P.A.C. No. 608

PUBLIC ACCOUNTS COMMITTEE (1977-78)

(SIXTH LOK SABHA)

SIXTY-FIFTH REPORT

WEALTH TAX

MINISTRY OF FINANCE (DEPARTMENT OF REVENUE)

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 226th Report (Fifth Lok Sabha) on Wealth Tax—Ministry of Finance]

Presented in Lok Sabha on 23-3-1978
Laid in Rajya Sabha on 23-3-1978

LOK SABHA SECRETARIAT
NEW DELHI

March , 1978/Phalguna , 1899 (S)

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1. Shri B. K. Mukherjee—*Joint Secretary*.
2. Shri H. G. Paranjpe—*Chief Financial Committee Officer*.
3. Shri Bipin Behari—*Senior Financial Committee Officer*.

INTRODUCTION

I, the Chairman of the Public Accounts Committee as authorised by the Committee, do present on their behalf this Sixty-Fifth Report on the action taken by Government on the recommendations of the Public Accounts Committee contained in their Two Hundred and Twenty Sixth Report (Fifth Lok Sabha) on "Wealth Tax" relating to Ministry of Finance (Department of Revenue).

2. On 10th August, 1977, an 'Action Taken Sub-Committee', consisting of the following Members was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports:

1. Shri C. M. Stephen—*Chairman*
2. Shri Asoke Krishna Dutt—*Convener*.

MEMBERS

3. Shri Gauri Shankar Rai
4. Shri Tulsidas Dasappa
5. Shri Kanwar Lal Gupta
6. Shri Zawar Hussain
7. Shri Vasant Sathe.

3. The Action Taken Sub-Committee of the Public Accounts Committee (1977-78) considered and adopted the Report at their sitting held on 28 February, 1978. The Report was finally adopted by the Public Accounts Committee (1977-78) on 15 March, 1978.

4. For facility of reference the recommendations/conclusions of the Committee have been printed in thick type in the body of the Report. For the sake of convenience, the recommendations/conclusions of the Committee have also been reproduced in a consolidated form in the Appendix to the Report.

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

C. M. STEPHEN,
Chairman,
Public Accounts Committee

NEW DELHI;
March 15, 1978.

Phalguna 24, 1899 (*S*).

CHAPTER I

REPORT

1.1. This Report of the Committee deals with the action taken by Government on the Committee's recommendations/ observations contained in their 226th Report (Fifth Lok Sabha) on 'Wealth Tax'.

1.2. Replies to all the recommendations contained in the Report have been received from Government.

1.3. The Action Taken Notes on the recommendations observations of the Committee contained in the Report have been categorised under the following heads:

(i) *Recommendations/observations that have been accepted by the Government*:

Sl. Nos. 4—15, 18—20, 27, 36-37, 40 and 49.

(ii) *Recommendations/observations which the Committee do not like to pursue in view of the replies of Government*:

Sl. Nos. 26, 28, 41-42, 44-45, 48, 50—52.

(iii) *Recommendations/observations replies to which have not been accepted by the Committee and which require reiteration*:

Sl. Nos. 1—3 and 32-33.

(iv) *Recommendations/observations in respect of which Government have given interim replies*:

Sl. Nos. 16-17, 21—25, 29—31, 34-35, 38-39, 43 and 46-47.

1.4. The Committee hope that the final replies in regard to those recommendations to which only interim replies have so far been furnished, will be submitted to them expeditiously after getting them vetted by Audit.

1.5. The Committee will now deal with action taken by Government on some of the recommendations.

Mistakes in computation of wealth and in calculating tax liability.

(*Paragraphs* 1.14—1.16—*Sl. Nos.* 1—3)

1.6. Commenting on the lack of adequate care on the part of the Wealth Tax Officers in the fourteen cases of mistakes in the allowance of basic exemption commented upon by Audit, the Committee, in paragraphs 1.14, 1.15 and 1.16 of the Report had observed as under:

"1.14. The Committee regret the lack of adequate care on the part of the Wealth Tax Officers in the fourteen cases of mistakes in the allowance of basic exemption commented upon by Audit and involving a tax effect of Rs. 36,155. It is surprising that though the initial exemption (Rs. 1 lakh of net wealth admissible in the case of an individual and Rs. 2 lakhs in the case of a Hindu Undivided Family) is is-built in the rate of schedule itself, the assessing officers should have allowed the exemption in two separate processes with the result that the exemption was conceded twice. As the assessing officers are expected to have a clear grasp of the taxation laws and keep themselves abreast of the changes and amendments made from time to time the Committee cannot accept the plea that such mistakes could be attributed to the assessing officers continuing to follow the old practice of allowing the initial exemption in the assessment orders despite the change in the rate schedule. The Committee have, in the past, repeatedly commented on such lapses. It remains to be seen how far with the steps now stated to have been taken by the Department, such mistakes would be eliminated."

"1.15. The Committee would also like to know whether these cases were checked either by the Inspecting Assistant Commissioner or by Internal Audit; and if not, the reasons therefor."

"1.16. The Committee are concerned that the mistakes in three of the aforesaid cases occurred in the charge of the same Commissioner of Wealth Tax and that the Commissioner had apparently not considered it necessary to review generally the calculations of tax in these wards. As the mistake is one of principle and the old practice of allowing the initial exemption in the assessment order seems to have continued unchecked for quite some time, the

Committee emphasise the importance of such a review. The Committee, however, note that with reference to the eight cases commented upon in Audit Report for the year 1971-72, a review of cases where the assessed wealth exceeds Rs. 10 lakhs has been ordered with a view to correcting similar mistakes. Much time has lapsed since then and the Committee expect that the proposed review has been completed by now and its outcome should be intimated early."

1.7. In their communication dated 27 October, 1977, the Department of Revenue have stated that recommendation in paragraph 1.14 of the Report contains only general observations and in their reply dated 18 February, the Department have furnished the following Action Taken Note in respect of recommendations contained in paras 1.15 and 1.16 of the Report:

Paragraph 1.15

"The cases were not checked either by the Inspecting Assistant Commissioner of Income Tax or by the Internal Audit Parties. A statement showing the reasons for the same is attached (Annexure* 'A')."

Paragraph 1.16

"When the mistakes of the nature pointed out by the Audit came to the notice of the Board, Instruction No. 615 dated the 13th September, 1973 (F. No. 328|105|72-WT) was issued directing the Commissioners of Income Tax to ensure that the practice of taking the basic exemption of Rs 1 lakh or Rs. 2 lakhs (for individuals and Hindu Undivided Families respectively) while computing the net wealth itself should be stopped forthwith for and from assessment year 1972-73. The Commissioners of Income-tax were also directed to review all assessments of net wealth over Rs. 10 lakhs completed during the financial years 1971-72 and 1972-73 to see whether any such deductions had led to incorrect calculations of tax. However, due to certain reasons the review directed earlier was stopped in April 1974. Subsequently, the Board, *suo moto*, ordered a similar review for assessment year 1973-74, in August 1974. Out of 1433 cases

*For Annexure please *see* page 49.

reviewed, incorrect computation was detected only in 42 cases with net tax effect of Rs. 1,55,137|- (overcharge). On the basis of the results of review for assessment year 1973-74, it may be assumed that the tax involved in the cases covered by the review for assessment year 1971-72 would also be not very material and would not be commensurate with the time and labour involved in the exercise."

1.8. The Committee regret to note that these 14 cases where mistakes were detected by Audit were not checked either by the Internal Audit Parties or the Inspecting Assistant Commissioners. The Committee would like the checking by the Internal Audit Parties and supervisory level officers to be more effective and concurrent so that such mistakes are detected promptly and corrctive steps taken at the earliest stage.

1.9. The Committee note that the Commissioners of Income-tax were directed to review all assessments of net wealth over Rs. 10 lakhs completed during the financial years 1971-72 and 1972-73 to see whether the practice of taking the basic exemption of Rs. 1 lakh or Rs. 2 lakhs (for individuals and Hindu Undivided Families respectively) while computing the net wealth itself had led to incorrect calculation of tax. However, due to 'certain reasons' the review directed earlier was stopped in April 1974. They are unable to appreciate the view taken that as the net tax effect of review of cases completed during 1973-74 was comparatively small, the review of cases completed during 1971-72 and 1972-73 "would not be commensurate with the time and labour involved in the exercise." The Committee are of the view that mistakes pointed out by Audit earlier would have cautioned the Income-tax Officers to avoid committing the same mistakes during 1973-74 as the results of the review of cases completed during 1973-74 would not be a true index of the mistakes committed during the earlier years. The Committee are of the view that if the review had been carried out it would have helped Government retrieve losses of revenue before the remedial action got time barred.

Failure to correlate Wealth-tax assessments with other Direct Taxes assessments.

