verified from the concerned commissioners of Wealth Tax.

2.70. The Committee learnt from Audit that instead of arriving at the surplus of assets over liabilities of the two firms in the manner prescribed in Wealth-tax rules to find out the interest of the partners in the partnerships, only the balances outstanding in the capital accounts were taken into account. In this process the amount outstanding under "development rebate reserve account" were not considered by the assessing officers. The Committee pointed out that the fact that the interest in partnership firms was not correctly determined by all the officers indicated that the officers were not familiar with the rules laid down for its valuation. The Committee desired to know whether the Board have issued any detailed instructions with examples regarding valuation of interest of partners in partnership firms. The Ministry in their reply stated as follows:

"The Ministry were concerned to note in a large number of cases, the interest in partnership firms had not been correctly determined. This suggested a lack of acquaintance of the concerned Wealth Tax Officers with the relevant Rules laid down for valuation. Therefore, the attention of the Wealth Tax Officers was drawn to the rule which lays down the procedure for the valuation of interest in partnership or association of persons. It was particularly emphasised that reserves, like the balance in the development rebate reserve, shown in the balance sheet of a firm is not to be treated as a liability in computing the value of interest. This was done by Instruction No. 364 dated 28th December 1971 issued from F. No. 328/80/71-WT." A copy of the instruction is reproduced at Appendix III.

2.71. As regards the present position of rectification of assessments, the Ministry in a note stated: "The number of assessments involved is 66. Information regarding rectification and recovery of additional demand is not readily available; it has been called for from the field offices and will be furnished to the Committee when received."

2.72. To a question during evidence the Finance Secretary stated that the mistakes committed needed investigation. Asked whether the case had been investigated with a view to fixing responsibility, the Ministry, in the following note stated, "The Ministry feel that if the officers follow the Rules correctly, mistakes of the type reported by the Audit can be avoided. However, the Board will consider the removal of any possible lacuna in the Rules."

2.73. The under-assessment of net wealth to the tune of Rs. 75,97,270 caused by an incorrect determination of the partners interest in the wealth of the firms cannot be taken lightly. Instead of arriving at the surplus of assets over liabilities of the firms in the manner prescribed in the wealth-tax rules to find out the interest of the partners, only the balances outstanding in the capital accounts were taken into account. The Committee note that the Central Board of Direct Taxes have issued instructions on the 28th December, 1971, clarifying the relevant provisions of the rules. The Committee would appreciate if a review of all completed assessments in such cases is made for rectification wherever necessary before it becomes time-barred.

2.74. The Committee note that according to the Board's instructions defaults of assessing officers should always be examined in detail and appropriate action taken against them. The Committee would like to know whether in the above case the reasons for the failure of the assessing officers concerned were examined and if so, what action was taken against them.

Audit Paragraph

2.75. An assessee purchased a house for Rs. 43,000 during the year ending 31st March, 1957. He had been exhibiting the value of house property at Rs. 43,000 in his Balance Sheet till the assessment year 1961-62 and was assessed to wealth-tax accordingly. In an appeal filed by him the assessee claimed that municipal valuation of the house being lower, the value of the house for the purpose of wealth-tax assessments also should be reduced; but this contention was not accepted. The Wealth-tax Officer, however, valued the same

house at Rs. 26,000 for the assessment years 1963-64 and 1965-66 to 1967-68 whereas he valued it for Rs. 30,000 for the assessment years 1968-69 and 1969-70. This resulted in short computation of net wealth by Rs. 93,680. While accepting the mistake, the Ministry have stated that the Wealth-tax Officer has been advised to initiate action for recification.

[Paragraph 71(vii)(b) of Audit Report (Civil), Revenue Receipts, 1970.]

2.76. Drawing attention to the fact that the Wealth-tax Officer had not carried out the elementary duty required of him of perusing the earlier assessments, appellate orders etc., before taking up a fresh assessment, the Committee enquired whether there were any standiny instructions for the assessing officers in this regard. In a note, the Ministry have stated: "No specific instructions have been issued in this regard. However, before completion of assessments, an Income-tax Officer or a Wealth-tax Officer, as the case may be, is expected to peruse assessment orders and appellate orders of at least one preceding year."

2.77. Asked whether the under-assessment which was repeated in six assessment years, was completed by the same officer, the Ministry have stated that it was so.

2.78. The Committee desired to know the value returned by the assessee for the assessment year 1964-65 and the value adopted in the assessment. The Ministry have submitted the following note in this regard: "The value of the house returned by the assessee for the assessment year 1964-65 was Rs. 26,080/- and this was accepted in the original assessment dated 26th December, 1965. The assessment proceedings were later reopened under Section 17 and the value of the house was taken at Rs. 43,000/- in the assessment completed on 26th March, 1970. In appeal, the AAC has reduced it to Rs. 26,080/- as adopted in the original assessment. The AAC's decision has been accepted."

2.79. In this case the house was actually purchased for Rs. 43,000. The appeal filed by the assessee to have the lower municipal valuation adopted for wealth-tax purposes was not upheld earlier. The undervaluation of the asset during the subsequent years pointed out by Audit was also accepted by the Ministry. However, the Committee have now been informed that revision of the assessment for the year 1964-65 was rejected by the Appellate Assistant Commissioner

and that his decision was accepted. There has thus been no consistency either in appellate orders or in the stand taken by the Ministry. In the opinion of the Committee the later orders of Appellate Assistant Commissioner should have been challenged having regard to the purchase price, the earlier appellate orders and the acceptance of the Audit objection by the Ministry. The Committee would recommend issue of suitable instructions to the Commissioners that where an Audit objection has been accepted by the Department either at the Commisioner's level or at the Ministries level any order of an Appellate Assistant Commissioner contrary to such acceptance should be examined carefully at a high level and appeals preferred if such contrary findings of the Appellate Assistant Commissioner are not justified either in law or on facts.

Escapement of wealth from tax

Audit Paragraph

2.80. In paragraph 71(v) of the Audit Report on Revenue Receipts, 1970 the need for correlating wealth-tax assessments with income-tax assessments with a view to prevent escapement of wealth from tax was pointed out. A few cases of escapement of wealth in the absence of correlation, noticed during the period under review, are detailed below.

2.81. A voluntary disclosure of Rs. 5,50,000 of concealed income for the assessment years 1957-58 to 1962-63 was made by three assessees in 1967. The income-tax and wealth-tax assessments upto the assessment year 1962-63 were revised and the disclosed income and the corresponding wealth were charged to tax. The amount of Rs. 5,50,000 disclosed and interest of Rs. 5,122 accrued thereon, though included in the wealth-tax assessments of the three assessees for the assessment years 1964-65 (except in one case) to 1967-68 was not charged to tax for the assessment year 1963-64 in respect of all the three assessees and for 1964-65 in respect of one of them. The omission resulted in escapement of wealth of Rs. 5,55,122 involving a tax of Rs. 8,627.

[Paragraph 62(d)(ii) of Report of the Comptroller and Auditor General of India for the year 1969-70, Central Government (Civil), Revenue Receipts.]

2.82. The Ministry, in a note, intimated that the assessments in the three cases for the years mentioned in the paragraph had been completed and the aggregate additional demand raised and collected was Rs. 7,627/- against Rs. 8,627/- reported by the Revenue Audit.

As there have been omissions to revise the wealth tax assessments in the light of the subsequent disclosure of income, the Committee wanted to know whether the C.B.T.D. would order a review of all such cases where disclosures were made under the two Finance Acts, 1965, and intimate the results to them. The Ministry, in a written reply, stated that a review of such cases would be undertaken in July—August, 1972. In this connection Audit have observed that instructions to that effect have not so far been issued to the Commissioners .

2.83. This is yet another case of omission to correlate wealth-tax assessments with Income-tax assessments. The Ministry have agreed to undertake a review of all cases where disclosures were made under the two Finance Acts, 1965 to see if there was escapement of wealth from tax. The Committee expect that necessary instructions should be issued forthwith an dthe results of the review intimated to them within six months.

Valuation of shares in companies

Audit Paragraph

2.84. Shares in joint stock companies constitute property and their value which in the opinion of Wealth-tax Officer they would fetch if sold in open market on the valuation date is includible in net wealth. It was notice that in the assessments of seventeen persons due to incorrect valuation of shares, net wealth of Rs. 33,63,490 was under-charged with resultant short-levy of tax of Rs. 36,748. Brief details of the cases are given below:

(1) In the assessments of six persons made in the same ward, the value of shares held by them in the same companies were taken at different rates in the hands of each person though the valuation date was the same for all the assessees. This resulted in under-assessment of wealth of Rs. 11,80,989 for the assessment years 1957-58 to 1964-65.

(2) The value of 5,000 shares held by an assessee in a company was taken at the nominal value of Rs. one per share for the assessment years 1957-58 to 1964-65 while the break-up value of shares of the same company as worked out in the case of another assessee in the same ward was found to range from Rs. 10 to Rs. 31.15 for the various assessment years. Consequently wealth of Rs. 9,27,800 was under charged for the eight years.

(3) Nine assessees owned 27,438 shares in a company. As the shares were not quoted in the Stock exchange, their value determinable on the basis of their break-up value. The Wealth-tax Officer however completed the assessments for the years 1963-64 to 1967-68, on the basis of face value of the shares. The under-assessment of wealth was Rs. 10,23,629.

(4) While computing net wealth of an assessee for the assessment years 1966-67 and 1967-68, 870 shares held by her in a company were valued by the department at the face value of Rs. 100 each though for the assessment year 1965-66 the value was taken at Rs. 232.80 each. If the shares for the years 1966-67 were valued at Rs. 232.80 each, in the absence of break-up value of the shares, the under-assessment of wealth would work out to Rs. 2,31,072.

2.85. The cases were referred to the Ministry in October, 1970 and their reply is awaited. (March, 1971).

[Paragraph 62(e)(ii) of Report of Comptroller and Auditor General of India for the year 1969-70, Central Government (Civil), Revenue Receipts.]

2.86. As regards their present position, the Ministry, in a note submitted the following information: "The objection is against the assessment of 7 persons*. In two cases, the assessments were rectified raising a demand of Rs. 12,623. This has been fully collected. In nine other cases of a particular group, the additional demand raised came to Rs. 8,931. Out of which Rs. 4,000 has been collected and the assessees have promised to pay the balance of Rs. 4,931 shortly. In the remaining six cases, where the Audit had raised objections on the basis of different valuation of shares of the same concern, the assessments were set aside by the AAC. As a result of the re-assessments made, the additional demand raised in the case of five assessees comes to Rs. 937 only. The re-assessment in one case is still pending." The Committee desired to know how for the same set of shares different values were adopted as mentioned against item (i) of the Audit Para. The Ministry in a written reply stated as follows:—"In this case, the assessee had not furnished before the Income-tax officer materials for the correct valuation of unquoted shares and the ITO took some *ad hoc* figures. His action was found to be quite arbitrary and the AAC had to set aside the assessment in this case to be made afresh."

*Should be 17 persons.

The Committee learnt from Audit that the Board had made elaborate rules regarding valuation of unquoted shares. The Committee wanted to know whether it was not the experience of the Board that the formulae prescribed were complicated and were likely to be misapplied by the wealth-tax officers. The Ministry stated that "the Board would examine whether the present rules may be simplified."

2.87. Asked during evidence as to whether it would not be possible to have a centralised arrangement for the valuation of unquoted shares, the Finance Secretary stated: "They are following the present Manual on making assessments and there may be a difference. This is a very good suggestion as to whether we can have a Cell in the Board. But the Chairman (of C.B.D.T.) was saying that probably the work will be better done by the I.T.O. who is making an assessment of the company itself and that when making the assessment of the company, he can arrive at the value of the shares." He further stated that if the work is centralised "it would be much more difficult to get it certified by the Income Tax Officers." and added: "One of the two suggestions will be taken up so that there are no such differences."

2.88. The Committee are concerned to note incorrect valuation of shares in a number of cases which resulted in undercharge of wealth to the extent of Rs. 33.63 lakhs. Of particular interest is the lack of uniformity in the matter of valuation of shares even in the same word. It is obvious that the assessing officer concerned showed lack of care for which responsibility should be fixed.

2.89. While the Committee desire to leave the recovery of additional demand on rectification of the assessments, wherever not done, to be watched by the Ministry/Audit, they would like to urge that rules regarding valuation of unquoted shares which appear to be complicated and are not being fully followed, should be simplified.

2.90. Further the present arrangement of valuation of shares of the same company by different Wealth-tax officers assessing the share-holders cannot be deemed as satisfactory as it does not make for uniformity. The Committee, therefore, recommend that some workable system should be evolved to ensure uniformity in valuation of shares. In this connection, it is worthwhile considering whether the work of fixing value of shares for taxes could be centralised either in the ITO's/Commissioner's charges assessing these companies or in the Board for all the companies whose shares are not quoted, arrangements being made to inform all Income-tax/ Wealth-tax Officers of it periodically.

Other topics of interest

Audit Paragraph

2.91. Under the Wealth-tax Act, transporters' route permits constitute "property" and the value thereof as on the valuation date is chargeable to wealth-tax. In their circular of May 1963, the erstwhile Central Board of Revenue issued instructions, based on an appellate Tribunal's decision dated 27th July, 1962 in a case that the value of route permits should be considered for assessment to wealth-tax. In the assessments of an assessee for the years 1967-68 and 1968-69 it was observed that the value of route permits to the extent of Rs. 40,000 in each of the years was not charged to tax. When the case was brought to their notice, the Ministry in their reply citing a Supreme Court decision sated that the Commissioner of Income-tax had been asked to examine whether the route permits could be assessed to wealth-tax in view of the decision. This decision, however, did not deal with the question of assessability of route permits.

[Paragraph 71(x) of Audit Report (Civil), Revenue Receipts, 1970.]

2.92. The Committee were informed by Audit that wealth of route permits were charged to tax during the earlier assessment years namely 1965-66 and 1966-67. The Committee desired to know the circumstances in which the Board's instructions (reproduced in Appendix IV) were not followed by the Assessing Officer while completing the Wealth-tax assessments in the case under reference for the assessment years 1967-68 and 1968-69. The information was furnished by the Ministry:—

> "The Board's instructions contemplate the inclusion of the value of route permits in appropriate cases. In the present case the value of route permits was not included as these were valid for five years only in the Mysore State and were non-transferable, and as such did not have any market value. This is in consonance with the provisions of section 2(e)(v) of the Wealth-tax Act and the Board's Instructions. The question of contravention of Board's instructions, therefore, does not arise."

2.93. The Committee desired to know the details of the Sureme Court decision referred to and sought clarification as to how it was

applicable in the case under reference. The Ministry furnished the following details in this regard:

> "The Supreme Court held in the case of Shrimati————— (70 ITR 15 SN) that a lease from the Government which is revocable in nature is exempt from wealth tax under section 2(e)(iv) of the Wealth-tax Act, 1957. It was noticed that under the Motor Vehicles Act (IV of 1939) the route permit granted to a bus-owner was valid only for a period of 5 years. It appeared to the Board that the ratio* of the Supreme Court's decision may be applicable in this case also and it was, therefore, suggested to the Inspecting Assistant Commissioner of Income-tax (Audit), Bangalore that this aspect may be examined. The IAC (Audit), after re-examination of the case, intimated that the route permit was only for a period of 5 years. The fact that the period could be extended or that the assessee had enjoyed for over 5 years was not material since the extension was dependent on various circumstances. The assessee could not claim the extension as a matter of right. Accordingly, the provisions of section 2(e)(iv) would apply, i.e. the value of the route permit could not be considered to be an "Asset" for purposes of the Wealth-tax Act."