(*Paragraph* 2.28—*Sr. No.* 17):

1.10. Commenting on a case when right to extra compensation as an asset was not included in the wealth-tax assessment, the Committee, in paragraph 2.28 of the Report, had observed:

"The Committee have been informed that the non-agricultural lands in question had been purchased by the assessee in 1942 and continued to be in his possession till they were acquired by Government on 19 March 1962, in the accounting year relevant to assessment year 1962-63 when an initial compensation of Rs. 4,26,547 had been awarded to the assessee. The assessee, not being satisfied with the quantum of compensation had succeeded, on appeal (in obtaining an additional compensation of Rs. 2,34,856 which was awarded in the accounting year relevant to the assessment year 1967-68. This right to extra compensation as an asset was not included in the wealth-tax assessment from the year 1962-63 and it is only subsequently that the assessments for the years 1964-65 to 1967-68 have been reopened, as a preventive measure, under Section 17(1)(a) of the Wealth-tax Act for making good this omission, while action under this Section for the assessment years 1962-63 and 1963-64 is stated to be barred by limitation.. The Committee find that the nature of the 'right to extra compensation' had come up for consideration before the Andhra Pradesh High Court in the case of Khorshed Shapoor Chenai *versus* ACED (90 ITR 47) and that, in its judgment dated 7 November 1971, the Court had, *inter alia*, held that the 'right to receive compensation' and the right to extra compensation are one and indivisible and that the right to receive market value as compensation for the lands acquired by the Government under the Land Acquisition Act, 'is not an illusory right, but a real right to property'. The court had also held that the right to extra compensation accrued to the assessee as soon as the lands were acquired and not when the Civil Courts pronounced their orders. In view of this clear exposition of the nature of this right by the High Court, the very fact that the assessee in the present case had not accepted the original award but had gone in appeal shows that, according to the assessee, the right had a greater value than the value initially computed by the Land Acquisition Authorities. This additional compensation should have also been, therefore, treated as a valuable right from the assessment year 1962-63 onwards and accordingly assessed to tax till the amount was received by the assessee and included in his wealth."

1.11. In their reply dated 28 December 1976, the Department of Revenue have stated:

> "The reopened wealth-tax assessments for the years 1964-65, 1965-66 and 1966-67 were completed in March 1974 raising additional demand of Rs. 2793, Rs. 3033 and Rs. 6728 respectively. These additional demands were collected by way of adjustment. The reassessment for 1967-68 is pending."

1.12. The Committee note that the wealth-tax assessments for the years 1964-65, 1965-66 and 1966-67 in the case were reopened and completed in March 1974. They hope that the re-assessment for the year 1967-68 would also have been completed by now.

They, however, feel that this mistake would have been avoided if there was coordination between the assessments of Income-tax and Wealth Tax. In this context they would like to reiterate the recommendation made in para 2.27 of the original Report (226th, Fifth Lok Sabha) to examine the feasibility of presenting an integrated tax return for income tax and wealth tax for assessees liable to both the taxes so as to ensure a more effective coordination in the administration of these two direct taxes.

Wealth Escaping Assessment

(*Paragraphs* 3.68 *and* 3.69—*Sl. Nos.* 32 *and* 33)

1.13. Expressing concern over the fact that in a case though the assessee became entitled to compensation for the resumption of his estate right from the assessment year 1963-64, when the estate was acquired, and the compensation amount had also been correctly included in his net wealth for the assessment years 1963-64 to 1965-66 by the concerned officers, their successors omitted to include this asset in the subsequent assessments for the years 1966-67 to 1970-71, the Committee in paragraphs 3.68 and 3.69 of the report had commented as under:

> "3.68. The Committee take a serious view of the number of avoidable mistakes in the computation of the net wealth that have come to notice in this case. According to various judicial pronouncements, the right to receive compensation for property acquired by Government also constitutes property failing within the definition of 'asset' in the Wealth Txt Act, and its value has to be computed for inclusion in the net wealth. Again, while

computing the net wealth of an assessee for purposes of assessment to wealth-tax, the amount payable to the assessee as compensation fixed is liable to be included even though the amount is payable only in future instalments or at a future date. In this particular case, the Committee are concerned to note that though the assessee became entitled to compensation for the resumption of his estate right from the assessment year 1963-64. When the estate was acquired, and the compensation amount had also been correctly included in his net wealth for the assessment years 1963-64 to 1965-66 by the concerned officers, their successors omitted to include this asset in the subsequent assessments for the years 1966-67 to 1970-71. Further, 5 acres of plantation lands owned by the assessee, which were exempt from wealth-tax only upto the assessment year 1969-70, had not been included in the wealth for the assessment year 1970-71. In the same assessment year, the value of the shares owned by the assessee which were quoted on the stock exchange, and, therefore, should have been assessed at the prevailing market price on the relevant valuation date, had been incorrectly valued on the basis of the break-up method, which is only applicable to unquoted equity shares, in case of shares in one company and at the lower rate at which the shares had been subsequently sold in the case of shares held in another company. That such mistakes should have occurred in an 'A' ward which is normally manned by senior officers causes some uneasiness to the Committee and is a sad reflection on the calibre of the officials assigned to an important ward. The Committee trust that Government would analyse carefully the reasons for the recurrence of such simple but costly mistakes and take appropriate remedial measures."

"3.69. The Committee would like to know if these assessments were checked in Internal Audit. In case the mistakes had gone undetected even in Internal Audit, the failure should be suitably dealt with."

1.14. In their reply dated 9 February 1977, the Department of Revenue have stated as under:

"The Ward in which this case was assessed for assessment year 1970-71 was manned by a senior Class I Officer.

The mistake occurred due to failure on the part of the Income-tax Office to properly interpret the relevant facts and law to arrive at a correct conclusion. The explanation of the concerned officer was not accepted and he has been cautioned to be more careful in future.

Necessary instructions have already been issued by the Board regarding the assigning of different circles/ wards to Class I (Senior Scale), Class I (Junior Scale) and Class II officers. The circles and wards have accordingly been classified and officers of appropriate seniority are being posted to the extent feasible.

The assessments for assessments year 1969-70 and 1970-71 were not checked by the Internal Audit Party as the relevant records were not made available to them. Assessments for the assessment years 1966-67 to 1968-69 had been checked by the Internal Audit Party but the mistake went undetected. No action was, however, taken against the Internal Audit Parties because the mistakes pointed out did not relate to arithmetical errors or calculation as the functions of the Internal Audit Parties were restricted to these areas only at that time. The scope of check by the Internal Audit Parties has since been extended to cover all aspects of cases. Incidently, it may also be mentioned that the Revenue Audit did not point out the mistakes during the course of an earlier audit carried out by them in July 1970."

1.15. The Committee are constrained to note that whereas the assessments for the assessment years 1969-70 and 1970-71 were not checked by the Internal Audit Party as the relevant records were not made available to them, the assessments for the years 1966-67 to 1968-69 had been checked by the Internal Audit Party but the mistakes went undetected. Time and again the Committee have had occasion to comment upon the lapses and inadequacies of Internal Audit and it is distressing that such errors of omission and commission involving substantial loss of revenue continue to escape their attention. The extension of scope of the check exercised by Internal Audit brings into sharp focus the need for proper training to Audit staff, so as to equip them with the necessary expertise to check the occurrence of such oft-repeated mistakes. The Committee hope that this aspect is being given the attention that it deserves.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

Recommendation

This is one more instance where the mistakes pointed out by Audit could have been prevented with a little more care on the part of the assessing officer. Admittedly, it was known that the assessee himself had claimed the basic exemption of Rs. 1 lakh in the statement accompanying the return. The totaling error committed by the assessee in computing the net wealth ought also to have been apparent to the officer concerned. That such patent mistakes went unnoticed by the responsible officers implies, in the Committee's view a slur, which should have been easily avoided on the administration.

[Para 1.31, Sl. No. 4 of Appendix IV to 226th Report of PAC (1976-77 (Fifth Lok Sabha)]

Action Taken

The Wealth-tax Officer who made the assessment in this case has been warned to be more careful in future.

[Ministry of Finance (Department of Revenue) O.M. No. 236/659/72-A&PAC-I dated 22-12-1976]

Recommendation

The Finance Secretary himself was good enough to concede that he was also not very happy with this state of affairs but he added, in extenuation, that the officers in the Income-tax Department are so over-worked that it was 'well nigh impossible' for them 'not to commit mistakes'. He told the Committee and that he was trying to take a comprehensive view of the personnel requirements of the department in the light of a proposal made by the Chairman of the Central Board of Direct Taxes for the recruitment of 700 additional officers. The Committee consider that the plea of overwork does not appear strong, particularly in view of the simplifications recently introduced in assessment procedures, so that in most cases much

effort is not required on the part of the assessing officers. As pointed out in paragraphs 1.18 and 1.19 of the Committee's 87th Report (Fifth Lok Sabha), business cases having income over Rs. 15,000 (which might conceivably pose certain problems to the assessing officers) accounted for only 13 per cent of the total assessments completed during 1970-71, while the simpler small income cases, Government salary cases, etc. accounted for nearly 25 per cent of the total assessments completed. Again, while 'Companies' accounted for less than 1 per cent of the total number of income tax paying assessees in the books of the department as on 31st March, 1972, business cases having income of over Rs. 15,000 accounted for a meagre 11 per cent of the assessments completed during 1971-72. It is also significant that out of 38,44,219 assessments completed during the year, as many as 23,12,347 were summary assessments and 7,51,129 'Nil assessment' and filed cases. In the circumstances, the familiar excuse of overwork would appear exaggerated. The Committee feel that rather than increasing the strength of the officers on general considerations, the Department would do well to review carefully the methods and procedures of work followed by the assessing officers and adopt necessary remedial measures such as proper and adequate planning of work, allocation of proper priorities, avoidance of hasty disposals, etc. so as to improve, qualitatively and quantitatively, the performance of the existing officers. The Committee learn that a study of this question has already been entrusted to the Director, Organisation & Management Services, and would like to be apprised of its outcome and the measures, if any, taken as a sequal thereto.

[Para 1.32, Sl. No. 5 of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha)]

Action Taken

1.32. On the basis of a study made by the Directorate of Organisation and Management Services (I.T.) with regard to requirements of officers the Department has made projections up to 1-4-79. The fact of shortage of assessing officers has been accepted by the Government After discussions with the Staff Inspection Unit of the Department of Expenditure (Ministry of Finance), the requirement of assessing officers for the period ending 31-3-79 has been tentatively assessed at 410. The personnel requirements of the Department are under constant review of the DOMS.