2.94. Based on an Appellate Tribunal's decision, the erstwhile Central Board of Revenue issued instructions in May, 1963 to the effect that route permits constituted "property" within the meaning of the Wealth-tax, Gift-tax and Estate Duty Acts. The Committee have been informed by the Ministry that the Supreme Court have ruled in a case that a lease from Government which is revocable in nature is exempt from wealth-tax under Section 2(e)(iv) of the Wealth-tax Act, 1957 and that the rationale of this decision may be applicable in the case of route permits also. As the route permits are valid only for a period of five years and extension cannot be claimed as matter of right, the Ministry have held that the value thereof cannot be considered to be an 'Asset' for the purpose of Wealth-tax Act. It is not clear to the Committee whether in the light of the foregoing, revised instructions have been issued by the Board to all the Commissioners. The Committee would, however, suggest that the opinion of the Attorney General may be taken regarding the applicability of the Supreme Court decision to the case under reference.

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*Should be rationale.

Valuation of immovable properties

Audit Paragraph

2.95. Due to incorrect valuation of immovable properties in two cases, net wealth was under-charged by Rs. 11,69,960 leading to short-levy of tax of Rs. 9,060 in the circumstances narrated below:

(1) Immovable property belonging to an assessee was valued based on approved valuer's report at Rs. 4,38,850 on 28th March, 1970 for the assessment year 1968-69. Even though assessments for the years 1964-65 to 1967-68 were also completed on the same day, the property was valued at Rs. 2,69,695 in each of the four years as returned by the assessee, leading to short-assessment of net wealth by Rs. 6,76,620 in the four years.

(2) For the assessment years 1964-65 and 1965-66 an assessee returned a sum of Rs. 33,330 as the value of three house properties situated at different places in the status of an individual. The value returned was accepted by the Wealth-tax Officer and charged to tax in April 1967. For the assessment year 1966-67 the assessee returned a value of Rs. 2,80,000 for one property alone. When the gross under-valuation of the property for the years 1964-65 and 1965-66 was pointed out in July 1969, the wealth-tax Officer revised the assessments allowing the status of Hindu Undivided Family as claimed by the assessee and charged to tax additional wealth of Rs. 4,93,340.

2.96. The audit paragraphs in regard to the above cases were forwarded to the Ministry in October 1970 and their reply is awaited. (March, 1971).

[Paragraph 62(e)(iii) of the Report of the Comptroller and Auditor General of India for the year 1969-70, Central Government (Civil), Revenue Receipts.]

2.97. The Committee enquired whether the assessments in the first case for the years 1964-65 to 1967-68 had been rectified and if so, desired to know the additional demand of tax raised and recovered. In a note, the Ministry stated that assessments for 1964-65 to 1967-68 had been set aside under Section 25(2) of the Wealth Tax Act and that fresh assessments had yet to be finalised.

2.98. The Committee asked whether any instructions were issued by the Central Board of Direct Taxes for the valuation of immovable properties. The Ministry, in a note, replied that instructions

had already been issued by the Board for the valuation of immovable property. Asked whether these instructions were followed by the Wealth-tax Officer when he completed the assessments for the years 1964-65 to 1967-68, the Ministry, stated as follows:—

> "In this case the Wealth Tax Officer should have adopted the value of the property for the earlier years on the basis of the approved valuer's Report. The Wealth-tax Officer's failure to follow the instructions laid down by the Board, is being looked into."

2.99. To a query whether the Income-Tax Officer carried out the comparison of valuation returned for the latest year with the one shown in the earlier years and whether the large discrepancies were investigated, the Ministry in a written reply, intimated that this was being enquired into.

2.100. The Committee pointed out that when the rate of penalty for concealment of wealth was stepped up in 1968-69, it was clarified by the Board that if the valuation adopted in the returns was supported by a valuer's report, the penalty provisions would not be attracted. Accordingly, wealth tax returns from the assessment year 1968-69 were being accompanied by approved valuer's Reports. The Committee enquired whether any instructions were issued for the reopening of earlier assessments if it was found that on the basis of valuer's report, the earlier valuation shown by the assessees and adopted by the Wealth-tax Officer, resulted in large scale undervaluation. The Committee also desired to know whether these instructions were followed by the Wealth-tax Officer in the case under examination. In a note, the Ministry stated as follows:—

> "Yes; *vide* instructions No. 184 dated 22-6 1970 issued from F. No. 6/9/69-WT the Board directed that if the difference is due to the assessee having furnished incorrect particulars of his wealth, such as the area of the land and the building, its situation, etc., action should be taken to re-open the past assessments. In case the valuation arrived at by the Valuer for any later year exceeds that adopted for the earlier years, the difference having arisen on account of a different basis of valuation and such a difference exceeds 25 per cent of the value adopted for the earlier years, the officer should examine whether or not the assessee can plausibly explain the variation. In the absence of any plausible explanation only the earlier assessments should be re-opened."

*2.101. Referring to the second case, wherein the assessee had shown the value of three house properties at Rs. 33,330/- for the

assessments years 1964-65 and 1965-66, the Committee desired to know the places where the properties were situated and the value shown for each property separately by the assessee. The Ministry in a note, submitted the following information:

> "The properties are situated at Madras, Waltair and Ootacamund. In the statements accompanying the original returns filed by the assessee for the assessment years 1964-65 and 1965-66 against the three properties the figure of Rs. 33,330/- was indicated. Actually as a result of a compromise decree dated 27-9-1963 the assessee was entitled to 1/3rd share in the 'Admiralty House' situated at Madras the other two properties were inadvertently listed in the statement and the valuation of Rs. 33,300/- referred only to the properties situated at Madras."

2.102. Asked whether the Wealth-tax Officer took any steps to revalue the properties for any of the two years, the Ministry stated that he did not till the omission was pointed out by the Revenue Audit.

2.103. The Committee asked whether the valuation made by the assessee for the two years in respect of the three properties was in accordance with the instructions issued by the Board, if any, for the valuation of immovable properties. If not, the Committee asked why the Wealth-Tax Officer did not compute the value of the properties separately and arrive at correct valuation. The Ministry, in a note, stated that the Wealth-tax Officer evidently accepted the value as returned by the assessee.

2.104. Drawing attention to the fact that the assessee, for the year 1966-67, returned valuation of Rs. 2,80,000/-for one property alone, the Committee desired to know the value returned and assessed in respect of the two other properties. In reply, the Ministry stated:

> "The assessee had surrendered his rights in the property situated at Waltair and Ootacamund as a result of a compromise decree dated 27-9-1963. In the circumstances for the assessment year 1966-67 and later years the assessee did not return the value of the properties situated at Waltair and Ootacamund."

2.105. Asked whether the properties had been correctly valued for the assessment years 1964-65 and 1965-66 and whether the assessments were rectified, the Ministry informed that the value of properties situated at Madras required reconsideration and this had been

done by revising the assessments for the assessment years 1964-65 and 1965-66. The Ministry further stated that an additional demand of Rs. 5,676/- as reported in the Audit paragraph was raised and collected. The Committee enquired whether the assessments for the years earlier to 1964-65 required any revision in the light of the concealment of true value of properties. If so, the Committee asked whether any action was taken to revise the assessments. The Ministry submitted the following note in this regard:

"The assessments for the years earlier to 1964-65 do not require any revision because of the following facts:—

The assessee was *inter alia* returning the value of his 1/3rd share in the three properties for the assessment years 1957-58 to 1965-66. The Appellate Assistant Commissioner while disposing of the assessee's contention that until the compromise decree was drawn up on 27-9-1963 the value of these properties could not be included in his net wealth and he held that till the date of compromise decree the properties in question were in the possession of the assessee's brother in whose assessment they had already been included. A.A.C. also gave the finding that the assessee came into possession of the assets allotted to him under the compromise decree only from the date of the decree and that they formed part of his net wealth only with effect from 1964-65. He accordingly directed the W.T.O. to exclude the value of 1/3rd share of the assessee in the three properties from his net wealth for the assessment years 1957-58 to 1960-61 and in respect of assessment years 1961-62 to 1963-64 the A.A.C. set aside the assessments directing the W.T.O. to make fresh assessments according to law in the context of findings which he had already given for the earlier years. The orders of the Appellate Assistant Commissioner have been accepted by the Department. As such no action is necessary for revising the earlier assessments. However, the Ministry is seeking further clarification in the matter."

2.106. The Committee desired to know whether any action was taken to invoke the penal provisions in the Wealth Tax Act in the two cases for having concealed true value of wealth. The Ministry, in a note, stated:

"Since the assessments have been set aside, the Wealth Tax Officer is being asked to consider the initiation of penal proceedings at the time of making the fresh assessments.

Penal proceedings were initiated for concealment of wealth in the reassessments made for the years 1964-65 and 1965-66 in the second case."

2.107. The Committee need hardly point out that incorrect valuation of immovable properties would adversely affect the revenues due to Government under the Wealth Tax Act. The two cases of gross undervaluation of properties that went undetected as pointed out by Audit are symtomatic of the casual manner in which assessments are completed. In one case though for the assessment year 1968-69 the Wealth Tax Officer accepted the valuation of immovable property at Rs. 4,38,850 on the basis of approved valuer's report, in the assessments for the preceding four years completed on the same day he accepted the value of Rs. 2,69,695 returned by the assessee for the same property. In another case the value of the property which was returned and accepted as Rs. 33,330 for the assessment years 1964-65 and 1965-66 was shown as Rs. 2,80,000 for the year 1966-67 and yet the Wealth-tax Officer did not notice the undervaluation in the earlier years. In this connection the following lapses of the assessing officers concerned require examination for appropriate action:—

(i) Non-observance of the instructions regarding valuation of immovable properties;

(ii) Non-comparison of value returned for the latest year with that shown in the earlier years for investigation of discrepancies; and

(iii) Non-compliance with the instructions dated 22nd June, 1970 regarding reopening of part assessment on the basis of valuer's report in the first case.

2.108. Incidentlly the Central, Board of Direct Taxes will do well to have a test check conducted in all the Commissioners' charges to see whether there were any similar lapses in complying with their instructions dated 22nd June, 1970.

2.109. Further the Committee would like to know the penal action taken against the assessees in these cases for having concealed true value of wealth.

2.110. One more point the Committee wish to refer to is whether there was undervaluation of the assets prior to 1964-65 in regard to the second case although it was not chargeable in the hands of the same assessee. The Committee await a report as the Ministry have intimated that they are seeking further clarification in the matter.

CHAPTER III

Gift Tax

Audit Paragraph

3.1. The actual receipts under the Gift-tax during the year 1969-70 amounted to Rs. 2.02 crores. The receipts under the Gift-tax for the last five years are compared with the budget estimates in the table below:

(In crores of rupees)

Year	Budget Estimates	Actual receipts
1965-66	3·10	2·27
1966-67	1·29	1·75
1967-68	1·50	1·30
1968-69	1·75	1·51
1969-70	1·50	2·02

[Paragraph 63 of the Report of the Comptroller and Auditor General of India for the year 1969-70, Central Government (Civil), Revenue Receipts.]

3.2. During evidence, the Committee desired to know whether the Gift tax served any useful purpose commensurate with the cost of collection. In this connection the Committee drew attention to paragraph 63 of C&A.G's Report 1969-70 which disclosed that the revenue on this accounts had ranged from Rs. 1.30 crores to Rs. 2.2 crores only during 1965-66 to 1969-70. The Finance Secretary stated that Gift tax was a part of three or four measures to check avoidance of tax. Asked as to how far it checked avoidance of tax, he continued: "It will escape assessment under estate duty. To escape under wealth tax, at least, a portion of the duty would be realised under the gift tax. If there is any gift tax, even though the yield under the gift tax should be less, but I feel it is necessary adjunct both to the wealth tax and to the estate duty."

3.3. To a question whether there was a provision in the Income-tax return to indicate the details of gifts made, the witness replied: "I think one could add a small clause if any gift was made."

3.4. Explaining the difficulty in bringing all cases of gifts of agricultural land to tax, the Finance Secretary stated:

> "This is a very difficult question. What I was wondering was, that in the case of agricultural land transferring, since there is no income return filed by the person concerned and so many transactions are taking place, how to assess those people to gift tax."

3.5. As regards wealth tax on agricultural land the witness continued:

> "Wealth-tax is somewhat easier and that would concern the big people and estate duty is also possible and that would concern the very big people."

3.6. The Committee desired that the leakage of revenue under Gift-tax on account of non-levy of tax on all gifts of agricultural lands should be looked into. The Finance Secretary deposed: "Of course, there might still be a possibility that in a large number of rural areas, there may really not be a gift from father to son, because the land is held under the concept of Hindu Joint Family; unless there is a partition, a gift as such does not take place, and even if the son is there, he is given a share in the original property from the date of his birth under the Hindu mitakshara law. But I agree that this is a point to be investigated. But I certainly see many difficulties in the case of agricultural property."

3.7. The Committee enquired whether it was possible to assess the cost of collection of gift tax. The witness stated: "It is possible to assess. But, I do not think that the cost will be high, because it is the same officer who does the same work." The Committee desired to know the assessment of cost of collection for each of the years 1967-68 to 1969-70. In a note (April 1972) the Ministry replied that the cost of collection of gift tax was being worked out and would be furnished to the Committee in due course of time.

3.8. Gift Tax is one of the measures designed to check avoidance of tax. It is, therefore, necessary to ensure that assesees liable to pay Gift Tax promptly file returns. In this connection the Committee suggest that a provision should be made in Income-tax return form to indicate whether any gift was made and if so, the nature

thereof, which would facilitate correlation of income-tax returns with those of gift tax of the assessees.

3.9. The Committee note that revenue from gift tax ranged from Rs. 1.30 crores to Rs. 2.27 crores during 1965-66 to 1969-70. In order to evaluate the cost-collection ratio, the Committee desire that the cost of collection of gift tax should be assessed. It is better to bring about some refinement in the system of apportion the cost of collection of various taxes viz. **Income-tax, Wealth Tax, Estate Duty, Gift Tax etc.**

3.10. The Committee have reasons to believe that the Board have not taken steps to ensure that all cases of gifts of agricultural land are brought to tax. In this connection they would refer to the position in law as decided by the Supreme Court in Nazareth Case [AIR 1970, SC-999 (V. 57 C-208)] that gifts of agricultural land are subject to tax under the Gift Tax Act. The Committee would, therefore, urge Government to issue strict instructions to the lower formations and to devise measures to ensure that there is no evasion of tax in this regard. They would also like to have a review of the position conducted with a view to ascertaining the extent of non-levy of tax on such gifts in the past. The results of such a review may be reported to the Committee.