2. The practice of Management by Objectives in the shape of annual Action Plan was introduced in the Department with satis-

factory results. While chalking out these plans, an attempt is made to avoid problems resulting from excessive work load, by limiting the work expected to be done in a year to the capacity of the available manpower. Towards this end, work is planned for each quarter of the year in advance. Priorities are also clearly specified. A note on the other steps taken to improve the quality of work is attached as Annexure 'A'.

[Ministry of Finance (Department of Revenue) O.M. No. 236|659|72-A & PAC-I dated 22-12-1976]

ANNEXURE 'A'

Steps taken by DOMS to improve Quality of Work

Programmable Calculators:

(a) As an experimental measure, a Programmable Calculator was installed at Delhi. All the calculation sheets relating to Company cases and other cases having an income of Rs. 1 lakh and above are processed by this Calculator. This takes care of the accuracy of the calculations of tax and interest payable under the Law. Presently, all such cases in the charges of Delhi, Punjab, Haryana, J&K, Rajasthan, Madhya Pradesh and Uttar Pradesh are being checked by this Calculator. If the scheme proves successful it would be extended to the remaining parts of the country.

Job Classification:

(b) In order to ensure that the right kind of work is assigned to the right kind of man, this Directorate recently classified and demarcated all the Income-tax Circles in the country so that the same could be assigned to ITOs (Class I) Senior Scale, ITOs (Class-I) Junior Scale and ITOs Class-II according to ther importance.

Implemental Procedure for Sec. 144A and 144B:

(c) As a result of the introduction of Section 144-A and 144B by Taxation Laws (Amendment) Act, 1975, the IAC is now required to paly an active role in the completion of an assessment which earlier was almost exclusively the responsibility of the ITO, u/s 144A, after the disputed points have been looked into by the ITO, these can be referred to the IAC, who is supposed to examine the same and pass necessary orders. This is likely to have the effect of not only reducing the mistakes at the base level but also checking the malpractice of illfounded additions to the total income u/s 144B, the draft assessment orders of all cases where the additions proposed by

the ITO amount to Rs. 1 lakh or above, can be referred by the assessee to the IAC who is thereupon required to go into the matter and issue necessary directions. This section is expected to have the same effect on the quality of assessment as Sec. 144A. This Directorate has laid down implemental procedure for both these provisions.

Reorganisation of Ranges u/s 125A.

(d) As a result of the introduction of Section 125A by the Taxation Laws (Amendment) Act, 1975 in the Income-tax Act, this Directorate is presently engaged in collecting data for the re-organisation of the Ranges of various IACs. In such ranges, all the big cases would receive full attention of the ITO as well as the IAC before a final assessment order is passed. For the time being, the new 125A Ranges would deal with the following kinds of cases:

1. Cases having assessed income over Rs. 5 lakhs.
2. Search & seizure cases.
3. Foreign Company cases.
4. Selected trust cases.

Incentive Schemes

(e) In order to encourage the assessing officers to give their best, an incentive scheme for quality work in assessment was introduced w.e.f. 1-4-76.

Recommendation

Another factor which, according to the Finance Secretary, might perhaps account for the 'ignorance' of the officers, is the inability of the department to provide the officers fully with the various Act, Manuals, literature, etc. The Committee take a grave view of this surprising shortcoming and would ask Government to rectify an impermissible situation without loss of time.

[Para 1.33, Sl. No. 6 of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha)]

Action taken

During the last two years, concerted action has been taken to ensure timely supply of various Direct Taxes Acts, Manuals and other related literature to the field officers. It may be stated that, for the guidance of field officers, digests of various instructions issued by the

Central Board of Direct Taxes on Summary Assessment Scheme, Companies (Profits) Sur Tax, Penalties etc. have been supplied.

[Ministry of Finance (Department of Revenue) O.M. No. 236/659/72—A&PAC—I, dated 22-12-1976].

Recommendation

The Committee deplore the failure to apply the increased rates of wealth-tax effective from the assessment year 1969-70, in as many as nine cases spread over seven Commissioners' charges, resulting in a short-levy of tax of Rs. 35,458. Since the net wealth of the assessees in these cases exceed Rs. 10 lakhs, it obviously called for greater attention on the part of the assessing officers who ought to have kept themselves abreast of the charges in the rates of taxation and carefully counter-checked the tax calculations. Now that instructions have been issued by the Central Board of Direct Taxes prescribing an additional check of tax calculations by the office in all cases where the net wealth exceeds Rs. 10 lakhs, the Committee expect that such inexcusable mistakes will not recur. In so far as the specific cases of failure reported in the Audit paragraph are concerned, the Committee would like appropriate action to be taken against the officers responsible.

[S. No. 7 (para 1.54) of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha)]

Action taken

The officers/staff responsible for failure to apply correct rates of wealth-tax have been cautioned or warned to be more careful in future.

[Ministry of Finance (Department of Revenue) O.M. No. 236/659/72—A&PAC—I, dated 31-12-1976]

Recommendation

The Committee note that with a view to minimising mistakes in the application of the correct rates of tax, the Central Board of Direct Taxes propose to make available to the assessing officers separate rate cards for all taxes every year which would eliminate the reliance hitherto placed on one's memory. Earlier in this Report, the Committee have also commented on the Department's inability to make available to the officers sufficient copies of the various Acts, Manuals and other literature. These irritating deficiencies should never have been allowed to mar our tax administration. The Committee would once again ask the Central Board of Direct Taxes to remedy the situation forthwith, if it has not already been done. [Para 1.55].

The Committee are astonished that, as the Finance Secretary stated, the practice hitherto had been to circulate amongst the staff the budget papers, but that no clear explanations and instructions were issued in order to apprise the officers with the important changes introduced in the budget. Rather belatedly, the practice has begun of apprising the officers of the contents of the budget within fortnight of its presentation. While this is a helpful step, the Committee wish that the Central Board of Direct Taxes constantly review the implementation of these instructions and their impact, and take timely corrective measures as necessary. The Committee are constrained to make this observation in view of the fact that they have found, on many occasions in the past, that though there was no dearth of instruction from the Board, their actual implementation left much to be desired. [Para 1.56].

[S. Nos. 8 and 9 (Paras 1.55 and 1.56) of Appendix IV to the 226th Report of the PAC (1976-77) (5th Lok Sabha)]

Action taken

In this connection, kind attention of the Committee is invited to Action Taken Note sent by this Deptt. on recommendation contained in para 1.33 of this report. Every effort is being made to ensure that budgetary changes introduced from time to time and relevant Explanatory Notes thereon are communicated to the field formations at the earliest. As regards the implementation of instructions issued by the Board, the Directorates of Organisation and Management Services and Income-tax and Audit have been asked to monitor the impact and implementation of some of the important instructions.

[Ministry of Finance (Department of Revenue) O.M. No. 236|404|72—A&PAC—I, dated 31-12-1976]

Recommendation

Apart from the carelessness on the part of the assessing officers dealing with the cases reported by Audit, the Committee are concerned that though five of the nine cases were checked in Internal Audit, the mistakes in tax calculation had escaped detection. Time and again, the Committee have had occasion to comment upon the lapses and inadequacies of Internal Audit and it is disconcerting that such errors of omission and commission should continue to persist. A number of measures such as improving the scope and content of Internal Audit, induction of better qualified personnel and association of officers, introduction of an 'Immediate Audit' scheme, training of Audit staff, strengthening of the Audit parties, etc. are said to have been taken or are proposed to be taken. The Committee have also, in their earlier Reports, indicated the lines on which Internal Audit

could be more efficient and truly capable of handling the responsibilities cast on it. The Committee would like the Department/Ministry of Finance to shed all complacency in this regard and move seriously to bring about much needed improvement in the often unhappy performance of Internal Audit.

[Sl. No. 10 (Para 1.57) of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha)]

Action taken

Reference is invited to Department's reply to recommendation contained in paras 12.8 and 12.15 of 186th Report. The Internal Audit set up in the Income-tax Department has been strengthened. The Government has sanctioned the creation of 40 special Audit Parties, each party consisting of an Income-tax officer, 2 Inspectors and one UDC. The APs will be checking more important and revenue yielding case while 110 Ordinary Audit Parties headed by Inspectors will be auditing the other important cases. It is hoped that with these measures, the quality of work will improve in due course. Copy of DI(ITSA) letter F. No. Audit—9|76|DIT dated 6-9-76 to all CsIS is attached as annexure.

[Ministry of Finance (Department of Revenue) O.M. No. 236/404/72—A&PAC—1, dated 31-12-1976]

ANNEXURE

F. No. Audit—9/76/DIT

DIRECTORATE OF INSPECTION (Income-tax)

Nirikshan Nideshalaya (Aayakar)

'gram' DIRINTAX

Mayur Bhavan, (4th fl.)
New Delhi-110001.
September 6, 1976

To

All Commissioners of Income-tax,

Sir,

STRENGTHENING OF THE INTERNAL AUDIT SET UP IN THE INCOME-TAX DEPARTMENT CREATION OF SPECIAL AUDIT PARTIES—

Attention is invited to Board's letter F. No. A-11013/14/76-Adm. VII dated 27th July, 1976 in which sanction has been communicated for the creation of 40 Special Audit Parties in 14 Commissioners' Charges, each party consisting of an Income-tax Officer Class—I

(Senior Scale), 2 Inspectors, one UDC and one Stenographer (Ordinary Grade). It is requested that all these Special Audit Parties may be formed as early as possible so that the backlog of cases is liquidated, and the Internal Audit is in a position to find out as many mistakes as possible before the Receipt Audit check the cases.

2. When forming Special Audit Parties certain criteria should be observed in regard to the quality of personnel. The Income-tax Officers of the Special Audit Parties should be Senior Scale Officers and they should have an aptitude for the kind of work they are expected to do. The Inspectors posted to the Special Audit Parties should, as far as possible, be fully qualified in the Departmental Examination for Group B Income-tax Officers. It is desirable that those posts in Internal Audit should remain with the Audit for at least 2 years. Therefore only those Inspectors who are not likely to be promoted in 2 years should be posted in the Special Audit Parties. The UDC in the Special Audit Parties will be engaged in the maintenance of audit registers and the follow up of objections already raised till these are settled and collection is completed. They will not be required to do any checking of cases.

3. In supersession of all instructions issued by the Board and the Directorate previously regarding the duties of the Special Audit Parties, other Internal Audit Parties, I.T.O. (Internal Audit) and the I.A.C. (Audit), the following instructions are issued:—

4. *Special Audit Parites:*

These parties will be responsible for checking "Immediate" cases and Estate Duty cases (whether priority or non-priority) where the principal value of the Estate is Rs. 1 lakh or more. As the Special Audit Parties will not be able to take up all cases falling under the above categories, Commissioners are requested to assign to them such Income-tax and other Districts/Circles, and within the Districts/Circles, such categories of cases, that the Special Audit Parties at the end of the year will not have more than one month's work-load with them. In selecting the districts/circles and cases, Commissioners should include the following:—

1. Company Circles (all cases where the total income or loss assessed is Rs. 25,000 or more).
2. All Central Circles.
3. All Special Circles and other important revenue yielding circles.
4. Estate Duty Circles.

5. The jurisdiction of the Special Audit Parties should not as far as possible, be changed for a period of 2 years, but Commissioners should review the pendency with those parties every year and make such minor changes as may be necessary.

6. The out-put required of each Special Audit Party will be 150 cases every month. Out of these, the ITO of the Special Audit Party will be expected to personally check 10 of the biggest cases every month and each Inspector 60 cases in a month.

7. Apart from checking 10 of the biggest cases the ITO of the Special Audit Party will re-check 10 per cent of the cases checked by Inspectors. He should also vet all audit objection raised by Inspectors where under-charge or over-charge of tax pointed out in a case is Rs. 10,000 or more. The ITO will also ensure that the Inspectors carry out their audit with utmost care and thoroughness and achieve the output expected of them. With the help of the UDC the ITO will be responsible for the follow-up of all Audit Objections raised by the DAP until these are settled and the collection of additional demand is made.

8. *Other Internal Audit Parties*:

There will be 110 ordinary Internal Audit Parties. These parties are headed by Inspectors and have 3 UDCs for checking and one LDC for maintenance of registers and follow-up of Audit objections. In one or two charges, some Internal Audit Parties are still headed by Supervisors and Headclerks. Commissioners are requested to replace them by qualified inspectors.

9. *The ordinary IAPs will check*:

(i) "Immediate" cases of these circles which are not assigned to the Special Audit parties and where all the Immediate cases of a circle, such as company circle are not assigned to Special Audit Parties, the cases not so assigned.

(ii) Other priority cases.

(iii) If after checking the above cases time is available non-priority cases. When checking non-priority case they should give preference to the following:

(a) Gift-tax cases where the value of the taxable gift is Rs. 50,000/- or more.

(b) Wealth-tax cases where the net wealth assessed is Rs. 5 lakhs or more.

Each ordinary IAP is expected to dispose of 500 units every month. Each priority and immediate case will be taken as two units and non-priority case as one unit.

10. At present there is no uniformity regarding the treatment given to orders of rectification, orders giving effect to Appellate orders etc. In some charges, no credit is being taken for checking of such cases. In other charges each such ractification or revision order is considered as a priority case or immediate case and credit of two unit is taken. In yet other charges, these orders are treated as non-priority cases. In future, the following procedure should be adopted in respect of such orders:

1. When a priority or immediate case is taken for checking, irrespective of the number of orders other than an order under Section 147, for a particular year, it should be treated as only one case and credit for 2 units only should be taken.

2. An order under Section 147 may be treated as a separate case and credit of 2 units may be taken if it is a priority or immediate case.

3. If an assessment is set aside in appeal of revision or re-opened under Section 146 and fresh assessment is made, this may be taken as a separate case and a credit of two units may be taken if it is priority or immediate case.

4. When an order under Sections 154, 155, 251 or similar order or a penalty order is checked not along with the checking of the original assessment order but subsequently this may be taken as one case but a credit of only one unit should be taken.

11. The duties and responsibilities of I.T.O. (Internal Audit) of ordinary Internal Audit Parties will be as under:—

Personal checking

1. In respect of those company cases which are not checked by the Special Audit Parties, the following items:

(a) Capital computation for determining surtax or super profit tax liability.

(b) Claim for tax concession by:

(i) Companies stated to be engaged in priority industries.

(ii) Companies entitled to tax holiday benefits.

(c) Liability to additional Income-tax of companies in which the public are not substantially interested.

(d) Tax calculation in the case of companies with assessed or returned income of Rs. 10 lakhs or above.

2. Checking of direct refunds where the refund is between Rs. 25,000|- and Rs. 50,000|- (this will also include refunds under Chapter XXII B—tax credit certificates).

Supervision

(a) Programming of the work of the Internal Audit Parties.

(b) Test checking 5 per cent of the cases checked by Inspectors and 2 to 3 per cent of cases checked by UDCs.

(c) Giving technical guidance to members of the Internal Audit Parties.

(d) Supervising the collection and maintenance of statistical data for preparation of the monthly report to Director of Inspection (Income-tax & Audit) in respect of Internal Audit.

(e) Evaluating the performance of Class III staff of the IAPs.

(f) Vetting of all audit objections raised by the members of the Internal Audit Parties where the under charge or over charge pointed out in a case is Rs. 5,000/- or more.

Follow-up

The ITO (Internal Audit) having been relieved of most of the personal checking in company cases as a result of the formation of the Special Audit Parties, should take more vigorous steps for follow-up and early settlement of Internal Audit Objections. He will also be responsible to watch the collection of additional demand raised as a result of objections raised by Internal Audit Parties under him.

12. When there are more than one ITOs (Internal Audit) under the same IAC (Audit), the charge CIT may assign Internal Audit co-ordination work to one or more specified ITOs (Internal Audit) in addition to their Internal Audit field responsibilities.

13. *Inspectors of Ordinary Internal Audit Parties*

They should function as the leaders of their party. All immediate cases which are not assigned to the Special Audit Parties should be checked by Inspectors. They should check 50 such cases every month if exclusively employed on such work.

14. *IAC (Audit)*

The responsibility of the IAC (Audit) will continue to be as before.

15. *Preparation of Internal Audit Reports*

After the cases of an ITO have been checked by Special Audit Parties or other Internal Andit Parties, the ITO (Internal Audit) in charge should prepare an internal Audit Report in the manner it is done by the Receipt Audit Parties. The Report may be on the following lines:

PART IA. This part should indicate the number of assessments completed after the audit last visited the circle, the number of immediate, priority, non-priority and N. A. cases completed and the number of cases checked by the IAPs or SAPs under each category. Separate list in respect of immediate and priority cases not checked and the reasons therefor should also be given.

PART IB. This part should be included only when audit is taken up for the first time in the financial year and should show the particulars of audit objections which are pending for more than 3 months. Separate details should be furnished regarding Part IIA and Part II B cases.

PART IIA. This part should include cases involving tax effect of Rs. 10,000|- or more in Income-tax and Rs. 1,000 or more in other direct taxes detected in the course of current audit.

PART IIB. Other cases detected during current audit (Here the details of audit objections may not be given. Only the Permanent Account Number, name of assessee, assessment year, amount of under charge or over-charge need be shown).

Each Audit Objection in Part II A and Part II B should be assigned a suitable number for purposes of reference in future correspondence.

When more than one Audit Parties check the cases of an I.T.O. the form of Internal Audit Report may be modified suitably.

16. *General*

When the Internal Audit Party checks a case, an entry should be made in the assessment form giving legibly the name and designation of the member of the IAP who has checked the case and the

name and designation of the person who has re-checked it. The date of checking should also be given.

Yours faithfully,
Sd/-
(V. R. BAPAT)
Director of Inspection (Income-tax and Audit)
New Delhi.

Recommendation

In pursuance of their earlier observation in paragraph 2.37 of their 88th Report (Fifth Lok Sabha) in regard to similar mistakes of incorrect application of rates of tax reported in the Audit Report for the year 1970-71, the Committee have learnt that a review of all wealth-tax cases relating to the assessment years 1969-70 and 1970-71, in which the net wealth determined was over Rs. 10 lakhs, had disclosed that such mistakes had occurred in 75 cases involving revenue of Rs. 2.55 lakhs. Details in regard to the recovery of the tax short-levied and the action taken against the erring officials as well as intimation of the results of the aforesaid review were also awaited from five Commissioners' charges. The Committee presume that this information is now available and should be intimated forthwith.

[S. No. 11 (Para 1.58) of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha)]

Action taken

1.58. Further reply to recommendation in para 2.37 of 88th report, containing final results of review was sent to the Hon'ble Committee vide Deptt. of Revenue & Insurance O.M. F. No. 236|458|72-A&PAC-I dated 21-2-75 (Annexure). The audit has offered "no comments" vide D.O. letter No. 1761-Rec. A. III|149-73. II dated 20-9-75.

Further to the reply dated 21-2-75 referred to above, it is reported that the outstanding demand of Rs. 250 in a case from Delhi Charge has since been collected by way of adjustment against refund due to the assessee.

[Ministry of Finance (Department of Revenue) O.M. No. 236|404|72—A & PAC-I dated 31-12-1976].

ANNEXURE

A reference is invited to this Ministry (Department of Revenue's) reply of even number dated the 5th November, 1973. The results of the review have since been received from all the Commissioners.