Audit Paragraph

3.11. While scrutinising the income-tax assessment records it was noticed that gifts of Rs. 1,46,700 which should have been charged to tax under the Gift-tax Act escaped assessment. Brief details of the cases are given below:

(1) The accounts submitted by a firm alongwith its income-tax returns for the assessment years 1967-68 and 1968-69 showed that two partners made a gift of Rs. 25,000 each but neither the assessees filed returns of gift nor the Gift-tax Officer issued notices calling for the returns of gift. Thus gift of Rs. 50,000 escaped assessment in the two years. The department has replied that proceedings for gift-tax assessment have since been initiated. Report regarding demand raised and its recovery is awaited.

(2) From the income-tax records it was noticed that an assessee transferred half of his capital and share of goodwill in a firm, valued at Rs. 27,700 to his son newly admitted to the partnership. The gift of Rs. 27,700 was neither returned by the assessee nor the Gift-tax Officer initiated

any action to call for the return and assess the gift to tax. Thus the gift of Rs. 27,700 escaped assessment for the year 1966-67.

(3) Two individuals invested Rs. 40,000 as their capital in a firm in June 1965. The Income-tax records showed that the source of the funds was a gift of Rs. 40,000 made by their grandmother in May 1965. The gift of Rs. 40,000 was not however charged to gift-tax. The paragraph was forwarded to the Ministry in October, 1970 and their reply is awaited. (March, 1971).

(4) From the income-tax return for the assessment year 1968-69 filed by a firm it was noticed that the assessee made a donation of Rs. 29,000 to a political during the year ended 31st December, 1967. The gift was not however charged to gift-tax for the assessment year 1968-69. Ministry's reply to the audit paragraph forwarded in October, 1970 is awaited. (March, 1971).

[Paragraph 63 (b) (ii) of Report of the Comptroller and Auditor General of India for the year 1969-70, Central Government (Civil), Revenue Receipts.]

3.12. The Committee enquired whether the assessments in all the cases had been rectified. If so, the Committee desired to know the additional demand raised in all the four cases and the amount recovered. In their written reply, the Ministry stated:

"There are actually five cases, two of which have probably been clubbed together as one case. The objections have been accepted in respect of all the cases excepting the case of Shri...... because when proceedings to assess the gifts mentioned by the Audit were initiated, it came to light that the transfer of capital to the son had been effected by debiting the father's account and crediting the newly opend account of the son. As such this was claimed to be a mere loan. The father is assessed to wealth-tax assessments. The Revenue Audit reported subsequently that the assessee had shown the amount of Rs. 25,000/- in his wealth-tax return under the head 'movable assets' (non-business); they are of the view that had this amount represented a loan it should have been shown in the wealth-tax return under the head 'moneys lent out by way of loans and advances'. Since this was not done, the Audit are of the view that it does not seem appropriate to treat the transfer of Rs. 25,000/- as a loan. Moreover,

no terms and conditions of repayment of the alleged loan were settled nor any interest was charged on the loan. The Ministry are examining the facts now brought to their notice.

Additional demand raised and collected in respect of the other cases is as below:—

	Rs.
(i) Shri———————————	750
(ii) Shri———————————	750
(iii) Shrimati ———————————	1950
(iv) M/s. ———————————	810"

3.13. Drawing attention to the fourth case which related to donation made to a political party, the Committee enquired whether any instructions had been issued regarding levy of gift tax on such donations for the guidance of the assessing officers. The Ministry submitted the following note in this regard:

"Vide Circular No. 1 GT of 1960 dated 5-1-1960, the Board had issued instructions that in cases where a gift to a political party is made by a company under the authority of a specific clause in the Memorandum and Articles of Association of the company, the gift has to be held as having been made in the course of carrying on the business of the company and exempted from gift tax. A copy of the circular is enclosed."

3.14. Asked whether the instructions were examined with reference to the correct legal position, the Ministry stated: "The question is being re-examined in the light of a reference received from the C&AG and also in view of the recommendations made by the Wanchoo Committee." A copy of the revised instructions issued on 9-6-72 furnished by the Ministry subsequently is reproduced at Appendix V.

3.15. The Committee desired to know whether action had been taken to levy penalty for the concealment of gift. The Ministry intimated as follows: "This is being ascertained from the field officers and will be intimated to the Committee in due course of time."

3.16. The Committee are concerned to find large-scale omissions to correlate Income tax records with Gift-tax returns, which resulted in non-levy of Gift-tax on gifts aggregating Rs. 1.47 lakhs.

They have earlier in this Report indicated how such a correlation could better be effected by making a provision in the Income-tax returns for indicating the gifts made by the assessees. The Ministry have stated that the Audit objections have been accepted in all the cases except item No. 2 of the Audit para and that the additional demand has been collected. In the case of item No. 2, the Committee note that although the transfer of assets to the son was claimed as loan, the facts brought out subsequently by Audit, which questioned this claim, are under examination by the Ministry. The Committee would like to know the outcome of this examination.

3.17. In respect of item 4, the Committee would like to know whether any action had been taken to levy penalty for the concealment of gift.

3.18. Incidentally, the Committee find that the Board had issued instructions in January, 1960 that in the cases where a gift to a political party was made by a company under the authority of a specific clause in the Memorandum and Articles of Association of the company, the gift had to be held as having been made in the course of carrying on the business of the company and exempted from gift-tax. Section 293(A) of the Companies Act, 1956 inserted in 1969, however, prohibits contributions to political parties by a company. Only after the matter was taken up by the Committee with the Ministry in February, 1972, revised instructions were issued in June, 1972 taking into account the amendment to the Companies' Act as well as the decisions of High Courts holding that donations paid to a political party are not allowable as a business expenditure. The Committee do not appreciate this delay. According to the revised instructions in all cases in which action was not taken to bring such donations to gift tax on the basis of earlier instructions, proceedings should be initiated under the Gift Tax Act. The Committee would await a report on the action taken in this regard.

CHAPTER IV

ESTATE DUTY

Estate escaping assessment

Audit Paragraph

4.1. Property passing under any settlement made by settler whereby interest in the property for life or any other period determinable by reference to death is reserved to the settler either expressly or by implication is liable to charge of estate duty on the settler's death. A settler reserving an interest in the settled property for the maintenance of himself and any of his relatives is deemed to reserve an interest for himself.

4.2. A settler, who died in October 1960, settled movable and immovable properties valued at Rs. 4,13,850 in a trust in 1954. Though the trust deed did not contain any express provision reserving the right of residence to the settler in any of the settled property, the settler continued to reside till his death in a residential house included in the settlement. In addition, the trust-deed contained a provision for appropriation during the life time of the settler and/or his wife of an amount of Rs. 1,200 per annum towards presents to the married daughters of the settler and/or their husbands and/or their children. As the settlement of property was one with reservation, the value of the settled property should have been included in the deceased's estate and charged to estate duty on the settler's death in 1960. The omission to include the settled property in total estate led to undercharge of estate duty of Rs. 55,753. The audit paragraph was forwarded to the Ministry in October, 1970 and their reply is awaited. (March, 1971).

[Paragraph 64(c)(i) of Report of the Comptroller and Auditor General of India for the year 1969-70 Central Government (Civil), Revenue Receipts.]

4.3. The Committee desired to know the value of the properties of the settler as on the date of his death. In reply, the Ministry furnished a note, which is reproduced below:

"The total value of the movable and immovable properties settled by the Trust Deed in 1954 was Rs. 4,13,850. It has not been possible to get the value of the properties as on the date of the settler's death in October 1960."

4.4. Asked why the department could not find about the escapement from the records, when Audit were able to do so, the Ministry stated as follows:

> "The facts of the case were quite involved and the Ministry feel that it could not have been possible to come to a correct finding on the basis of merely the assessment records."

4.5. Referring to the delay in replying to the audit para, the Committee desired to know the reason therefor, and enquired about the present position of the rectification of the assessment. The Ministry, in a written reply, stated as follows:

> "The delay, which is regretted, occurred in collecting the basic data about the deceased person who had been living in his village home before his death. On the basis of the facts reported by the Commissioner of Income-tax on 4-10-1971, the Ministry feel that the audit objection will have to be reconsidered in view of the following factors:—
>
> (1) In the Trust Deed dated 11-3-1954, it was clearly stated that the settler's own residence at Kanchanpur, Farm, Post Office, Bankur, would not be affected by the Trust Deed.
>
> (2) The village Pradhan had certified that the deceased was living permanently at his Farm house.
>
> (3) The attending physician has certified that the deceased stayed in the settled property for only 1½ months prior to his death, for facilitating medical attention.
>
> (4) In the face of the facts stated at (1), (2) and (3), it may not be reasonable to conclude that the mere fact of the deceased using the address of the property settled by him establishes that he had reserved an interest in such property.
>
> (5) Even if it is proved that the assessee was residing in the settled property, the case would not fall within the purview of Section 12 of the Estate Duty Act, because the settler had not expressly or impliedly reserved any interest in the settled property either for life or any other period determinable by reference to his death.
>
> (6) The deceased had not reserved any right to restore to himself or to reclaim the settled property in any manner.

(7) The fact that the deceased created an over-riding charge during his and his wife's life-time for providing seasonal presents or gifts to his married daughters or their husband or children on the occasion of family festivals or any other purposes cannot be equated to the settlers reserving any interest in the property for himself.

In the circumstances stated above, the assessment made has not been rectified."

4.6. On the basis of the explanation furnished by the Ministry, the Committee would deal with only one aspect of the case. The trust deed contained a provision for appropriating sum of money for making gifts and to this extent the settlement of property could be deemed to be one wtih reservation. The Ministry have held the view that such a provision cannot be equated to the settler's reserving any interest in the property for himself. The Committee would advise the Ministry to get the opinion from the Ministry of Law in the matter.

Audit Paragraph

4.7. In a case the deceased was the owner, *inter alia* of a house and some vacant land which was leased out for a period of thirty years from April 1937. The lease-deed did not contain any provision for extension of the period of the lease beyond the said thirty years. While calculating the deceased's reversionary interest in the leased property on the date of death (1st May, 1965) the department assumed that the original lease would be extended for a further period of thirty years though there was no provision for such extension in the lease deed and the lease also expired by the time when the estate duty assessment was made in March-April, 1969. The incorrect valuation of the reversionary interest led to escapement of estate of Rs. 1,62,702 with consequent under-charge of duty of Rs. 53,838. Reply of the Ministry is awaited (March, 1971).

[Paragraph 64(c)(ii) of Report of the Comptroller & Auditor General of India for the year 1969-70—Central Government (Civil), Revenue Receipts.]

4.8. The Committee desired to know the circumstances in which estate duty officer over-looked the fact that the lease was to terminate in April, 1967. The Ministry, in a note, stated that as the assessment was completed on 23rd April, 1969, *i.e.*, two years after the expiry of the lease, the Assistant Controller was aware of this fact.

4.9. The Committee pointed out that even after a lapse of a year, the Ministry had not replied to Audit on this para, and enquired what action was proposed to be taken to expedite replies to Audit, within six weeks of their receipt. In a note, the Ministry sent the following reply:—

> "The Ministry very much regret the delay in replying to the Revenue Audit. They have already taken steps for preventing a recurrence of similar delays."

4.10. To a query about the present position of the recovery of additional demand, the Ministry stated as follows:—

"The objection has not been accepted because of the following reasons:—

(i) The value of a property is to be estimated at the price it would fetch, if sold in the open market, on the date of the death. In the present case at the time of death the unexpired period of lease was only 2 years. As such, no prospective buyer would have taken for granted that the lessees would vacate the property on expiry of the lease.

(ii) Experience shows that no lessee surrenders a valuable property on the expiry of the lease and seldom is it possible to evict a lessee without incurring heavy expenditure on litigation.

(iii) In this case, the lessee, a limited company, did not vacate the property on the expiry of the lease and is still in possession of the same. A suit for the eviction of the lessee is pending before the court.

(iv) Attempts are being made to come to a compromise by extending the lease for another period of 30 years.

(v) The lessees have verbally informed the A.C.E.D. that they have no intention of vacating the property.

Having regard to the above facts, the A.C.E.D. determined the value on the assumption that the lease may be extended for another 30 years. In the circumstances of the case, the value fixed by him was reasonable. Even if it were possible to take possession of the property after evicting the lessee, litigation expenses would have to be allowed against the value of the property.

The assessment in question has not been rectified."

4.11. In this case while calculating the deceased's reversionary interest in the leased property on the date of death, the Department assumed that the original lease would be extended for a further period of 30 years though the lease expired by the time when the estate duty assessment was made and there was no provision for extension. It appears from the explanation of the Ministry that a suit for the eviction of the lessee was also pending before the court at the time when the assessment was made. The Committee do not, therefore, consider that the assumption of the Assistant Controller, Estate Duty, was fully justified. The Committee, however, note that the ACED had been informed by the lessees that they had no intention of vacating the property and that attempts were being made to come to a compromise by extending the lease for another period of 30 years. The Ministry are of the view that even if it were possible to take possession of the property after evicting the lessee, litigation expenses would have to be allowed against the value of the property. Under the circumstances the Committee consider it desirable to lay down suitable guidelines, if not already done, to regulate the determination of the deceased's reversionary interest in the leased properties.

Audit Paragraph

4.12. Under the Estate Duty Act, 1953 no proceedings to the levy of estate duty shall be commenced in the case of first assessment after the expiration of five years from the date of the death of the deceased in respect of whose death estate duty becomes payable.

4.13. On the death of an assessee on 18th March, 1961 the accountable person filed the returns of income and net wealth on 17th May 1961. The income-tax and wealth-tax assessments were completed on 26th May, 1961. No intimation was however sent by the Income-tax Officer/Wealth-tax Officer to the estate duty authorities regarding the death of the assessee. The return of the estate of the deceased was filed by the authorised representative of the accountable person on 3rd January, 1967. A provisional duty of Rs. 4,055 was levied and the same was paid by the accountable person on 10th February, 1967. The regular assessment was completed on 29th December, 1967 on the net principal value of the estate of Rs. 4,62,500 raising a demand of Rs. 43,375 (the correct demand worked out to Rs. 46,375). The accountable person, however, preferred an appeal for the cancellation of the assessment on the ground that it was

barred by limitation. The appeal was allowed on 26th August, 1968 and the assessment was set aside; even the demand of Rs. 4,055 paid by the accountable person on the basis of provisional assessment had to be refunded. Thus the Government had to forego a revenue of Rs. 46,375. The loss of revenue could have been prevented had the Income-tax Officer/Wealth-tax Officer sent an intimation of death to the estate duty authorities after the income-tax and wealth-tax assessments were over in May, 1961.

[Paragraph 73 (v) (b) of Audit Report (Civil)—Revenue Receipts, 1970.]

4.14. The Committee desired to know the provisions of the law regarding the time limit fixed for the completion of the estate duty assessments from the inception of the Act. The Ministry, in a written note, stated that once the assessment or re-assessment proceedings were initiated within time, there was no time limit for completion of fresh assessments. The Committee enquired whether instructions were issued to the Estate Duty Officers that the time limit fixed was for initiation or proceedings and not for completion of assessment. The Ministry stated that such instructions were issued only after the receipt of the audit objection *vide* instructions No. 172 dated 15-5-1970 from F. No. 4/69/69-ED. Asked how the department arranged to collect the particulars of death of persons so that necessary proceedings could be started in time to call for the returns of estate duty and assess the estate duty, the Ministry replied as follows: "Instructions already exist to the effect that all Income-tax Officers/Wealth-tax Officers should send intimation promptly to the Assistant Controllers of Estate Duty about the death of heir assessees. These instructions were not acted upon in the instant case."

4.15. During evidence the Finance Secretary informed the Committee: "As we mentioned, there is the responsibility of each income-tax officer to inform the concerned officer of any action that may be there. If the death occurs, he should inform the estate duty officer. We will take action and we will pull him up and ask him why he failed to inform him." To a question as to whether there is any check in such cases to see that the fact of death comes to notice and proceedings of estate duty are started in time, he replied: 'There is an indirect check that the probate on property is not allowed by a court unless estate duty has been paid. That again is a very difficult problem. In fact, we have been discussing as to how we can check this. I thought of wealth tax, but the wealth tax limit is higher than the estate duty limit."

4.16. The Committee were informed by Audit that the case was referred to Law Ministry for advice as to the validity of the assessment on the basis of the voluntary return. During evidence the Committee enquired what the Law Ministry's advice was. The Finance Secretary replied: "The Law Ministry have said that the assessment was correctly made by the Assistant Controller. Their advice is that in the case of voluntary return, the provision under section 73(a) would not apply. But unfortunately, no action was taken to go in appeal."

4.17. Asked whether the order of the Appellate Controller in cancelling the assessment was in order the Finance Secretary stated: "....what happened was that on the appellate order they said that the five years' rule even for a voluntary return would apply. We should have gone in appeal against that."

4.18. In this case there was regrettable lack of coordination between the Income-tax Officer who completed the Income tax and Wealth-tax assessments of the deceased and the Estate Duty Officer who had to complete the estate duty assessment. Owing to the failure of the Income-tax Officer to intimate the necessary particulars of the case to the Estate Duty Officer, the proceedings for the levy of estate duty could not be commenced within a period of five years from the date of death of the deceased. The Committee expect that the Income-tax Officer concerned will be suitably dealt with for his lapse which has cost a loss of Rs. 46,375 in tax collection to the exchequer.

4.19. The Committee would also like the Ministry of Finance to consider as to what further check could be introduced to ensure that the fact of death comes to notice and proceedings of estate duty are started in time.

4.20. The Committee note that according to the Ministry of Law the time-limit prescribed under Section 73(A) of the Estate Duty Act would not apply in the case of voluntary return. It is unfortunate that due to ignorance of this position the appellate authorities orders were not appealed against in the case under examination. The Committee desire that suitable instructions clarifying the position should be issued to all the Estate Duty Officers.

Under-charge due to excess allowance of rebate of estate duty

Audit Paragraph

4.21. Under the Estate Duty Act, agricultural land is liable to estate duty only if it is situated in a State included in the First Schedule to the Act. Agricultural land situated in States not so

included is aggregated with the value of the estate for rate purposes only and rebate at the average rate of duty is allowed on the value of land so included. The Act also provides that in determining the value of an estate for the purpose of estate duty, allowance shall be made for debts and incumbrances and any debt or incumbrance for which an allowance is made shall be deducted from the value of the property liable thereto.

4.22. Since agricultural income-tax is a tax on agricultural income which in turn relates to agricultural property, the liability on account of the agricultural income should properly be deducted from the value of agricultural property and the net value of the agricultural property so arrived at should be included in the value of the estate for rate purposes and then rebate allowed at the average rate of duty.

4.23. In a case, the deceased had agricultural land in a State not included in the First Schedule to the Estate Duty Act. He owed a sum of Rs. 1,27,368 on account of agricultural income-tax. This liability was deducted from the value of his chargeable estate instead of from the value of the agricultural land as a result of which rebate of duty was allowed on the gross value of the agricultural land instead of on its net value leading to excess rebate of Rs. 17,304 with a corresponding under-charge of estate duty. The Ministry have stated that section 44 of the Estate Duty Act does not authorise any apportionment of liabilities towards properties chargeable to estate duty and properties which are exempt from estate duty. Under the provisions of the Act, the value of agricultural land is not to be included in the principal value of the estate, though it is taken into account only for rate purposes. Neither section 44 nor any other provisions in the Act authorise deduction of a liability in respect of a property which is exempt from estate duty.

[Paragraph 73(vi)(a) of Audit Report (Civil), Revenue Receipts 1970.]

4.24. The Committee desired to know the position of law regarding inclusion of the value of agricultural lands in the estate duty assessments. In a note furnished to the Committee, the Ministry stated: "Under Section 5(1) of the Estate Duty Act, estate duty is levied on the principal value of all property passing on the death of the deceased including agricultural land situated in the territories which immediately before the 1st November, 1956 were comprised in the States specified in the First Schedule to the Act. In terms of Section 34(I)(b), agricultural land passing on the death of the

deceased, if situated in any State not specified in the First Schedule, is aggregated with the value of the estate for rate purposes only, *i.e.* rebate at the average rate of duty is allowed on the value of agricultural lands so included."

4.25. The Committee asked about the provisions of law regarding allowance of debt and incumbrances while computing the principal value of estate for Estate Duty purposes. The Ministry replied as follows: "Under section 44(a), in determining the value of the estate, allowance have to be made for debts incurred by the deceased or incumbrances created by a disposition made by the deceased, unless, subject to the provisions of section 27, such debts or incumbrances were incurred or created *bona fide* for full consideration wholly for the deceased's own use and benefit and take effect out of his interest. It is further provided that any debt or incumbrances for which an allowance is made shall be deducted from the value of the property liable thereto." Asked whether section 44 of the Act permitted deduction of a liability in respcet of property which is exempt from Estate Duty from the value of property which is not so exempt, the Ministry, in a note, replied "Section 44 of the Estate Duty Act does not authorise any apportionment of liability towards properties chargeable to Estate Duty and properties which are to be included only for rate purposes. The agricultural income-tax payable by the deceased was his personal liability and was as much a charge on the free estate as on the immovable property."

4.26. During evidence it was pointed out that in equity it was not correct to allow deduction pertaining to a non-taxable asset and that it should be examined whether any further clarification of Section 44 was required. The Finance Secretary stated: "We will consider that. But the view has been taken that because this is a personal liability it was a charge on the free asset as on immovable property. We will examine this matter."

4.27. The Committee note that a sum of Rs. 1.27 lakhs on account of agricultural income-tax pertaining to agricultural land on which Estate Duty was not leviable, owed by the deceased was allowed as deduction from the value of the Estate under Section 44 of the Estate Duty Act. When it was pointed out that it was not correct in equity to allow deduction pertaining to non-taxable asset and that it should be examined whether any clarification of Section 44 was required, the representative of Ministry of Finance promised to examine the matter. The Committee would like to await the result of the examination and the action taken on the basis thereof.

In correct exemption of gifts made in contemplation of marriage

Audit Paragraph

4.28. According to the Estate Duty Act, gift made 'in consideration of marriage' subject to a maximum of Rs. 10,000 in value shall not be taken into account in computing the principal value for the levy of estate duty. A case was noticed in which while computing the principal value on 20th November, 1967 a sum of Rs. 10,000 given away by the deceased to his daughter in August 1965 as gift 'in contemplation of marriage' was excluded based on the instructions of April 1957 of the erstwhile Central Board of Revenue. The instructions of the Central Board are contrary to the provisions in the Estate Duty Act and the exclusion of the said amount made 'in contemplation of marriage' was not in order.

4.29. The Ministry have, however, justified their instructions of April 1957 on the ground that the Board had taken into account the hardships that would be caused if the exempion under the Estate Duty Act were to be restricted only to gifts 'in consideration of marriage' and were not to be extended to the cases of gifts 'in contemplation of marriage'.

[Paragraph 73(vi) (b) of Audit Report (Civil) Revenue Receipts, 1970.]

4.30. The Committee pointed out that the Estate Duty Act provided for exemption only in respect of gifts made 'in consideration of marriage', and enquired why gifts made 'in contemplation of marriage' were excluded from the levy of Estate Duty. The Chairman, CBDT, stated: "..............The purpose of section 9 of the Estate Duty Act is to bring to charge gifts made by the deceased within a specified period before death. Under sub-section (2), any gift made in consideration of marriage, subject to a maximum of Rs. 10,000 in value, will not be dutiable as property is deemed to pass on the assessee's death. This section is based on section 2(1)(c) of the Finance Act of 1894 of the United Kingdom." He added: "...... The Board seems to have taken the view that in view of the economic conditions prevailing in this country, they should consider this aspect and follow the pattern in the U.K.". To a query about the difference between contemplation and consideration of marriage, the witness replied: "This has a little genesis. In India there is the dowry system, and therefore, the father would be anxious to provide for the girl, though at the time that he provides there is no immediate consideration of marriage. We have, therefore, extended the meaning a little."

4.31. When it was suggested that the relevant provision of the Act might be amended suitably, the Chairman, CBDT stated that the suggestion had been noted.

4.32. The Committee learnt from Audit that in another section of the Estate Duty Act, provision was made for relief on moneys earmarked for marriage of relatives dependent on the deceased. Asked to clarify the legal position and the exact purpose which of two sections is intended to serve, the Ministry submitted the following: "The reference appears to be to the provisions contained in section 33(1)(k) of the Estate Duty Act, in terms of which moneys earmarked under policies of insurance or declarations of trust or settlements effected or made by a deceased parent or natural guardian for the marriage of any of his female relatives dependent upon him for the necessities of life to the extent of Rs. 10,000 (it was Rs. 5,000 prior to 1st July, 1960) in respect of the marriage of each of such relative. In terms of section 34(1)(a) the exemption under section 33(1)(k) is available only by way of a rebate on average rate as against a full exemption available u/s 9(2) relating to a gift in consideration of marriage."

4.33. Although under Section 9 of the Estate Duty Act only gift made in consideration of marriage is exempted from the levy of Estate Duty, it has been extended to cover gift made in contemplation of marriage by executive instructions. While the Committee feel that the relevant section of the Act requires suitable amendment, they would like Government to consider whether the existing provisions of Section 33(1)(K) would not be enough to cover cases of gift in contemplation of marriage.

Incorrect exemption of the value of lands appurtenant to house property

Audit Paragraph

4.34. Under the Estate Duty Act, 1953 no estate duty shall be payable in respect of one house or part thereof exclusively used by the deceased for his residence, to the extent the principal value thereof does not exceed Rs. one lakh if such house is situated in a place with a population exceeding ten thousand and the full principal value thereof in any other case. The exemption is restricted to "one house or part thereof" and no exemption would be available in respect of the value of land appurtenant to the house as the law does not specify that the exemption would be available to "one house or part thereof with lands appurtenant thereto."

(i) In a case the deceased had one-fourth share in a house property which was exclusively used by him for residential purposes. The total land area was 28 cottahs of which three cottahs of land was covered by the building. Instead of limiting the exemption from estate duty to the value of the building and three cottahs of land on which it was situated, the department allowed exemption to the value of building and lands (about twenty five cottahs) appurtenant to the building. As exemption from estate duty is not available to value of lands appurtenant to the house, the incorrect exclusion of value of lands from the principal estate resulted in short-assessment of value of estate by Rs. 20,819.

(ii) A deceased person (died in June, 1964) was in possession of lease hold land of 1.02 acres on which a house was constructed and was used as residence. Instead of excluding the value of the house together with the land covered by it from the deceased's estate for the purposes of levy of estate duty, the whole value of the lease hold land was given exemption. The unexpired period of lease at the time of the death of the person was twenty-two years. The incorrect exclusion of the value of lands appurtenant to the building resulted in short-assessment of estate of about Rs. 20,000 chargeable to estate duty.

[Paragraph 64(e)(i) & (ii) of Report of the Comptroller and Auditor General of India for the year 1969-70, Central Government (Civil), Revenue Receipts.]

4.35. The Committee desired to know the provisions in the law regarding exemption of house property from Wealth Tax and Estate Duty under the Wealth Tax Act and Estate Duty Act respectively. In a note, the Ministry stated: "Under the Wealth-tax Act one house or part of a house used exclusively for residential purposes is exempted from Wealth-tax Act upto a limit of Rs. 1,00,000. Under the Estate Duty Act also one house or part thereof used exclusively by the deceased for his residence upto a value of Rs. 1,00,000 is exempted provided the house is situated in a place with population exceeding 10,000."

4.36. As regards the provisions in respect of assessment of income from house properties and the land appurtenant thereto, the Minitry stated that the annual value of property consisting of "any buildings or lands appurtenant thereto" was chargeable to income as income from house property."

4.37. Asked whether there was any difference between the provisions of the Income-tax Act and those in the Wealth-tax Act and

Estate Duty Act in this regard, the Ministry intimated: "The provisions of the Income-tax Act relate to the chargeability of the annual value of property and land appurtenant thereto whereas Wealth-tax and Estate Duty Acts relate to the chargeability of property as part of wealth and as part of a deceased's Estate."

4.38. The Committee were informed by Audit that the issue was examined by Law Ministry also. Asked what their opinion was on the issue, the Ministry of Finance replied that the matter was examined by the Ministry of Law who were of the opinion that the use of the term 'house' in the Estate Duty Act would also include lands appurtenant thereto."

4.39. During evidence it was pointed out that supposing a man had got a 100 acres plot and a small farm house, it would be stretching the law too far to treat the entire 100 acres as appurtenant to the house. To a suggestion that the Board might issue some rules to give guidance as to how much land can be taken as being appurtenant to the house, the Chairman, CBDT reacted saying: "Other wise, this leads to avoidance, I quite agree."

4.40. According to the opinion of the Ministry of Law communicated to the Committee, the term 'house' in the Estate Duty Act would also include lands appurtenant thereto for the purpose of exemption of the value from Estate Duty. As admittedly, a liberal interpretation of the 'lands appurtenant to the house' would lead to avoidance of tax, the Committee would suggest that the Central Board of Direct Taxes might issue some guidelines under the rules as to how much land can be reasonably taken as being appurtenant to the house.

Incorrect allowance of exemption/rebate

Audit Paragraph

4.41. Under the Estate Duty Act, a house or a part thereof exclusively used by the deceased for his residence is exempt from estate duty up to a value of Rs. 1 lakh.

(a) In a case the deceased was the owner of half share in three house properties one of which was used by him as residence. Accordingly the deceased's share in the residential house alone valued at Rs. 2,000 was eligible for exemption from estate duty and his shares in the other two houses valued at Rs. 10,000 were liable to be charged. But in the assessment dated 20th November, 1967 his shares in all the three houses were incorrectly exempted from estate duty. The

Ministry have accepted the mistake and the assessment has been rectified. Report regarding recovery is awaited.

(b) In another case the deceased was a part-owner of two properties with different shares therein. They also bore different municipal numbers. In the assessment completed on 26th April, 1967 both the properties valued at Rs. 26,817 were allowed exemption from estate duty on the ground that the two properties were one and the same with two municipal numbers. The Ministry have accepted the mistake and intimated that additional demand has been raised for the same. Report regarding recovery is awainted.

[Paragraph 73(iv) (a) & (b) of Audit Report (Civil) Revenue Receipts, 1970.]