A few Commissioners have, however, revised the information furnished earlier. The final results are that out of 1,384 cases reviewed, mistakes were noticed in 66 cases involving a short-levy of Rs. 1,43,764/- in 62 cases and an excess charge of Rs. 10,798/- in 3 cases. In one case rectificatory action has not yet been completed. Additional demands raised in 62 cases have been collected except for an amount of Rs. 250/- in a case from one of the Charges in Delhi. Refund has been granted in the 3 cases of excess charge of tax. In 63 cases the officials concerned have been warned to be careful in future.

Recommendation

Incidentally, the Committee find that this review had been conducted by the same officers who had handled the assessments earlier. The Committee would have been happier if the review had been entrusted to an independent agency like Internal Audit or the Directorate of Inspection. When this was pointed out during evidence, the Finance Secretary had agreed to have review done again by an Audit party. The Committee would like to know if this review has since been completed and, if so, its outcome.

[S. No. 1 2 (para 1.59) of Appendix IV to 226th Report of PAC (76-77) (Fifth Lok Sabha)]

Action taken

1.59. In view of the inadequate strength of Internal Audit, it was not possible to get the review done again by them.

[Ministry of Finance (Department of Revenue) O.M. No. 236|404|72—A&PAC—I dated 31-12-1976]

Recommendation

Year after year, cases of failure to correlate the assessments made under one direct tax law with assessments under other direct tax laws have been reported in successive Audit Reports. The Public Accounts Committee have also been emphasising repeatedly the need for effective coordination and correlation between the assessments relating to the different direct taxes and for greater vigilance in this regard on the part of the assessing officers. The case under examination is one more instance of a deplorable failure to co-relate the wealth-tax assessment of an assessee with his income-tax assessment, as a result of which the non-agricultural lands owned by the assessee had escaped assessment. This default had led further to the under-assessment of wealth by Rs. 21.53 lakhs for the assess-

ment years 1958-59 to 1961-62 and consequential short-levy of tax of Rs. 19,238 [Para 224].

The Committee observe that while the capital gains accruing to the assessee by the acquisition of the land by Government had been assessed to income-tax in the assessment for the year 1962-63 made on 21 March, 1963, the assessee had not filed any wealth-tax returns until proceedings under Section 17 of the Wealth Tax Act had been initiated, for the assessment year 1958-59, on 31 March, 1966. As the assessing authority is common for both income-tax and wealth-tax, the assessing officer could have, at the time of assessing the capital gains, shown sufficient initiative and simultaneously examined the case from the wealth-tax angle. Had this been done, the proceedings under Section 17 could have been set in motion earlier and the assessee's wealth brought within the tax net for the assessment year 1957-58 also, which had become time-barred by the time necessary action was ultimately taken in March 1966. It is also significant that the wealth-tax assessments for all the four years, returns in respect of which had been filed after a delay ranging from over 9 years to over 6 years, were completed, in apparent haste, on 29 February, 1968, the day after the receipt of the returns in respect of three assessment years and on the very day the return relating to the fourth assessment year had been received. It is, therefore, obvious that the scrutiny of the returns and the checks, if any, exercised must have been routine and desultory. Unfortunately, the concerned officer is reported to have died subsequent to his retirement and consequently, the reasons for the strange and unsatisfactory handling of the case and for the failure to include the subject lands in the assessee's wealth will have to remain unexplained. [Para 2.25]

The Finance Secretary, however, assured the Committee during evidence that, in so far as the omission of this land was concerned, it would be examined whether the assessee had declared the land as part of his wealth with a view to fixing responsibility for the lapse. The Committee trust that this investigation would have been completed by now and would like to be apprised of its outcome and the subsequent action, if any, taken. [Para 2.26]

[Sl. Nos. 13 to 15 (Paras No. 2.24 to 2.26) of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha)]

Action taken

The observations made by the Committee have been noted. Instruction No. 473 (F. No. 236/425/72. A&PAC) dated the 15th Nov., 1972 issued to field officers requires that an attempt should be made

in all case to complete income-tax and corresponding other tax asstts. simultaneously. When this is not possible, a suitable note should be left in the case records. The DI(O&MS) have also issued instructions in Nov., 73 on proper coordination between different tax assessments. The DI(O&MS) has been asked to monitor the impact and implementation of the aforesaid instructions.

2. The asstts. for 1958-59 to 1961-62 in the instant case were rectified and the addl. tax of Rs. 19,238 collected. As regards the omission to include the value of the land in the wealth-tax returns filed by the assessee, the matter was examined from the prosecution angle also. The special counsel advised that the defence of the assessee would be that he believed the land to be agricultural. It would be difficult to convince the court that the omission was deliberate with an element of *mensa-rea* to sustain a successful prosecution.

3. As regards the fixation of the responsibility for the lapse, the concerned ITO, the late Shri K. V. Chari failed to utilise the information available on record. Thus, the responsibility for not including the value of the said land in the wealth-tax asstts. was a tributable to late Shri K. V. Chari against whom no action could be taken as he retired some 5 years ago and he subsequently died.

[Ministry of Finance (Department of Revenue) O.M. No. 236|425|72—A&PAC—I dated 10-1-1977]

Recommendation

While, conceding that, in this case, since the additional compensation related to the value of lands as on the date of their acquisition by Government, the earlier wealth tax assessments should have taken into account the total value of the lands as determined subsequently, the Finance Secretary has, however, pointed out that there appeared to be some doubt in regard to the valuation of an assessee's 'right to compensation' which would have to be determined on the basis of the market value of that right to compensation. Since it was likely that there might be many more cases of this nature he had suggested that it would be better to obtain an authoritative view on the subject and had proposed to discuss it with the Law Ministry and Audit and obtain also the Attorney General's opinion, if necessary. The Committee trust that these deliberations have been completed by now and the correct position in law clarified to the assessing officers. The present position in regard to the reopened assessments for the years 1964-65 to 1967-68 should also be intimated to the Committee.

[S. No. 18 (para No. 2.29) of appendix IV to 226th Report of Public Accounts Committee (76-77) (Fifth Lok Sabha)]

Action taken

The Board have examined the matter and issued instructions to field authorities *vide* Instruction No. 825 (F. No. 328|76|73-WT) dated the 20th January, 1975 (copy enclosed as annexure).

[Ministry of Finance (Department of Revenue) O.M. No. 236|425|72—A&PAC—I dated 10-1-1977]

ANNEXURE

Instruction No. 825.

F. No. 328/76/73-W.T.

Government of India

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 20th January, 1975

To

All Commissioners of Income-tax.

SUBJECT: *Manner of computation of net Wealth in case of acquisition of lands under the Land Acquisition Act.*

Sir,

In cases where lands owned by an assessee are the subject matter of acquisition under the Land Acquisition Act and the compensation initially awarded for acquisition is enhanced by Court in reference proceedings, the following questions could arise in connection with Wealth-tax assessments of the assessee:

(i) How have the lands to be valued prior to their acquisition?;

(ii) Whether the final compensation awarded can be treated as an asset from the date the assessee is dispossessed of the land or whether the right to receive the additional compensation is created only when the Courts pronounce their orders.

2. The Board are advised that prior to the date of actual acquisition, the lands in question can be valued on the basis of the compensation ultimately awarded by the Court. This is because in awarding compensation under the Land Acquisition Act, the Court has *inter-alia* to determine its market value as on the date of the issue of notification under section 4(1) of the Land Acquisition Act, 1894 or the corresponding provision in the local Act. The determination of the court can, therefore, be regarded as good evidence of the market value of the land at about the relevant valuation date.

Even after the preliminary notification under section 4 of the Land Acquisition Act is published in respect of the particular piece of land, the land would continue to belong to the owner. The date of notification under the said Section is material only because compensation for the land, if it is acquired, has to be determined on the basis of its market value as on the date. Later, after an enquiry the Collector makes an award and takes possession of the land which then vests in the Government free from all encumbrances. Till such vesting the assessee is the owner of the land. Hence the Department would be justified in valuing the particular asset, namely, the land in question on the basis of its market value as ascertained by the Court after a full and elaborate investigation. That would be good evidence as to the market value of the land.

3. The position, however, changes, once possession of the land has been taken over by the Collector. Thereafter, the assessee ceases to own the land and the asset to be included is the right to receive compensation. The amount of compensation awarded by the Collector would certainly be included in the net wealth of the party. If the party has claimed additional compensation and a reference has been made to the Court, the claim to the compensation may ultimately be awarded by the Court is also an asset. Thus, what the Wealth-tax Officer has to assess is the right to receive full compensation for the land and not the small amount initially awarded by the Collector and which is the subject matter of reference.

4. The right to receive market value as compensation for the lands which were acquired, came into existence as soon as the lands were acquired. That right is property. Further, it is an indivisible right. There are no two rights, one to receive compensation and the other to receive extra compensation. The only right is to receive compensation for the land acquired by the Government which is the fair market value on the date of acquisition. The final compensation awarded is therefore, assessable from the date of vesting of lands in the Government.

5. If the quantum of compensation awarded by Collector is in dispute and if Wealth-tax assessments have to be made before the compensation matter is finally settled by Courts in reference proceedings, the claim to compensation made by the assessee may be included in the net wealth without any deduction for uncertainties. The demand in respect of the difference between the Collector's award and the assessee's claim may be kept in abeyance with proper

safeguards for recovery of disputed tax till the dispute is finally resolved in the courts.

Yours faithfully,

Sd/-

(V. D. WAKHARKAR)

Under Secretary,

Central Board of Direct Taxes.