Sub-para (a)

4.42. The committee desired to know whether the assessee at any time brought to the notice of the Estate Duy Officer, the particular house which was exclusively used by him for his residence. The Ministry, in a note stated that the authorised representative of the accountable person wrote in his letter dated 15th November, 1967, that Tika No. 3/2 Survey No. 28 was exclusively used for residential purposes by the deceased. Asked how the exemption was allowed on the value of all the three properties, the following information was furnished by the Ministry: "It appears that the exemption was allowed on the value of all the three properties due to in-advertence but the Ministry is ascertaining the circumstances under which this was done." The Committee asked whether the assessment was checked by internal audit party. According to the information furnished by the Ministry, "The IAP had checked the assessment on 1st June, 1968 but had failed to detect the error. The reasons for this are being ascertained."

4.43. As regards the additional demand recovered, the Ministry stated that the additional demand raised was adjusted against the refunds due.

Sub-para (b)

4.44. The Committee enquired whether the return of the deceased person showed the particulars of the two houses and if so, how the exemption was allowed for both of them. The Ministry submitted a written note which is reproduced below:

"The accountable person had shown in the estate duty return the particulars of the two residential houses. In the authorised representative's letter dated 8th June, 1967 it had been stated that "there are two numbers of one

building which is a residential house, whose total covered area is about 2 cottahs in the ground floor". It appears that due to oversight the ACED took this to mean that both the houses constituted a single residential house. He apparently overlooked the fact that in addition to a single building having two numbers the deceased also *owned another building.*"

4.45. To a question about the present position of the cases, the Ministry stated that the demand was kept outstanding pending completion of some further enquiry directed by the Appellate Controller.

4.46. In the case dealt with in sub-para (a), although the deceased used as his residence only one of the three house properties in all of which he owned half share, exemption was allowed on the value of all the three properties due to 'inadvertence'. The Ministry have also intimated that the circumstances under which this was done is being ascertained. The Committee would like to have a report in this regard as also the action, if any, taken against the officer concerned at fault.

4.47. Incidentally, the Committee find that although the assessment in question was checked by the Internal Audit, they had failed to detect the error. The reasons as also the action taken for the failure may be intimated to the Committee.

4.48. The Committee regret to find that in respect of the case dealt with in sub-para (b) also similar mistake was committed due to 'oversight'. The Committee expect that negligence on the part of the officer concerned would be suitably dealt with.

4.49. The Committee note that the additional demand in this case has been kept outstanding pending completion of some further enquiry directed by the Appellate Controller. Further developments of this case may be reported to the Committee.

CHAPTER V

Wealth-tax, Gift-tax and Estate duty

Arrears of demands*.

Audit Paragraph

5.1. The following table shows the year-wise arrears of demands pending without recovery and the number of cases relating thereto under the three directed taxes, wealth-tax, gift-tax and estate duty as on 31st March, 1969.

(Amounts in lakhs of rupees)

Arrears of	Wealth-tax		Gift-tax		Estate duty	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1964-65 and earlier years .	2,739	151	902	7	736	209
1965-66 . .	2,486	67	639	14	430	45
1966-67 .	3,835	86	799	19	700	122
1967-68 . .	7,646	176	1,618	29	1,418	250
1968-69 . .	24,295	321	5,004	103	2,835	328
TOTAL :	41,001	801	8,962	172	6,119	954

[Paragraph 75(a) of Audit Report (Civil), Revenue Receipts, 1970.]

*The figures were furnished by the Ministry.

Arrears of demands*.

Audit Paragraph.

5.2. The following table shows the year-wise arears of demands pending without recovery and the number of cases relating thereto under the three direct taxes, wealth tax, gift-tax and estate duty as on 31st March, 1970.

(Amount in lakhs of rupees)

Arrears of	Wealth tax		Gift-tax		Estate duty	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1964-65 and earlier years	3,004	174·68	624	8·94	781	413·19
1965-66	1,799	84·09	466	6·18	538	43·08
1966-67	3,388	146·27	606	19·61	598	151·24
1967-68	4,028	496·42	910	25·37	993	244·87
1968-69	8,496	1801·73	1,900	64·45	1,358	356·16
1969-70	34,900	1949·81	5,424	229·24	4,209	1374·22
TOTAL	55,615	4653·00	9,930	353·79	8,477	2582·76

5.3. The number of assessments in which tax was stayed on appeals and Revision petitions as on 31st March, 1970 are indicated below:—

(Amount in lakhs of rupees)

	Wealth-tax		Gift-tax		Estate duty	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
Before A.A.C.s	627	81·72	52	39·31	206	176·83
Before Tribunal	106	135·24	5	0·68	69	16·22
Before High Court	21	4·84	19	14·23	27	52·91
Before Supreme Court	4	3·00	..	..	..	..
Revision petitions before Commissioners	4	0·05	1	0·07	..	..
TOTAL	762	224·85	77	54·29	302	245.96

[Paragraph 65(b) of the Report of the Comptroller and Auditor General of India for the year 1969-70, Central Government (Civil), Revenue Receipts.]

*Figures furnished by the Ministry.

5.4. The Committee desired to know whether the arrears of tax shown as outstanding as on 31st March, 1970 were correct. The Ministry stated: "Since there appears to be discrepancy in the figures already furnished, the Ministry are having figures reconciled and a further report will be sent in due course of time." Subsequently, the Ministry stated: 'The figures earlier supplied pertaining to arrears of Wealth-tax, Gift-tax and Estate Duty, on further check up, have been found to be incorrect. Revised figures are given in the statement attached and may kindly be taken into consideration.' The statement referred to by the Ministry is given below:

(Amount in lakhs of rupees)

Arrears of	Wealth-tax		Gift-tax		Estate duty	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1964-65 and earlier years	3,004	102·41	624	8·94	781	141·93
1965-66	1,779	31·99	466	5·13	538	40·11
1966-67	3,388	73·01	606	14·66	598	98·77
1967-68	4,928	117·25	910	11·51	993	226·06
1968-69	8,496	121·70	1,900	39·70	1,358	228·48
1969-70	34,000	564·80	5,424	108·46	4,209	596·08
TOTAL	55,615	1011·10	9,930	188·40	8,477	1331·43

5.5. The following table shows the comparative position of arrears in Wealth-tax, Gift-tax and Estate Duty:

(In lakhs of rupees)

Years to which relate	Wealth-tax			Gift-tax			Estate Duty		
	As on 31-3-68	As on 31-3-69	As on 31-3-70	As on 31-3-68	As on 31-3-69	As on 31-3-70	As on 31-3-68	As on 31-3-69	As on 31-3-70
1964-65 and earlier years	209	151	102	14	7	9	225	209	142
1965-66	68	67	32	22	14	5	62	45	40
1966-67	115	86	73	32	19	15	223	122	99
1967-68	366	176	117	58	29	11	463	250	226
1968-69	..	321	122	..	103	40	..	328	228
1969-70	..	..	565	..	..	108	..	..	596
TOTAL	758	801	1011	126	172	188	973	954	1331

5.6. The following table compares the total receipts under the three heads Wealth-tax, Gift-tax and Estate Duty during 1968-69 and 1969-70 with the outstandings as on 31st March, 1969 and 31st March, 1970:

	Receipt during		Arrears as on	
	1968-69	1969-70	31-3-69	31-3-70
	(In lakhs of rupees)			
Wealth-tax . . .	1,111	1,562	801	1,011
Gift-tax . . .	151	202	172	188
Estate Duty . . .	674	694	954	1,331

The arrears under estate duty as on 31-3-70 represent nearly 2 times of the collections made during 1969-70.

5.7. In para 2.13 of their 117th Report (1969-70), the Committee made the following observations:—

> "The Committee are concerned over the steep rise in the arrears of demands under the Wealth-tax, Gift-tax and Estate duty ....The Committee note that instructions have been issued by the Board to the Commissioners of Income-tax to ensure that arrears under these taxes are reduced cy at least 50 per cent by the end of current financial year (*i.e.* 31-3-70). The Committee consider this to be a modest target. They would like all out efforts to be made for the clearance of arrears before the close of the financial year."

5.8. Asked whether the Ministry were able to enforce recovery of 50 per cent of the outstanding as on 31-3-1969 by 31-3-1970, the Ministry intimated: "The Ministry regret that inspite of efforts it has not been possible during 1969-70 to ensure reduction of the arrear demand of estate duty, wealth-tax and gift-tax to the extent of 50 per cent over the arrears as on 1st April, 1969." The Committee desired to know whether special steps had been taken to speedily recover the outstandings. In the following note, the Ministry stated:

> "The Commissioners have been asked to request the Appellate Assistant Commissioners concerned to take up the appeals, in which substantial revenue is involved, out of turn and also to request the authorised representatives to similarly

move the Income-tax Appellate Tribunals. They have also been asked to ensure that the Tax Recovery Officers give particular attention to the recovery certificates covering demands relating to wealth-tax. The same steps which are being taken for the recovery of arrears of income-tax are also being taken for recovery of arrears of wealth-tax and gift-tax. As regards the recovery of arrears of estate duty the recovery work in respect of certificates issued by the Assistant Controllers is still with the State Governments."

5.9. The Committee wanted to know about the provisions of the law under the Estate Duty Act in regard to levy of interest on the outstandings due to Government, the Ministry replied: "In terms of Section 70(1) of the Estate Duty Act interest not exceeding 4 per cent or any higher interest yielded by the property has to be charged if the Controller of Estate Duty allows the payment of duty to be postponed for any period. Under the provisions of Section 70 (2), if estate duty in respect of immovable property has to be paid in four equal yearly instalments or eight equal half-yearly instalments, interest has to be charged at the rate of 4 per cent or any higher interest yielded by the property." Asked whether the provisions under the Estate Duty Act were analogous to the provisions of the Income-tax Act, 1961 regarding levy of penalty interest on the outstandings due to Government, the Ministry stated that there was no provision in the Estate Duty Act analogous to Section 220(2) of the Income-tax Act, 1961.

5.10. The Committee note that the arrears of demands in respect of Wealth-tax, Gift Tax and Estate Duty as on 31st March, 1969 were Rs. 801 lakhs, Rs. 172 lakhs and Rs. 954 lakhs against the total receipts during the year 1968-69 of Rs. 1,111 lakhs, Rs. 151 lakhs and Rs. 674 lakhs respectively. As per the report of the C&AG for the year 1969-70 that the arrears in respect of Wealth-tax, Gift-tax and Estate duty as on 31st March, 1970 were Rs. 4,653 lakhs, Rs. 354 lakhs and Rs. 2,582 lakhs respectively. This suggested that the arrears have increased many fold during the course of one year (1969-70). However, the Ministry stated that the figures furnished by them to Audit in this regard were being reconciled as there appeared to be discrepancy. The figures subsequently furnished are Rs. 1,011 lakhs, Rs. 188 lakhs and Rs. 1,331 lakhs against the total receipts during the year 1969-70 of Rs. 1562 lakhs, Rs. 202 lakhs and Rs. 694 lakhs respectively. The Committee take a serious view of the incorrect position given to Audit and of the delay in getting it reconciled.

5.11. The arrears in respect of Estate duty as on 31st March, 1970 were nearly 2 times of the collection made during the year 1969-70. In this connection the Committee find that the recovery work in respect of certificates issued by the Assistant Controller of Estate duty is still with the State Governments. In case the lack of co-ordination between the tax recovery officers of State Governments and the Estate Duty Officers is responsible for the huge pendency of Estate duty arrears, the Committee would suggest that the Ministry, in consultation with the State Governments, should devise effective ways for expeditious recovery of the dues.

5.12. The expectations that the arrears as on 31st March, 1969 would be reduced by at least 50 per cent by the end of the year 1969-70 regrettably did not materialise. Further arrears at the end of 1969-70 show significant deterioration in the position. The Committee hope that concerted efforts would be made to considerably reduce the arrears by the end of the current year 1972-73.

5.13. Incidentally, the Committee note that there is no provision in the Estate Duty Act analogous to Section 220(2) of the Income-tax Act, 1961 for the levy of penal interest for non-payment of duty within the prescribed period. As the extent of arrears of Estate duty is particularly alarming, the Committee would like Government to consider the feasibility of making similar provisions in the Estate Duty Act in order to effectively deter any attempt to delay payment of duty.

CHAPTER VI

Arrears of Assessment

Pendency of Excess Profits Tax and Business Profits Tax assess- Ments.*

Audit Paragraph

6.1. The number of assessments disposed of during 1968-69 and of those pending on 31st March, 1969 under the Excess Profits Tax Act, 1940 and Business Profits Tax Act, 1947 are shown below:

	Excess Profits Tax	Business Profits Tax
(1) Total number of cases pending for disposal by way of final assessments on 1st April, 1968	51	20
(2) Total number of cases out of (1) in which provisional assessments have been made	..	..
(3) Number of cases in which re-assessment proceedings, if any, started during the year 1968-69 (Excess Profits Tax Act, 1940, i.e., number of cases added during the period) ..	2	3
(4) Total number out of (1) and (3) disposed of during the year	4	9
(5) Total number pending as on 31st March, 1969 . . .	49	14
(6) The amount of tax (approximate) involved in (5) .	22·69 Rs. lakhs†	3·68 Rs. lakhs†

6.2. The excess Profits Tax Act, 1940 and Business Profits Tax Act, 1947 have ceased to be in force in the years 1947 and 1950 respectively.

[Paragraph 74(a) of Audit Report (Civil), Revenue Receipts 1970.]

6.3. The Committee were informed, in a note, by the Ministry that as on 1st March, 1972, the number of pending excess-profits-tax cases and business-profits-tax cases were 19 and 4 respectively. Asked what action was proposed to be taken by Government to clear the arrears, the Ministry stated as follows:—

> "These (EPT cases) relate to only 5 assessees. The cases involve complicated and disputed points. The cases of 4 assessees involving 18 EPT proceedings are nearing

*The figures were furnished by the Ministry.

†(Provisional).

completion. These are being processed under the personal direction of a Member of the Central Board of Direct Taxes. In the remaining one EPT case, there is no likelihood of an early settlement, because the matter is now before the Supreme Court.

The 4 BPT proceedings relate to only one assessee. These also are being processed along with the EPT assessments of the same assessee."

6.4. The Committee note that as on 1st March, 1972, all but 23 cases of pending excess profits tax and business profits tax assessment have been cleared. Of these 23, there is stated to be no likelihood of early settlement in one excess profit tax case as the matter is before the Supreme Court. The Committee desire that all the remaining 22 cases should be cleared within a period of six months and the Committee informed.

Arrears of assessments*.

Audit Paragraph

6.5. The table below shows the year-wise details of assessments pending as on 31st March, 1970 and the approximate amount of tax/duty involved thereon.

Year	No. of assessments pending			Approximate amount of tax involved (in lakhs of Rs.)		
	Wealth-tax	Gift-tax	Estate duty	Wealth-tax	Gift-tax	Estate duty
1964-65 and earlier years	7,086	454	351	151·11	8·71	114·76
1965-66	6,925	401	348	65·77	1·66	33·04
1966-67	11,360	527	526	85·41	2·59	49·81
1967-68	17,636	776	891	131·23	3·80	237·33
1968-69	29,919	1,719	1,744	202·32	8·53	189·02
1969-70	57,322	3,262	5,690	396·97	21·70	427·91
	1,30,248	7,139	9,550	1032·81	46·99	1051·87

*Figures furnished by the Ministry.