Recommendation

This is yet another instance of under-assessment arising out of failure to correlate the assessments under the different direct tax laws. It would appear from repeated instances of such failures that either the inter-relationship between the provisions of the different direct tax laws has not been properly appreciated by the assessing officers, despite oft-repeated comments in this regard by the Committee and the issue of a plethora of instructions by the Central Board of Direct Taxes, or that the instructions have not been effectively implemented. (Para 2.38)

The Committee find that in the present case, the assessee's Estate Duty assessment was completed on 31st January, 1966, and the value of the assessee's immovable properties was adopted, 'on agreed basis', as Rs. 1.40 lakhs. Strangely enough, when the wealth-tax assessments for the assessment years 1964-65 and 1965-66 were made subsequently, on 13 May, 1966 and 5th February, 1969 respectively, a lower value of Rs. 0.92 lakh was adopted in respect of the same properties. While the Assistant Controller of Estate Duty had apparently correlated the value of the properties disclosed for purposes of Estate Duty with that estimated in the wealth-tax assessments and adopted the higher value of Rs. 1.40 lakhs with the concurrence of the executor of the estate, the Committee are doubtful whether the Wealth Tax Officer was, in fact, aware of the difference in the value adopted for Estate Duty and that adopted in the Wealth-tax assessments. The explanation offered by the Department of Revnue & Insurance is that the Wealth Tax Officer, though aware of the difference in valuation, had not considered it necessary to go into this matter further, apparently because he preferred to follow the earlier valuation made in the wealth-tax assessments which was based on a particular principle whereas the value adopted in the Estate Duty assessment was *ad hoc*. This sounds slightly mysterious and is, in any case, not convincing. As the value of a property under both the Acts is to be determined on the basis of the estimated rise which the property would fetch if sold in the open market (vide Section 7 of the Wealth Tax and Section 36 of the Estate Duty Act), the reply furnished by the Department would

imply that according to the Wealth Tax Officer, the Estate Duty assessment had not been made in accordance with any principle or law. The Committee, therefore, desire that the circumstances in which a lower value had been adopted in the wealth-tax assessment should be re-examined with a view to taking necessary remedial measures. The Committee would also like to be informed whether the Wealth Tax Officer, while completing the assessments for 1964-65 and 1965-66, had, in fact, taken due notice of the difference in the values by the reference to the Estate Duty assessment and, if so whether he had recorded in the relevant assessments files that he was not adopting the Estate Duty Valuation because it was *ad hoc* and not based on any principle.

[S. Nos. 19 & 20 (Paras 2.38 & 2.39) of Appendix IV to 226th Report of the Public Accounts Committee—1976-77]

Action taken

In the wealth-tax assessments, the valuation was made on rental basis while in estate duty it was estimated taking into consideration the area of the land & built up area. The CIT has reported that the Wealth Tax Officers concerned were not aware of the fact that a higher value had been adopted for estate duty. The wealth-tax assessments for the years 1964-65 and 1965-66 have been revised u/s 17 on 31-3-73. The revised demand raised and collected for 1964-65 & 1965-66 is Rs. 241 and Rs. 240 respectively. The mistakes committed by these W.T.Os. are attributable to their failure in not referring to the Estate Duty records. Both the W.T.Os. have been warned to be more carfeul in future. The mistakes do not appear to be malafide.

2. The Directorate of Organisation and Management Services have been asked to monitor the implementation of the circulars issued by them with a view to ensure proper coordination between assessments made under various Direct Tax Laws.

[Ministry of Finance (Department of Revenue) O.M. No. 236|609|72—A&PAC-I dated 30-12-1976]

Recommendation

In this context, the Committee would reiterate an earlier recommendation contained in paragraph 5.22 of their 211th Report (Fifth Lok Sabha) that the assessing officers should be required to invariably record their reasons for arriving at a particular conclusion so that the rationale for the adoption of a particular point of view is spelt out clearly and is also available on record for future reference, if necessary.

[Sl. No. 27 (Para No. 3.40) of 226th Report of PAC (1976-77) (Fifth Lok Sabha)]

Action taken

Kind attention of the Committee is invited to the Department's reply to para No. 5.22 of 211th Report issued from F. No. 236|719|72-A&PAC-I dated the 28th July, 1976. A copy of Instruction No. 978, F. No. 326|719|72-A&PAC-I dated 14-7-1976 regarding recording of adequate reasons for arriving at a particular conclusion is attached for ready reference (Annexure)

[Ministry of Finance (Department of Revenue) O.M. No. 236|423|72-A&PAC-I dated 17-2-1977]

ANNEXURE

F. No. 236|719|72-A&PAC-I

BHARAT SARKAR

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 14th July, 1976.

To

All Commissioners of Income-tax.

SUBJECT: *Recording adequate reasons for arriving at a particular conclusion—Instructions regarding.*

Sir,

In their 211th Report, the Public Accounts Committee have expressed deep concern on under assessment in a case arising out of failure of correlate the assessment under the different direct taxes laws. The Committee have expressed their surprise that two valuation reports had been issued in respect of the same house property, both purporting to have been prepared and signed by the same valuer on the same day, one showing the fair rent at Rs. 1850 p.m. and the other at Rs. 1550|- p.m. While the lower rent of Rs. 1550|- had been adpoted in the estate duty assessments, the higher rent of Rs. 1850|- p.m. had been adopted for purposes of wealth tax. The adoption of the lower rent in the Estate Duty assessment had resulted in under-valuation of the estate by Rs. 48,900|-. The Committee were not fully satisfied with the Department's contention that the higher rent was as on 31-3-1968 and the lower as on 10-10-1968 and that as rents in Calcutta might have fallen considerably during the intervening period of time on account of disturbed conditions then prevailing in the city, the estate duty officer had perhaps considered that the un-rented units would be lesser value and had taken the lesser rent for those un-rented units.

2. In the absence of any recorded reasons, it was not clear from the assessment order whether the officer had applied his mind at all and satisfied himself that there was justification for reducing the rent in this case. There are several instances where the assessing officers do not record their reasons for taking a particular point of view, as a result of which it becomes difficult subsequently to determine the rationale for the adoption of such a view, especially if it happens to differ from the ordinarily accepted view on the issue. You are, therefore requested to ensure that in future the assessing officers invariably record adequate reasons for arriving at a particular conclusion in their assessment orders.

Yours faithfully,
Sd|- (A. S. THAKUR),
Under Secretary, CBDT.

Recommendations

While the market value of unquoted equity shares of companies other than investment and managing agency companies is to be determined, for purposes of wealth tax, in accordance with the method statutorily prescribed in the Wealth Tax Rules promulgated on 6th October, 1967, the value of shares of investment and managing agency companies, is to be computed according to the methods laid down in this regard in the executive instructions issued by the Central Board of Direct Taxes on 31 October, 1967. The Committee, however, regret to observe that in the present case reported by Audit, the provisions of the Wealth Tax Rules, instead of executive instructions, had been erroneously applied by the Wealth Tax Officer to determine the value of the shares held by two assessees in various investment and managing agency companies. Admittedly, the assessing officer had not scrutinised the balance sheets of these companies to determine their character but had treated all the companies, in which the assessees owned shares, as ordinary companies and made the valuation on that basis. The Committee are surprised that the officer concerned had failed to examine the matter more carefully, which he certainly should have done. Appropriate action should, therefore, be taken against the officer for his lapse. (Para 4.19)

The Committee would like to know whether the assessments in question were checked in Internal Audit and, if so, how the incorrect valuation of the shares had gone undetected. (Para 4.20)

[Sl. Nos. 36 and 37 (Paras 4.19 and 4.20) of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha)]

Action taken

The Wealth Tax Officer regretted his failure to apply correct rules of valuation has been warned to be careful in future.

The assessments in question were checked by the Internal Audit Officials but they failed to detect the incorrect valuation of the shares. Their argument that the relevant details were not clear from the records have not been accepted and they have been warned to be careful in future.

[Ministry of Finance (Department of Revenue) O.M. No. 236|695|72-A&PAC-I dated 25-2-1977]

Action taken

The Committee note that while Audit is of the view that the provisions of Section 5(1) (xx) of the Wealth Tax Act, under which the value of shares held by an assessee in a company established with the object of carrying on an industrial undertaking in India is exempt from Wealth-tax if such shares formed part of the initial issue of equity share capital made by the company after 31 March 1964, are applicable only to a public limited company and to a private company, the Department of Revenue & Insurance and the Ministry of Law are of the view that the exemption from wealth-tax admissible under the Section would apply to the shares of private companies also. As there appears to be a genuine difference of opinion and the matter is also not entirely free from doubt, the Committee desire that this may be re-examined in a tripartite meeting between the Department of Revenue & Insurance, Ministry of Law and Audit, and decisive instructions issued for the guidance of the assessing officers.

[S. No. 40 (Para 5.11) of Appendix IV to 226th Report of the PAC (1976-77) (Fifth Lok Sabha)]

Action taken

The matter has been discussed in a tripartite meeting between the Department of Revenue and Banking (Revenue Wing), Ministry of Law and Audit. A copy of the advice given by the Ministry of Law is enclosed. (Annexure)

[Ministry of Finance (Department of Revenue) O.M. No. 236|413|72-A&PAC-I dated 22-12-1977]

ANNEXURE

MINISTRY OF LAW

(Department of Legal Affairs)

Advice (B) Section

The Public Accounts Committee in para 5.11 of its 226th Report (5th Lok Sabha) (relevant extract of which is at flag 'X') had desired that the question whether the exemption under section 5(1) (xx) of the Wealth-tax Act, 1957 could be allowed in respect of shares which forms part of "the initial issue of equity share capital" of a private company, should be re-examined in a tripartite meeting between the Department of Revenue and Insurance, Ministry of Law and Audit and decisive instructions issued for the guidance of the assessing officers. The matter was accordingly discussed in a tripartite meeting on 25th September, 1976 when Sarvashri Mahadevan, Balbir Singh and Wakharkar from the CBDT and Shri R. S. Gupta, Additional Director (Receipt Audit) from the C&AG's office were present.

2. This question was earlier considered and examined in this Ministry and the views of this Ministry is at Appendix III to the Report. The Audit had thereupon expressed its views and it is with reference to the views of this Ministry and the Audit that the Public Accounts Committee had desired that a tripartite meeting is held.

3. Section 5(1) (xx) of the Act *inter alia* exempts the value of equity shares in any company of the type referred to in clause (d) of Section 45. It is not in dispute that the private company in the instant case is established with the object of carrying on an industrial undertaking in India within the meaning of Section 45(d) of the Act. The small point for considertation is whether the shares issued by the private company also are shares "which form part of the initial issue of equity share capital made by the company" occurring in clause (xx) of sub-section (1) of Section 5 of the Act.

4. During the course of discussion, it was agreed that the question that should be considered in this reference is only with regard to the issue of 7800 shares by the company after its incorporation Shri R. S. Gupta has, during the course of discussion, relied on the decision of the Court of Appeal in re: London Paris Financial Mining Corporation Ltd., a case referred to in para 6 of this Ministry's earlier view, that the issue of share capital under the afore-

said section should be meant only with reference to the issue of share capital of public companies and *not* by private companies. In his view, there is no issue of capital by a private company, but only allotment of shares.

5. According to Shri Mahadevan, on the other hand, that Section applies to every company which issues initial equity share capital; that it applies even the case of private companies; that there is nothing in this section to debar its application to private companies and that the intention underlying the section is to promote investment in new shares.

6. A copy of the report containing the decision in re: London Paris Financial Mining Corporation Ltd. referred to in para 6 of this Ministry's note (1897 TLR) is not readily available in this Ministry. However, the following extract deals with this case in the English and Empire Digest with Complete Annotations, Vol. IK:

> "The obligation of the Paris Co. to endeavour to procure the public to take the shares before calling on the Globe Co. existed as to all the shares which that Co. under-wrote and had the option of taking. There remains the question whether the Paris Co. has any legal justification for not appealing to the public. Its obligation to do so rests on its own express agreement to issue 250,000 shares, which involves an issue to the public, not only of one-half, but also of all of the other half which the Paris Co.'s members did not take; and even if it were proved that none would have been taken, still, the condition was a condition precedent, and unless performed the obligation to arise on its performance, never became perfect....."

To my mind, that decision should be confined to the facts and circumstances of that case and it cannot be taken as an authority for the proposition that private companies cannot issue share capital.

Further, the provisions dealing with the issue of prospects contained in Part III of the Companies Act, 1956 are analogous to the provisions of Section 55 in the U.K. Companies Act, 1948. Sub-section (2) of section 55 *inter alia* provides that sub-section (1) is not applicable directly or indirectly if the shares or debentures had become available for subscription or purchase by persons other than those receiving it *or otherwise as being a domestic concern of the persons making and receiving it.* Clause (b) thereof makes it further clear that the provisions of the Act relating to private com-

panies shall be construed accordingly. Dealing with this question, Gower in his Commentary on "Modern Company Law" (III Edition, p. 295, last line) says:

> "It is therefore clear that an invitation by or on behalf of a private company to a few of the promoter's friends and relations will not be deemed to be an offer to the public. Nor generally, will an offer which can only be accepted by the shareholders of a particular company...."

In footnote 54 thereto (p. 296), the learned author adds:

> "Despite the definition of 'public' in section 55(1), this will apparantly be regarded as of 'domestic concern' within the meaning of section 55(2), unless the shares are to be issued under renounceable allotment letters.' ".

In other words, according to the learned author, any issue or offer of shares, even by a public company which can only be accepted by the shareholders of that company and which is not issued under renounceable allotment letters in favour of the third parties would not attract the provisions dealing with the issue of shares by way of prospectus to the public. There can thus be an issue by a private company or by a public company only to its shareholders without the requirement of the filing of a prospectus, as required in the case of any issue to the public.

7. Dealing with the issue of shares and the procedure thereto, in Chapter XVII, the learned author at p. 374 says:

> "The acceptance of members and the issue of shares to them is a matter which is invariably delegated to the directors by the company's articles."

In footnote 13 thereof, the author says:

> "In the case of private companies, it is sometimes provided that new shares shall be offered to the existing shareholders and it is generally accepted that all new issues of equity shares for cash should be so offered unless otherwise agreed in general meeting:".

At p. 376, the learned author observes:

> "Needless to say, in the case of a private placing, the offering will be very much less formal and on an issue by a private company, allotment letters will probably be dispensed

with—in any case they cannot be freely renounceable—and the original offer by application may simply be followed by allotment and dispatch of the share certificates by way of acceptance. In any event, all that is needed is an agreement however constituted."

In other words, the learned author equates private placing of the shares by a public company with an issue of shares by a private company. The procedure that is followed in such cases is that an application and allotment letter of shares are dispensed with, the original offer to buy shares is simply accepted by allotment and dispatch of the share certificates.

8. Sections 78 and 79 of the Companies Act, 1956 empower a company to issue shares either at a premium or at a discount. The above sections require certain conditions to be fulfilled before the shares are issued at a discount or at a premium. Both the Sections refer to a company *issuing* shares (either at a premium or at a discount). Both the Sections are equally applicable to private companies. I am only referring to this aspect to show that the Act recognises issue of shares by a private company.

9. Even otherwise, Schedule VI to the Act prescribes the form of a balance sheet (applicable to both the private and public companies). Therein, it is required to show separately the authorised, issued, subscribed and paid-up capital. It therefore seems to me that it is not correct to say that private companies cannot issue share capital. Of course, they cannot issue it to the public.

10. Further, it appears that whenever a company, including a private company, requires subscription of its capital, the Board of Directors resolve on the capital being issued. Then it will be offered to the existing shareholders or to the group of friends in the case of private companies. On receipt of the application form the allotment will be made. It is thus clear that allotment of shares can only be made on an issue of shares. That being the position of law, in my view, the exemption under the aforesaid provision of the Wealth-tax Act is applicable in the case of any shares which form part of the initial issue of the share capital including that of a private company, so long as such a company is a company referred to in clause (d) of Sec. 45.

11. As this is a matter arising out of a P.A.C. report, Secretary may please see.

Sd|- M. B. Rao

Jt. Secretary and Legal Adviser.
29-9-76

Secretary may now kindly see my note dt. 29-9-76 for approval. The file was earlier submitted to M.S. The note of S.A. to M.S. dt. 16-11-76 may also kindly be seen.

Sd|- M. B.Rao
17-11-76

Secretary

I agree with the views expressed regarding applicability of the provision of sec. 5(1)(xx) to shares of private companies.

Sd|- P. G. GOKHALE
17-11-76

Recommendation

Though a penalty of Rs. 21,032 was leviable in this case, under Section 18(1)(a) of the Wealth Tax Act, 1957 for the late filing of returns for the assessment years 1968-69 and 1969-70, the Committee regret to find that the Wealth Tax Officer had neither initiated penalty proceedings nor recorded any reasons for the non-levy of penalty as required in terms of the instructions of the Central Board of Direct Taxes dated 4th July, 1969. This failure has, as usual been attributed to 'oversight' and 'rush of work' which, by itself does not appear to be a valid explanation, particularly in the context of the rejection earlier by the assessing officer of a request made by the assessee for extension of time for the filing of returns, which ought to have been logically followed up by necessary penalty proceedings. Therefore, rather than offering the same familiar excuses, time and again, for the lapses of the officers the Department would have done well to have undertaken a purposeful investigation of the lapse in the present case with a view of to ensuring that no malafides were involved.

[Sl. No. 49 (Para 7.12) of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha)]

Action Taken

The Wealth Tax Officer failed to record the reasons for which penalty notices were not issued. The Commissioner of Income-tax

has attributed the mistakes to oversight arising out of negligence. There is no malafides in this case. The officer has been warned to be careful in future.

[Ministry of Finance (Department of Revenue) O.M. No. 236|806|72-A&PAC-I dated 17-2-1977]

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES RECEIVED FROM GOVERNMENT

Recommendation

This is a case of undervaluation of an immovable property due to the adoption of different values for different assessment years. The Committee find that when the assessments for the years 1964-65 and 1965-66 were completed on 29th January, 1969 and that for the assessment years 1966-67 and 1967-68 on 30th January, 1969, a valuer's certifiacte indicating the value of the property in question as Rs. 12.21 lakhs on the basis of which the share of the assessee would work out to Rs. 6,10,600, was available with the wealth-tax Officer. Yet strangely enough in spite of this evidence being with him, the officer adopted the value determined by the valuer only for the assessment years 1966-67 and 1967-68 and accepted lower values of Rs. 2.07 lakhs and Rs. 2.35 lakhs respectively for the earlier two assessment years. Though the Audit objection had been initially accepted by the Department and action had also been taken to set aside the relevant assessments under the revisionary powers of the Commissioner, the Committee have now been informed that before the assessments could be reopened, the Income-tax Appellate Tribunal had cancelled the revisionary orders against which a reference application had been filed in the High Court by the Department. While the Committee conceded that the value of a property might vary for different assessment years on account of difference in the conditions prevailing at the relevant time, it is not clear, in the absence of any recorded reasons, whether the wealth Tax Officer had proceeded on the basis of such facts and applied his mind to satisfy himself that there was adequate justification for not valuing the property on the basis of the valuer's certificate. Besides, the fact that the Department has contested the orders of the Appellate Tribunal would indicate that the value of the property had, perhaps, been under-estimated for the earlier years. In the circumstances, the Committee desire that the reasons for the Wealth Tax Officer ignoring the Valuer's certifiacte and adopting lower values should be ascertained.