6.6. The number of assessments completed during 1968-69 and 1969-70 and the approximate demands raised are indicated below:—

Year	No. of assessments completed			Approximate amount of demand raised (in lakhs of Rupees)		
	Wealth tax	Gift-tax	Estate duty	Wealth-tax	Gift-tax	Estate duty
	(Individuals and H.U.F.	(Individuals) and H.U.F.)				
1968-69 ..	1,05,307	18,739	13,040	945·66	242·66	560·68
1969-70 .	1,69,572	21,68	15,550	1693·59	179·42	753·44

[Paragraph 65(a) of Report of the Comptroller & Auditor General of India for the year 1969-70—Central Government (Civil)-Revenue Receipts.]

6.7. The Committee pointed out the instructions issued by the CBET that all the Wealth-tax assessments which were pending for the assessment years 1964-65 and earlier years should be completed before 30th September, 1969 and that the pending wealth-tax assessments for 1966-67 should be completed before 31st December, 1969 and enquired whether these targets had been achieved. The Ministry, in a note, submitted the following reply:

"As on 31st March, 1971, 9,434 Wealth-tax assessments pertaining to the assessment years 1965-66 and earlier years were pending; the number of such assessments for 1966-67 pending on this date was 8,885.

The target for the disposal of assessment could not be achieved because of the following reasons:—

(a) Priority given to the disposal of income-tax assessments (keeping an eye to the fact that on 31st March, 1972, the assessments for three assessment years would be reaching limitation in view of the reduced time limit for completion of income-tax assessments).

(b) Pendency of some of the corresponding income-tax assessments of a particularly complicated or disputed nature; and

(c) addition to the number of wealth-tax assessments for later years."

6.8. Referring to para 2.19 of their 117th Report (Fourth Lok Sabha) wherein they had recommended that a definite dead line date should be set and adhered to, for the expeditious clearance of the pending wealth-tax assessments, the Committee wanted to know the pendency position as on 31st March, 1971. The Ministry, in a note, gave the figure as 1,64,699.

6.9. Out of 1,30,248 wealth-tax assessments pending as on 31st March, 1970, the Committee desired to know the number of cases which related to Company assessments and the year-wise split up of the pendency of company assessments together with the approximate tax involved therein. The required information, though called for in September, 1971, is still awaited from the Ministry.

6.10. As regards the total number of Gift tax and Estate Duty assessments outstanding on 31st March, 1971, the Ministry, in a note, stated that they were 9,909 and 11,806 respectively.

6.11. The arrears of assessments of Wealth-tax, Gift Tax and Estate Duty in terms of number of cases as on 31st March, 1970 were 1,30,248, 7,139 and 9,550 involving tax of approximately Rs. 1,033 lakhs, Rs. 47 lakhs and Rs. 1,052 lakhs respectively. The total number of assessments completed during the year 1969-70 were 1,69,572, 21,648 and 15,550 and the approximate amounts of demand raised were Rs. 1694 lakhs, Rs. 179 lakhs and Rs. 753 lakhs respectively. The Committee are particularly distressed about the heavy accumulation of pending wealth-tax assessments. The targets fixed by the Central Board of Direct Taxes themselves for the clearance of old cases have not been adhered to cases involving larger amounts and companies should be given higher priority. Unless firm targets are fixed and strict compliance with them is watched, the Committee are afraid the position would, far from improving, deteriorate further. The position as at the end of 1970-71 as furnished by the Ministry does show considerable deterioration in the position.

NEW DELHI;
August 17, 1972.
Sravana 26, 1894 (*S*).

ERA SEZHIYAN.
Chairman,
Public Accounts Committee.

APPENDIX I

(Para 2.22 of the Report)

Wealth Tax

Wealth-tax is leviable for and from the assessment year 1957-58. Upto the assessment year 1959-60, even companies were liable to wealth-tax but from the assessment year 1960-61 only individuals and H.U.Fs are liable. Wealh-tax is levied on the net wealth of an assessee as on the Valuation date. Valuation date, in respect of an assessment year, is either the 31st of March immediately preceding that assessment year or in the case of income-tax assessees the last date of the previous years determined for income tax purposes. Net wealth is calculated by deducting the debts owed by the assessee from the total value of assets belonging to him. The value of an asset is usually taken to be what it would fetch, if sold in the open market on the valuation date. Business assets need not be valued individually, but a global valuation of the business as a whole on the basis of balance sheet would suffice. There are rules prescribing the method of valuing the business as a whole and also for unquoted equity shares of non-investment and non-managing agency company.

Points for Checking

(1) **Return**—

(a) Is the return correct and complete in all respects? Is it filed in the prescribed forms? Is the verification signed by the person authorised in law to sign it?

(b) Has the return been filed within the time allowed under the Act *i.e.* 30th June? If an extension of time has been allowed, is the application for extension on record?

(c) Has the status been correctly determined?

(2) Computation of net wealth—

(a) Has the net wealth been correctly computed in accordance with the law?

(b) Has the W.T.O. denied deduction from the net wealth for the following:—

(i) Debts located outside India in the case of an individual who is not a citizen of India or H.U.F. not resident or resident but not ordinarily resident.

(ii) Debts secured on or incurred in relation to exempted assets.

(iii) Tax, penalty or interest payable under the Income-tax Act, Gift-tax Act, Estate Duty Act, Wealth Tax Act or Expenditure tax Act which is outstanding and is disputed in appeal, revision etc. or which is outstanding for more than 12 months.

(3) Valuation date—Has the W.T.O. taken the valuation date correctly?

(4) Transferred assets—

(a) Have the assets transferred directly or indirectly to a spouse or a minor child, otherwise than for adequate consideration been taken into account for the purpose of determining the net wealth?

(b) Have assets transferred otherwise than under irrevocable transfer been taken into account in determining the net wealth?

(5) Exempted assets—Has the list of assets been checked up with a view to excluding from the assessment, assets specifically exempted from the charge of wealth tax under section 5 of the Wealth Tax Act?

(6) Self-assessment—Is the assessee liable to self asessment? If so, has he paid the tax within the period laid down under the law? If the tax has not been paid and a provisional or regular assessment has not been made within the said period, has penal action been taken against the assessee?

(7) Provisional assessment—Has a provisional assessment been made? Has the tax paid on self-assessment been adjusted against the demand raised on the provisional assessment?

(8) Delayed payment and interest—Has the tax on provisional or regular assessment been paid within the time allowed under the law? If there was delay in payment, has interest been charged?

(9) Appeal and revision—Has effect been given to appeal and revision orders?

(10) Refund—Have the claims for refunds been settled promptly and amounts of refund calculated properly?

(11) Computation of tax—Has the tax been calculated in accordance with the rates prescribed in the Schedule? Is additional Wealth-tax on urban immovable property leviable? If so, has the additional tax been properly computed?

(12) Valuation—

(a) While making a global valuation of a business have the adjustments mentioned in Rule 2B to 2G been made?

(b) Has the interest of the assessee in a partnership or association of persons been worked out in accordance with Rule 2 ?

(c) Was life interest valued as per provisions of Rule 1B?

(d) Has the value of unquoted preference shares and unquoted equity shares of companies other than investment and managing agency companies, been worked out in accordance with provision of Rule 1C and 1D?

(e) For valuing the shares in investment and managing agency companies has Circular No. 2(WT) of 1967 dated 31st October, 1967 been followed?

APPENDIX II

(*Vide* para 2.40 of the Report)

Instruction No. 328

F. No. 328/56/71-WT.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

Central Board of Direct Taxes

New Delhi, the 25th September, 1971

To

All Commissioners and Additional Commissioners of Income-tax.

Sir,

SUBJECT:—*Wealth-tax Act*, 1957—*Levy of additional Wealth-tax on urban immovable property*

Attention is inivted to para 2 of Circular No. 4-D(WT) of 1965 in F. No. 1/7/65-W.T., wherein the need for valuation of the immovable properties situated in urban areas was emphasised.

2. The Board have since noticed that in many cases the Wealth-tax Officers have failed to levy additional wealth-tax on immovable property situated in specified urban areas. This has resulted in the loss of revenue. The Revenue Audit has also found such omissions and this has also been included in the Audit Report, 1971.

3. The provisions for the levy of additional wealth-tax on the value of land and buildings in areas with a population exceeding one lakh were introduced by the Finance Act, 1965. It appears that the lapses by the assessing officers have not been fully followed up. The Board, therefore, desire that it should immediately be impressed upon all Wealth-tax Officers that they should ensure that additional

wealth-tax on urban property is duly levied in the appropriate cases. Moreover, all such cases should also be reviewed by the assessing officers to find out if any completed assessments require rectification under section 35 of the Wealth-tax Act.

4. The above instructions may kindly be brought to the notice of all the Wealth-tax Officers working in your charge.

Yours faithfully,

(Sd.) BALBIR SINGH.

Secretary, Central Board of Direct Taxes.

APPENDIX III

(*Vide* para 2.70 of the Report)

Instruction No. 364

F. No. 328/80/71-WT.

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Vitta Mantralaya)

Department of Revenue and Insurance

(Rajaswa Aur Bima Vibhag),

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 28th December, 1971

To

All Commissioners of Income-tax and Wealth-tax.

Sir,

SUB: *Wealth-tax assessments—Under-assessments due to incorrect valuation of interest in partnership firms—Instructions regarding.*

The Board have noticed with concern that in many cases the Wealth-tax Officers have incorrectly valued the interest of the assessees in partnership firms. Such omissions have also been adversely commented upon by the Reveue Audit.

2. Attention is invited to the provisions of Rule 2 of the Wealth-tax Rules, 1957, which lay down the procedure for valuation of interest in partnership or association of persons. This Rule provides that the net wealth of the firm or association on the valuation date should first be determined. For the purposes of determination of the net wealth, the net value of the assets may have to be determined in accordance with the manner provided in Rules 2A to Rule 2G.

3. Rule 2E enumerates the liabilities which are not to be taken into account for the purposes of calculating the value of the interest

1723 L.S.—6.

of the partner of a firm. It, *inter-alia*, provides that reserves of all kinds should not be considered as liabilities for this purpose. It, therefore, follows that reserves like the balance in the Development Rebate Reserve shown in the balance sheet of the firm should not be allowed as liability in computing the value of interest of the partners in the firm. Again, according to the provisions of Rule 2-B(2), where the market value of an asset exceeds its written down value or its book value, or the value adopted for purposes of assessment under the Income-tax Act, 1961, as the case may be, by more than 20 per cent, the value of that asset shall, for the purposes of Rule 2-A be taken to be market value. These provisions should be strictly followed.

4. The Board desire that it should ensured that such defaults by assessing officers should always be examined in detail and appropriate action taken against them.

Yours faithfully,

(Sd.) B. NIGAM,

Under Secretary,

Central Board of Direct Taxes.

APPENDIX IV

(*Vide* para 2.92 of the Report)

F. No. 4/8/63-WT

CENTRAL BOARD OF REVENUE

New Delhi, the 20th May, 1963

From

Shri George Cheriyan, Under Secretary, Central Board of Revenue.

To

The Commissioner of Income-tax and Wealth-tax, Punjab, Patiala.

Sir,

SUBJECT.—*Assessment of transporters-Route permit-Value of whether assessable as 'wealth', 'gift' or 'estate' under the relevant Acts.*

Please refer to your letter No. AST/62-63(160)/1246 dated 19th/22nd April, 1963 on the above subject.

2. I am directed to state that the view that route permits constitute "property" within the meaning of the Wealth-tax, Gift-tax and Estate Duty Acts is in order.

3. The point had come up in a wealth-tax case from Mysore before the Tribunal (Shri V. Venkata Rao *Vs.* W.T.O. Bellary-assessment year 1959-60 copy of Tribunal's order forwarded under CIT Mysore's endorsement C. No. 711-37/62-63 dated 27-7-62). The assessee's plea that route permits did not constitute "property" was rejected by the Tribunal. [It is to be mentioned that some of the observations of the Tribunal regarding the scope of section 2(e) (v) in para 4 of their order are not relevant to the point at issue and are very much open to argument]. Instructions may, thertfore, be issued that in appropriate cases the value of route permits should be considered for assessment to wealth-tax, gift-tax and estate duty. It may, however, be specifically impressed upon the officers that the determination of the actual value being dependent on various factors, in making an estimate all the relevant evidence should be brought on record and discussed in the order of assessment after giving the assessee a reasonable opportunity of being heard and considering any arguments he may have to adduce.

Yours faithfully,

(Sd.) GEORGE CHERIAN,

Under Secy., Central Board of Revenue.

Copy of letter No. AST/62-63(160)/1246 dated 19th April/22nd April, 1963 from the Commissioner of Income-tax, Punjab, Jammu & Kashmir and Himachal Pradesh, Patiala, addressed to the Secretary, Central Board of Revenue, New Delhi.

SUBJECT.—*Assessment of transporters-Route Permit-Value of whether assessable as 'wealth', 'gift' or 'estate' under the relevant Acts.*

It is common knowledge that a route permit for a truck or buses are valuable assets. There are persons who obtain route permits without owning a vehicle, give the permit on rent to another person and earn a monthly income of Rs. 300/- to Rs. 400/-. In private deals route permits are frequently sold. There is a boom in the current prices of permits. The current price of a permit on the Pathankot Jammu route is about Rs. 25,000/-.

2. Ordinarily, the value of the route permit is not being subjected to wealth-tax, gift-tax or estate duty. So far as wealth-tax is concerned, it is chargeable on the value of 'asset' which includes property of every description subject to the exceptions contained in section 2(c) of the wealth-tax Act. Similarly under the Gift-tax Act, gift means the transfer of any movable or immovable property without consideration. Estate duty is leviable on the value of property which passes on death. For the purposes of all the three Acts, therefore, the route permit should, I believe, fall within the meaning of the word 'property' in its general connotation. Property connotes a right in a thing and a route permit give the holder a right to carry on the business of plying the vehicle. This right, therefore, falls within the meaning of the word property.

3. The general conditions attached to permits are laid down in section 59 of the Motor Vehicles Act, 1939. According to this section a permit shall not be transferable from one person to another except with the permission of the Transport Authority which grants the permit. Under Rule 4.33 of the Punjab Motor Vehicle Rules, 1940 a route permit is transferable. It, therefore, follows that the value of the route permit is assessable under the Wealth-Tax Act, 1957 on the valuation date. If the route permit is transferred by one person to another without adequate consideration the value of the route permit can be assessed under the Gift-tax Act. Under Section 61 of the Motor Vehicle Act, 1939 a route permit is transferable on the death of the holder to the person succeeding to the possession of the vehicle covered by the permit. In view of this provision, the value of the route permit on the death of the holder is chargeable to Duty under the Estate Duty Act.

4. It may be argued that since a route permit is not freely transferable it has no value in the open market. This argument however has little force. Even though the sale or transfer of an asset may be subject to certain conditions its value is assessable under the Wealth-tax Act and Estate Duty Act notwithstanding these conditions. In this connection Board's kind attention is invited to the note dated 22-2-1960 of the Joint Secretary and legal advisor in the Ministry of Law (Copy enclosed).

5. In the circumstance mentioned above, I propose to issue a circular to the officers in this charge to bring the value of the route permit to tax under the Wealth-tax ActGift-Tax Act and the Estate Duty Act as the case may be. But before I do so, I shall be thankful to know if the proposed action meets with the Board's approval.

Copy of U.O. Note of the Joint Sectary and Legal Adviser, Bombay, dated 22-2-1960.

[from F. No. 4/6/59-WT.]

Our opinion has been invited on the assessee's contention that his right to collect royalties under the leased not being saleable or transferable cannot be said to be marketable and hence the assessee is not liable to pay wealth-tax.

2. The open market referred to in Section (7) of the Wealth-tax Act is hypothetical one. There may arise cases where property is unsaleable altogether, owing to the personal nature of the property the benefit of which attaches to the assessee exclusively, for instance the shares in a private limited company which are subjected to restrictive provisions as to their alienation the other. The value of such shares for the purpose of wealth- shall be determined with reference to the value they would fetch if they could be sold in the open market on the terms of the purchaser being entitled to be registered as holder, subject to the articles. In the case of shares of private limited company their sale is prohibited by a statute. In such a case it is necessary nevertheless to make a valuation for the purpose of Wealth-tax Act. In computing the price in the open market as required under section (7) of the Wealth-tax Act, it is not necessary to personally able to sell the property or is subject to restrictions in selling it. In the case of Aoff Clifton (1927) I. Ch. 313 an estate duty case of a person of foreign domicile where the assets could not be sold being vested in Custodian, it was held that the price in such cases is to be taken that of similar assets. Sub-section (1) of Section (7) of the Wealth-tax Act does

not state that there should be an open market for that asset in question or that there should be purchasers therefore, or that the sale should be legal. On the other hand what the section requires is merely an assumption to be male of a hypothetical bids irrespective of the legality of the sale or c the terms of the contract govering the alienability of the propert in question. The question whether there was in fact a market an the property could in fact be sold is wholly immaterial. The true ffect of sub-section (1) of Section (7) is not to make an existence ofn open market a condition of liability to wealth-tax but to prescribethe open market price as the measure of value.

(Sd.) C. H. RAJADHLAKHA,

Joint Secy. & Legal Adviser, Bombay.

22-2-1960.

APPENDIX V

(*Vide* para 3.14 of the Report)

Copy of Circular No. 1 G.T. of 1960, dated 5th January, 1960.

Gift-Tax Act, 1958-Section 5(i) (xiv)—Exemption of donations.

A reference is invited to paragraph 12 (n) of the Instructions on the Gift-tax Act "wherein it was stated that a constribution to the funds of a political party does not satisfy the conditions laid down in section 5(i) (xiv) of the Gift-tax Act. It has since been brought to the notice of the Board that certain companies, public as well as private, have amended their Memorandum and Articles of Association so as to empower them to subscribe or contribute money to public, political or other useful institutions, objects and purposes, and thereafter made donations to political parties. One of such cases, viz. that of the Tata Iron & Steel Co. Ltd. went upto the Bombay High Court (vide company cases Vol. XXVII p. 604) and the court held that the alteration made by the company was an alteration aimed to enable the company to carry out its business more efficiently and economically. The Board is advised that in cases where a gift to a political party is made by a compny under the authority of a specific clause in the Memorandum and Articles of Association of the company, the gift has to be held as having been made in the course of carrying on the business of the company and exempted from gift-tax.

APPENDIX VI

Summary of main conclusions/recommendations

Sl. No.	Para No. of Report	Ministry/Deptt. concerned	Conclusions/Recommendations
1	2	3	4
1.	1.2	Finance (Rev. Ins.)	The Committee feel that in case Sur-tax is going to be a permanent measure to provide a disincentive to excessive profits and to keep down prices, it would be helpful both to the Department and the assessees if it is integrated into the general tax structure, as stated by the Finance Secretary. They would accordingly suggest as a step towards simplification and rationalisation that there could be a separate Corporate Tax Act incorporating therein the provisions relating to Sur Tax.
2.	1.7	-do-	The Audit objection regarding the treatment of certain reserves as capital for the purpose of levy of Super Profit Tax/Sur Tax in the case of four company assessees is based on the instructions issued in October 1963 by the Central Board of Direct Taxes themselves. The Ministry have, however, contended that in the case of two companies the reserves referred to by Audit, which were appropriations out of profits, had not been created to meet any known liabilities and that in view of a Supreme Court ruling the assessments need no revision. In another case, the Ministry have pointed out that the reserves *viz.*

(i) Reserve for renovation of plant; (ii) Inventory reserve; and (iii) Reserve for doubtful debts, had not been created for specified, ascertained and known liability and by allowing deduction in the computation of total income. The objection relating to 'surplus in profit and loss account' has been accepted in accordance with the judicial view on the subject. The Committee further note that the objection in the fourth case has been accepted in toto. They would like to await a report on the rectification of assessments and the details of recovery of tax in the case of the two companies.

3.	1·8	[illegible]	The Committee desired to suggest that the treatment of various reserves should be examined carefully on the basis of judical view and in consultation with Audit and Ministry of Law for issue of detailed revised instructions for the guidance of assessing officers.
4.	2·9	-do-	The Committee feel that there is scope for improving the Wealth Tax administration especially to ensure that all the assessees liable to pay Wealth Tax are borne on the books of the Department. They would accordingly like to suggest that the Income-Tax returns of all the assessees having business income of over Rs. 15,000 should be reviewed to see whether all those having taxable wealth are submitting returns of wealth. Such a view is called for in view of the fact that as against 2,94,000 Income-tax assessees (excluding companies) having business income of over Rs. 15,000 as on 31st March, 1970, the number of wealth tax assessees was only 1,28,635. It can be reasonably presumed that to earn an income of Rs. 15,000 per annum a person should have wealth of not less than Rs 1 lakh, which

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			is the limit laid down for the purpose of wealth tax. In this connection the Committee wish to observe that the exemption of Rs. 1 lakh for self occupied houses referred to by the Ministry does not appear to be relevant to cases of purely business income. As regards house property, the Committee would urge Government to intensify the survey on the basis of municipal records etc.
5.	2·10	Finance (Rev. & Ins.)	The Committee would further wish to reiterate their earlier observation contained in the 117th Report (Fourth Lok Sabha) that it is necessary to make concerted efforts to bring down the arrears in assessments and that the procedures for valuation will have to be streamlined as the increase in wealth tax revenue has not been even two-fold with a four-fold increase in the number of assessees during the past 9 years. They observe that no target dates for the completion of arrear assessments have been fixed. They expect that the arrears should becleared as early as possible under targetted programme so as to get the taxes due. The concrete steps taken to streamline the procedures for valuation of assets and bring down the arrears in assessments may be reported to the Committee.
6.	2·19	-do-	The Committee find that in two out of four cases mentioned in the Audit paragraph although the total net wealth worked out to Rs. 4,48,012 and Rs. 3,26,487 respectively, the assessing officer computed the net wealth as Rs. 2,48,012 and Rs. 2,26,487. In another case a mistake in computation of net wealth leading to underassessment

			of wealth by Rs. 4,50,000 was committed in taking the number of shares owned by the assessee as 5,000 instead of as 50,000. Such mistakes could have been prevented with a little more care on the part of the assessing officers and hence the Committee desire that responsibility should be fixed for appropriate action. The Committee further feel that these points to the need for counter-check of assessments before they are finalised and demand notices issued. This is all the more necessary in the case of big assessments such as the one reported in sub para (d), the net wealth declared in which being Rs. 1.28 crores. They trust that Government will take effective steps to avoid recurrence of such mistakes.
7.	2·20	-do-	In one case, the Ministry are unable to state whether the assessments were looked into by Internal Audit whereas two cases were not checked by them although the assessments were completed in October, 1967 and January, 1968 respectively. All these suggest that Internal Audit have not been giving importance to the check of Welath-tax assessments that it deserves. The Committee hope that the situation will be remedied.
8.	2·27	-do-	The Audit paragraph brings out omission on the part of the Wealth-tax officers to assess various kinds of assets returned by the assessees in their wealth-tax return. In eleven cases total wealth of Rs. 27,35,294 was not charged to tax. The Ministry have accepted the lapse in all these cases. The Committee would like to leave the recovery of additional demands to be watched by the Ministry/Audit. The Committee find that such lapses are fairly widespread. The Ministry have informed that simplification of wealth tax return is

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			stated to be under consideration to avoid recurrence of such lapses. The Committee await a further report in this regard.
9.	2·28	Finance (Rev. & Ins.)	The Committee were informed by Audit that three out of eleven assessments were checked by the Internal Audit but the omission remained undetected. The Ministry have explained that the cases were checked before June, 1969 when the Internal Audit Parties were required to check only the arithmetical calculations. The Committee note that the scope of the Internal Audit check has since been enlarged. In this connection they desire to urge that the quanum of check by Internal Audit of various categories of wealth tax assessments should also be laid down specifically in consultation with statutory Audit.
10.	2·35	-do-	In this case a number of mistakes have been committed in the assessments for the years 1963-64 to 1967-68 involving short-levy of wealth-tax of Rs. 71,195. The Committee understand that the assessments had been reopened under Section 17 of the Wealth Tax Act. A report regarding rectification of the assessments and recovery of additional demand may be sent to the Committee.
11.	2·36	-do-	The Committee have earlier in this Report stressed the need to have counter-check of assessments before they are finalised and demand notices issued. Such a counter-check should not be confined to calculations of tax only but should also cover computation of net wealth.

	·37	-Do-	Incidentally, the Committee would like to impress upon the Ministry the need to give prompt replies to Audit paragraphs forwarded to them before their inclusion in the Report of the C&AG. as in this case it took, regrettably, more than a year to furnish the replies.
13.	2·42	-Do-	Under the schedule to the Wealth Tax Act, 1957, as amended by Finance Act, 1965, additional wealth-tax at graduated rates is leviable on immovable properties other than business premises situated in urban areas with population of more than 1 lakh. The Committee are distressed to note a number of cases of non-levy of the additional wealth-tax on immovable properties valued at Rs. 54.50 lakhs and incorrect levy leading to under-assessment of net wealth by Rs. 2 lakhs. This shows that the assessing officers are not quite conversant with the relevant provisions of the Act. The Committee, however, note that the assessments in all the cases have been rectified and additional tax recovered. The instructions dated 25th September, 1971 issued in this connection contemplating *inter-alia* a review by the assessing officers to find out if any other completed assessments in such cases require rectification under Section 35 of the Wealth Tax Act are too general in the sense that no target date for the completion of review has been prescribed and that a report is also not rquired to be submitted to the Ministry. In order to ensure that the contemplated review is promptly conducted and the assessments rectified wherever necessary, the Committee desire that a suitable target date should be fixed for the completion of the review

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			and a report regarding the follow-up action taken should also be obtained by the Ministry. The Committee would also like to be apprised of the outcome of the review.
14	2.43	Finance (Rev. & Ins.)	The Committee further desire that the Internal Audit should be specifically instructed to look into the levy of additional tax on urban immovable properties in the course of their check in view of the large scale omissions which have been brought to notice by Statutory Audit.
15	2.47	Do.	The Committee have, in the preceding section of this Report, dealt with the non-levy incorrect levy of additional tax on urban immovable properties. That such omissions and mistakes are widespread is clear from the fact that this Audit paragraph has brought out further 18 cases of non-levy of additional tax on properties valued at Rs. 158.62 lakhs and two cases of incorrect levy. The Committee note that an aggregate additional demand of Rs. 35,011 has been raised in thirteen cases. The recovery of this additional demand as also the rectification of assessments and recovery in other cases may be reported to the Committee.
16	2.48	Do.	The Committee wish to stress the need to expeditiously complete a review to find out whether taxes had been properly levied in such cases. They would await the outcome as indicated earlier.

17	.53	Do.	The incorrect tax exemption allowed for the investments in certain small savings in excess of the permissible limit, referred to in the Audit paragraph, raises a basic question as to how it is ensured that such investments are made only upto the maximum limits laid down in the relevant schemes. The Ministry's statement that no penal provisions under the Wealth Tax Act have been provided to discourage investments exceeding prescribed limits does not meet the point raised by he Committee. Such a penal provision can only be in the relevant savings schemes. The Committee would, therefore, like Government to consider this aspect taking into account the purpose of fixing the limits.
18	2.59	Do.	The Audit paragraph has brought out omission to charge as wealth in the hands of six partners certain intangible additions made in the income-tax assessments of the firm for the year 1963-64 which resulted in under-assessment of wealth of Rs. 25,05,705 for the years 1963-64 to 1966-67. The Committee regret that no action was taken to revise the Wealth Tax assessments till the omission was pointed out by Audit in November, 1968 although the revised share income was communicated by the Income-tax Officer assessing the firm to the Income-tax Officer assessing the partners in August, 1965. The non-observance of the instructions of the Board in this regard by as many as eight Wealth-tax Officers associated with this case is deplorable. Further, the case was not at any time checked by the Internal Audit. The Committee would like to be informed of the action taken against the erring officials

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			and the remedial steps taken to prevent recurrence of such mistakes.
19	2.60	Finance (Rev. & Ins.)	The Committee were informed that the group of two limited companies and a number of partnership firms in one of which the six assessees mentioned in the Audit paragraph were partners, came forward in 1968-69 with a disclosure of concealed income as a result of which an additional income of Rs. 43,87,963 was assessed in the hands of various units. The assessments of this additional incomes were done on a settlement basis which necessitated the readjustments of some of the assessments already made. Accordingly, the additions originally made in the six partners' assessments were brought down from Rs. 25,05,705 to Rs. 2,47,653. Although there are no enabling powers in the Income-tax Act for effecting such settlements the Ministry stated that "it has been the practice of the Department to arrive at what may be termed as 'agreed assessments' on the assessee acquiescing to be assessed on certain income, which would have little chance of being sustained but for such acquiescence." The Committee would suggest that suitable guidelines in this regard should be written into the Income-tax laws in order that there may be no scope for abuse on either side—the assessee's or the Department's.
20	2.61	Do.	The Committee note that the Wealth-tax assessments of the six partners have been rectified.

21. •	2.62	Do.	They hope that on the basis of disclosure of concealed income by the group of two limited companies and a number of partnership firms, wealth-tax assessments of all the partners would have been revised and additional demand recovered.
22.	2.65	Do.	The Committee have received an impression that there is a fairly large scale omission to correlate the wealth tax assessments with income tax assessments. In this case, though the Wealth Tax Officer completed the wealth-tax assessment for the year 1964-65, he failed to notice that the wealth returned for 1964-65 was also existing in the earlier years from 1961-62 to 1963-64 and that the assessee had failed to file the returns of wealth. The Committee desire that in addition to taking suitable action for the failure, remedial measures should be taken to prevent recurrence of such omissions and lapses.
23.	2.66	Do.	Further, the Committee find from the explanation of the Ministry that an assessee who has not declared the wealth at all initially is in a favourable position when compared to another who has declared a part of his assets inasmuch as action for concealment can be taken at present only if an assessee files a return and understates his net wealth. The Committee would, therefore, like Government to examine this lacuna in the Act and take appropriate measures including proposals for the amendment to the Act to deter effectively evasion of tax by not filing return of wealth.

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24.	2.73	Finance (Rev. & Ins.)	The under-assessment of net wealth to the tune of Rs. 75,97,270 caused by an incorrect determination of the partners' interest in the wealth of the firms cannot be taken lightly. Instead of arriving at the surplus of assets over liabilities of the firms in the manner prescribed in the wealth-tax rules to find out the interest of the partners, only the balances outstanding in the capital accounts were taken into account. The Committee note that the Central Board of Direct Taxes have issued instructions on the 28th December, 1971, clarifying the relevant provisions of the rules. The Committee would appreciate if a review of all completed assessments in such cases is made for rectification wherever necessary before it becomes time-barred.
25.	2.74	Do.	The Committee note that according to the Board's instructions defaults of assessing officers should always be examined in detail and appropriate action taken against them. The Committee would like to know whether in the above case the reasons for the failure of the assessing officers concerned were examined and if so, what action was taken against them.
26.	2.79	Do.	In this case the house was actually purchased for Rs. 43,000. The appeal filed by the assessee to have the lower municipal valuation adopted for wealth-tax purposes was not upheld earlier. The under-valuation of the asset during the subsequent years pointed out by Audit was also accepted by the Ministry. However, the Com-

			mittee have now been informed that revision of the assessment for the year 1964-65 was rejected by the Appellate Assistant Commissioner and that his decision was accepted. There has thus been no consistency either in appellate orders or in the stand taken by the Ministry. In the opinion of the Committee the later orders of Appellate Assistant Commissioner should have been challenged having regard to the purchase price, the earlier appellate orders and the acceptance of the Audit objection by the Ministry. The Committee would recommend issue of suitable instructions to the Commissioners that where an Audit objection has been accepted by the Department either at the Commissioner's level or at the Ministries level any order of an Appellate Assistant Commissioner contrary to such acceptance should be examined carefully at a high level and appeals preferred if such contrary findings of the Appellate Assistant Commissioner are not justified either in law or on facts.
27.	2·83	Do.	This is yet another case of omission to correlate wealth-tax assessments with Income-tax assessments. The Ministry have agreed to undertake a review of all cases where disclosures were made under the two Finance Acts, 1965 to see if there was escapement of wealth from tax. The Committee expect that necessary instructions should be issued forthwith and the results of the review intimated to them within six months.
28.	2.88	Do.	The Committee are concerned to note incorrect valuation of shares in a number of cases which resulted in undercharge of wealth to the extent of Rs. 33.63 lakhs. Of particular interest is the

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			lack of uniformity in the matter of valuation of shares even in the same ward. It is obvious that the assessing officer concerned showed lack of care for which responsibility should be fixed.
29.	2.89	Finance (Rev. & Ins.)	While the Committee desire to leave the recovery of additional demand on rectification of the assessments, wherever not done, to be watched by the Ministry/Audit, they would like to urge that rules regarding valuation of unquoted shares which appear to be complicated and are not being fully followed, should be simplified.
30.	2.90	Do.	Further the present arrangement of valuation of shares of the same company by different Wealth-tax officers assessing the share-holders cannot be deemed as satisfactory as it does not make for uniformity. The Committee, therefore, recommend that some workable system should be evolved to ensure uniformity in valuation of shares. In this connection, it is worthwhile considering whether the work of fixing value of shares for taxes could be centralised either in the ITO's Commissioner's charges assessing these companies or in the Board for all the companies whose shares are not quoted, arrangements being made to inform all Income-tax/Wealth-tax Officers of it periodically.
31.	2.94	Do.	Based on an Appellate Tribunal's decision, the earstwhile Central Board of Revenue issued instructions in May, 1963 to the effect that route permits constituted "property" within the meaning of the Wealth-tax, Gift-tax and Estate Duty Acts. The Committee have

			been informed by the Ministry that the Supreme Court have ruled in a case that a lease from Government which is revocable in nature is exempt from wealth-tax under Section 2(e)(iv) of the Wealth-tax Act, 1957 and that the rationable of this decision may be applicable in the case of route permits also. As the route permits are valid only for a period of five years and extension cannot be claimed as matter of right, the Ministry have held that the value thereof cannot be considered to be an 'Asset' for the purpose of Wealth-tax Act. It is not clear to the Committee whether in the light of the foregoing, revised instructions have been issued by the Board to all the Commissioners. The Committee would, however, suggest that the opinion of the Attorney General may be taken regarding the applicability of the Supreme Court decision to the case under reference.
[illegible]2.	2·107	-do-	The Committee need hardly point out that incorrect valuation of immovable properties would adversely affect the revenues due to Government under the Wealth Tax Act. The two cases of gross undervaluation of properties that went undetected as pointed out by Audit are symtomatic of the casual manner in which assessments are completed. In one case though for the assessment year 1968-69 the Wealth Tax Officer accepted the valuation of immovable property at Rs. 4,38,850 on the basis of approved valuer's report, in the assessments for the preceding four years completed on the same day he accepted the value of Rs. 2,69,695 returned by the assessee for the same property. In another case the value of the which was returned and accepted as Rs. 33,330 for the assessment years

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			1964-65 and 1965-66 was shown as Rs. 2,80,000 for the year 1966-67 and yet the Wealth-tax Officer did not notice the undervaluation in the earlier years. In this connection the following lapses of the assessing officers concerned require examination for appropriate action:— (i) Non-observance of the instructions regarding valuation of immovable properties; (ii) Non-comparison of value returned for the latest year with that shown in the earlier years for investigation of discrepancies; and (iii) Non-compliance with the instructions dated 22nd June, 1970 regarding reopening of part assessment on the basis of valuer's report in the first case.
33.	2.108	Finance (Rev. & Ins.)	Incidentally, the Central Board of Direct Taxes will do well to have a test check conducted in all the Commissioners' charges to see whether there were any similar lapses in complying with their instructions dated 22nd June, 1970.
34.	2.10	-do-	Further the Committee would like to know the penal action taken against the assessees in these cases for having concealed true value of wealth.

35	2·110	do.	One more point the Committee wish to refer to is whether there was undervaluation of the assets prior to 1964-65 in regard to the second case although it was not chargeable in the hands of the same assessee. The Committee await a report as the Ministry have intimated that they are seeking further clarification in the matter.
36.	3·8	do.	Gift Tax is one of the measures designed to check avoidance of tax. It is, therefore, necessary to ensure that assessees liable to pay Gift Tax promptly file returns. In this connection the Committee suggest that a provision should be made in Income-tax return form to indicate whether any gift was made and if so, the nature thereof, which would facilitate correlation of income-tax returns with those of gift tax of the assessees.
37.	3·9	do.	The Committee note that revenue from gift tax ranged from Rs. 1.30 crores to Rs. 2.27 crores during 1965-66 to 1969-70. In order to evaluate the cost-collection ratio, the Committee desire that the cost of collection of gift tax should be assessed. It is better to bring about some refinement in the system to apportion the cost of collection of various taxes *viz.* Income-tax, Wealth Tax, Estate Duty, Gift Tax etc.
38.	3·10	do.	The Committee have reasons to believe that the Board have not taken steps to ensure that all cases of gifts of agricultural land are brought to tax. In this connection they would refer to the position in law as decided by the Supreme Court in Nazareth Case [AIR 1970, SC-999 (V. 57 C-208)] that gifts of agricultural land are subject to tax under the Gift Tax Act. The Committee would, therefore,

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			urge Government to issue strict instructions to the lower formations and to devise measures to ensure that there is no evasion of tax in this regard. They would also like to have a review of the position conducted with a view to ascertaining the extent of non-levy of tax on such gifts in the past. The results of such a review may be reported to the Committee.
39.	3.16	Finance (Rev. & Ins.)	The Committee are concerned to find large-scale omissions to correlate Income-tax records with Gift-tax returns, which resulted in non-levy of Gift-tax on gifts aggregating Rs. 1.47 lakhs. They have earlier in this Report indicated how such a correlation could better be effected by making a provision in the Income-tax returns for indicating the gifts made by the assessees. The Ministry have stated that the Audit objections have been accepted in all the cases except item No. 2 of the Audit para and that the additional demand has been collected. In the case of item No. 2, the Committee note that although the transfer of assets to the son was claimed as loan, the facts brought out subsequently by Audit, which questioned this claim, are under examination by the Ministry. The Committee would like to know the outcome of this examination.
40.	3·17	do.	In respect of item 4, the Committee would like to know whether any action had been taken to levy penalty for the concealment of gift.

41.	3.18	do.	Incidentally, the Committee find that the Board had issued instructions in January, 1960, that in the cases where a gift to a political party was made by a company under the authority of a specific clause in the Memorandum and Articles of Association of the company, the gift had to be held as having been made in the course of carrying on the business of the company and exempted from gift-tax. Section 293(A) of the Companies Act, 1956, inserted in 1969, however, prohibits contributions to political parties by a company. Only after the matter was taken up by the Committee with the Ministry in February, 1972, revised instructions were issued in June, 1972, taking into account the amendment to the Companies' Act as well as the decisions of High Courts holding that donations paid to a political party are not allowable as a business expenditure. The Committee do not appreciate this delay. According to the revised instructions in all cases in which action was not taken to bring such donations to gift tax on the basis of earlier instructions, proceedings should be initiated under the Gift Tax Act. The Committee would await a report on the action taken in this regard.
42.	4.6	do.	On the basis of the explanation furnished by the Ministry, the Committee would deal with only one aspect of the case. The trust deed contained a provision for appropriating sum of money for making gifts and to this extent the settlement of property could be deemed to be one with reservation. The Ministry have held the view that such provision cannot be equated to the settlers reserving any interest in the property for himself. The Committee would advise the Ministry to get the opinion from the Ministry of Law in the matter.

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43.	4·11	Finance (Rev. & Ins.)	In this case while calculating the deceased's reversionary interest in the leased property on the date of death, the Department assumed that the original lease would be extended for a further period of 30 years though the lease expired by the time when the estate duty assessment was made and there was no provision for extension. It appears from the explanation of the Ministry that a suit for the eviction of the lessee was also pending before the court at the time when the assessment was made. The Committee do not, therefore, consider that the assumption of the Assistant Controller, Estate Duty, was fully justified. The Committee, however, note that the ACED had been informed by the lessees that they had no intention of vacating the property and that attempts were being made to come to a compromise by extending the lease for another period of 30 years. The Ministry are of the view that even if it were possible to take possession of the property after evicting the lessee, litigation expenses would have to be allowed against the value of the property. Under the circumstances the Committee consider it desirable to lay down suitable guide-lines, if not already done, to regulate the determination of the deceased's reversionary interest in the leased properties.
44.	4·18	do.	In this case there was regrettable lack of coordination between the Income-tax Officer who completed the Income-tax and Wealth-tax assessments of the deceased and the Estate Duty Officer who

			had to complete the estate duty assessment. Owing to the failure of the Income-tax Officer to intimate the necessary particulars of the case to the Estate Duty Officer, the proceedings for the levy of estate duty could not be commenced within a period of five years from the date of death of the deceased. The Committee expect that the Income-tax Officer concerned will be suitably dealt with for his lapse which has cost a loss of Rs. 46,375 in tax collection to the exchequer.
45.	4·19	do.	The Committee would also like the Ministry of Finance to consider as to what further check could be introduced to ensure that the fact of death comes to notice and proceedings of estate duty are started in time.
46.	4·20	do.	The Committee note that according to the Ministry of Law the time-limit prescribed under Section 73(A) of the Estate Duty Act would not apply in the case of voluntary return. It is unfortunate that due to ignorance of this position the appellate authorities orders were not appealed against in the case under examination. The Committee desire that suitable instructions clarifying the position should be issued to all the Estate Duty Officers.
47.	4·27	do.	The Committee note that a sum of Rs. 1.27 lakhs on account of agricultural income-tax pertaining to agricultural land on which Estate Duty was not leviable, owed by the deceased was allowed as deduction from the value of the Estate under Section 44 of the Estate Duty Act. When it was pointed out that it was not correct

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			in equity to allow deduction pertaining to non-taxable asset and that it should be examined whether any clarification of Section 44 was required, the representative of Ministry of Finance promised to examined the matter. The Committee would like to await the result of the examination and the action taken on the basis thereof.
48.	4.33	Finance (Rev. & Ins.)	Although under Section 9 of the Estate Duty Act only gift made in consideration of marriage is exempted from the levy of Estate Duty, it has been extended to cover gift made in contemplation of marriage by executive instructions. While the Committee feel that the relevant section of the Act requires suitable amendment, they would like Government to consider whether the existing provisions of Section 33(1)(K) would not be enough to cover cases of gift in contemplation of marriage.
49.	4.40	do.	According to the opinion of the Ministry of Law communicated to the Committee, the term 'house' in the Estate Duty Act would also include lands appurtenant thereto for the purpose of exemption of the value from Estate Duty. As admittedly, a liberal interpretation of the 'lands appurtenant to the house' would lead to avoidance of tax, the Committee would suggest that the Central Board of Direct Taxes might issue some guidelines under the rules as to how much land can be reasonably taken as being appurtenant to the house.

50.	4.46	-do-	In the case dealt with in sub-para (a), although the deceased used as his residence only one of the three house properties in all of which he owned half share, exemption was allowed on the value of all the three properties due to "inadvertence'. The Ministry have also intimated that the circumstances under which this was done is being ascertained. The Committee would like to have a report in this regard as also the action, if any, taken against the officer concerned at fault.
51.	4.47	-do-	Incidentally, the Committee find that although the assessment in question was checked by the Internal Audit, they had failed to detect the error. The reasons as also the action taken for the failure may be intimated to the Committee.
52.	4.48	-do-	The Committee regret to find that in respect of the case dealt with in sub-para (b) also similar mistake was committed due to 'oversight'. The Committee expect that negligence on the part of the officer concerned would be suitably dealt with.
53.	4.49	-do-	The Committee note that the additional demand in this case has been kept outstanding pending completion of some further enquiry directed by the Appellate Controller. Further developments of this case may be reported to the Committee.
54.	5.10	-do-	The Committee note that the arrears of demands in respect of Wealth-tax, Gift Tax and Estate Duty as on 31st March, 1969, were Rs. 801 lakhs, Rs. 172 lakhs and Rs. 954 lakhs against the total receipts during the year 1968-69 of Rs. 1,111 lakhs, Rs. 151 lakhs and

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			lakhs, Rs. 47 lakhs and Rs. 1,052 lakhs respectively. The total number of assessments completed during the year 1969-70 were 1,69,572, 21,648 and 15,550 and the approximate amounts of demand raised were Rs. 1,694 lakhs, Rs. 179 lakhs and Rs. 753 lakhs respectively. The Committee are particularly distressed about the heavy accumulation of pending wealth-tax assessments. The targets fixed by the Central Board of Direct Taxes themselves for the clearance of old cases have not been adhered to cases involving larger amounts and companies should be given higher priority. Unless firm targets are fixed and strict compliance with them is watched, the Committee are afraid the position would, far from improving, deteriorate further. The position as at the end of 1970-71 as furnished by the Ministry does show considerable deterioration in the position.

GMGIPND—M—1723 LS—

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39.	The Secretary, Establishment Department, The High Commission of India, India House, Aldwych, LONDON W.C.—2.	59

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