[Sl. No. 26 (Para No. 3.39) of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha)]

Action Taken

There is nothing on record to indicate the reasons for the Wealth-tax Officer having ignored the valuer's certificate and adopting the lower value. No elucidation on the point is now possible from the Wealth-tax Officer concerned who made the assessment as he has since died.

[Ministry of Finance (Department of Revenue) O.M. No. 236|423/72-A&PAC-I dated 17-2-1977]

Recommendation

Another distressing feature of this case is that the Demand Notices for the tax due had been issued only after a considerable lapse of time and the reason is said to be 'inadvertence'. While the Committee, learning that the Commissioner has been asked to fix responsibility for the delay, would like to be apprised soon of the action taken, they fail to understand why such delays should occur at all. In response to a suggestion made by them that a suitable system should be devised to ensure the prompt issue of demand notices the Committee were informed that this had been referred to the Directorate of O & M Services for consideration and for making suitable recommendations to the Board. The Committee would like to know what further steps have been taken in this regard in the light of the recommendations of the Directorate of O & M Services.

[Sl. No. 28 (Para No. 3.41) of 226th Report of PAC (1976-77) (Fifth Lok Sabha)]

Action Taken

The lapse in sending the demand notices occurred in the Demand notice cell of the 2nd I.T.O., BSD(W), Bombay. The Inspecting Assistant Commissioner concerned has been directed to fix responsibility for the delay and issue warning to the persons concerned. The Directorate of Organisation and Management Services (Income-tax) have examined the suggestion in regard to devising a built-in check on the prompt issue of demand notices. In their view, the existing procedure being satisfactory does not require any modification. The Board have already issued instructions to the field formations in this regard. A copy of Instruction No. 852 F. No. 236|423|72-A&PAC-I dated the 14th July, 1975 issued with a view to eliminating delays in service of demand notices is attached (Annexure).

[Ministry of Finance (Department of Revenue) O.M. No. 236|806|72-A&PAC-I dated 17-2-1977]

ANNEXURE

Instruction No. 852

F. No. 236/423/72-A&PAC-I

GOVERNMENT OF INDIA

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 14th July, 1975.

From

A. K. Misra,
Under Secretary,
Central Board of direct Taxes.

To

All Commissioners of Income-tax.

Sir,

SUBJECT.—*Demand Notice and Challan—Delay in issue and service thereof—Devising of check to eliminate delays.*

I am directed to refer to the Board's instructions contained in F. No. 236/222/70/IT(A) dated the 22nd March 1971 and the instruction issued by the Director of Inspection (IT&A) *vide* letter No. M-6 /172 DIT dated the 22nd September, 1972. In these instructions the necessity of timely issue and service of demand notices and challans was emphasised. It was pointed out that normally the demand notices and challans should be served within a fortnight of the completion of assessments and in cases of instructive assessees the service should be made within a month. It was also pointed out that during the course of internal audit, the Internal Audit Parties should be instructed to bring to the notice of the Commissioners of Income-tax all cases of inordinate delay in the issue of the service of demand notices and challans.

2. Recently some cases have come to the notice of the Board where it was found that there was delay of more than one year in the service of the demand notices and challans. Such lapses are commented upon very adversely by the Public Accounts Committee.

3. The existing procedure already provides a machinery for securing the objective of timely issue and service of demand notices and challans. The date of the assessment order and the date of service of the demand notice are required to be noticed in Col. 4 & 27 of the Demand and Collection Register respectively. Entries made in these columns enable the supervisory authorities to pinpoint lapses in this respect. The Board feel that the Head Clerks and the Income Tax Officers are not scrutinising the demand and collection regissters periodically, particularly the entries in Col. 4 & 27.

4. The Board desire that the Income-tax Officers should personally scrutinise the D.C.Rs. at the close of every month to ascertain whether in respect of assessments completed in the preceding month, service of demand notices has been made and entered in the D.C.R. The Range IACs' should also keep a watch on this aspect of the ITOs' work and scrutinise the DCRs once in every quarter in respect of local circles. In respect of mofussil charges, the verification of the DCRs should be made by the IACs when they visit such charges on tour.

5. The procedure laid down in para 4 above should also be followed for ensuring timely issue and service of notices of demand in respect of advance tax in pursuance to orders u/s 210 as well as demands of other direct taxes.

Yours faithfully,

Sd/-

(A. K. MISRA),

Under Secretary, CBDT.

Recommendation

Under Section 2(m) of the Wealth-tax Act, 1957, outstanding tax demands which have been appealed against by an assessee as not being payable by him or those which have been outstanding for a period of more than twelve months on the relevant valuation date, are not deductible as liabilities in computing the net wealth of the assessee. The Committee are concerned to note that despite this clear and unambiguous legal provision, a deduction of Rs. 77,000 on account of Income-tax liability had been allowed in this case, for the assessment year 1959-60, though the assessee had contested the liability before the Appellate Tribunal. Further, deductions on account of wealth-tax liabilities had also been erroneously computed, for the assessment years 1961-62 to 1963-64, without taking into consideration the tax rebate due to the assessee in respect of his foreign assets. The Committee have been informed by the Department of Revenue and Insurance that the officers responsible for

these mistakes have no plausible explanation to offer and that it was the view of the Central Board of Direct Taxes that the mistakes had occurred on account of negligence on their part. That such patent mistakes should have been committed in a case where the assessed wealth exceeded Rs. 4 crores and which, therefore, called for special attention from senior, experienced officers is an extremely serious matter. (Para 5.19).

While the Committee note that the concerned officers have been warned for their lapse, they cannot help observing that the process of obtaining explanations from officers whenever lapses are found and issuing 'warnings' has now become almost a ritual in the Income-tax Department. The Committee would, in this context invite attention to their recommendation contained in paragraph 6.16 of their 187th Report (Fifth Lok Sabha) that a more positive and purposeful procedure should be evolved in this regard so that punishments are suitably graded according to the magnitude and seriousness of the lapse committed. Such positive action taken even in two or three significant cases would act as a deterrent to misconduct. (Para 5.20)

[S. No. 41 & 42 (Paras 5.19 & 5.20) of Appendix-IV to 226th Report of the PAC (1975-76) (Fifth Lok Sabha)]

Action taken

The attention of the Committee is drawn to the fact that positive and purposeful procedures already exist in respect of obtaining explanations from the Officers whenever lapses are found. Punishments for lapses are graded according to the magnitude and seriousness of the lapse committed. No discrimination is made on the basis of the status of the Officer.

2. Attention of the Committee is also drawn to the Department's reply to the recommendations No. 5.16 and 6.16 of their 187th Report in this connection from F. No. 236/222/73-A&PAC-II dated 25-5-1976 and F. No. 236/185/73-A&PAC-II dated 1-6-1976 respectively.

[Ministry of Finance (Department of Revenue) O.M. No. 236/639/72-A&PAC—I dated 11-11-1976]

Recommendation

In paragraphs 2.42 and 2.47 of their 50th Report (Fifth Lok Sabha), the Committee had occasion to comment on several cases of omission to levy the additional wealth-tax, introduced with effect from the assessment year 1965-66, on properties (or any rights therein)

situated in urban areas, valued at Rs. 213.92 lakhs. 67 more cases of omission to levy or incorrect levy of the additional tax, resulting in short-levy of Rs. 1.36 lakhs, was also reported subsequently in the Audit report for the year 1970-71. That 24 more cases of omission, involving urban assets valued at Rs. 391.36 lakhs, tressing is that the omission to levy the additional tax should have again been detected by Audit reinforces the Committee's earlier conclusion that such mistakes and omissions have been widespread and that the assessing officers have not been quite conversant with the relevant provisions of the Wealth Tax Act. What is more distressing is that the omission to levy the additional tax should have occurred in 3 cases (involving 10 assessments) even after Instructions were issued by the Central Board of Direct Taxes, in September 1971, impressing on all wealth-tax officers that they should ensure that the additional wealth-tax on urban properties was duly levied in appropriate cases. This is, to say the least, a far from satisfactory state of affairs. (Para 6.14)

The Committee note the concerned Wealth Tax Officers have been warned to be more careful in future. Elsewhere in this Report, the Committee have stressed the need for ensuring that the budgetary changes introduced from time to time and the relevant instructions thereon are promptly communicated to the field formations so that these may be given effect to without undue loss of time and the assessing officers may keep themselves abreast of the changes in the taxation laws. The Committee would once again urge the Central Board of Direct Taxes to give serious thought to this problem and devise a system whereby inadvertence becomes virtually an impossibility and the various orders and instructions issued by the Board reach the assessing officers at the earliest possible time. A suitable machinery shuld also be evolved to ensure that the various instructions and orders have reached the field formations and have in fact been properly understood and implemented. What the Committee have in view is a continuous system of feed back and regular flow of information between the field and the Central Board of Direct Taxes, so that prompt corrective measures can be taken whenever simple mistakes like those reported by Audit, year after year, come to light. (Para 6.15)

[Sl. No. 44 & 45 (Paras No. 6.14 and 6.15) of Appendix IV to 226th Report of PAC (1975-76) (Fifth Lok Sabha)]

Action taken

The levy of additional wealth-tax on lands and buildings situated in urban areas has been discontinued by the Finance Act, 1976 from 1-4-1977.

2. During the last two years, concerted action has been taken to ensure timely supply of various Direct Taxes Acts, Manuals and other related literature to the field officers. Digests of various instructions issued by the C.B.D.T. on Summary Assessment Scheme, Companies (Profit) Surtax, Penalties etc. have been supplied for the guidance of the field officers. Every effort is being made to ensure that budgetary changes introduced from time to time and relevant Explanatory Notes thereon are communicated to the field formations at the earliest. The Board issue clarificatory instructions on the interpretation of law wherever necessary. The officers are also supplied every quarter by DI(IT&A) with copies of important objections raised by Revenue/Internal Audit parties.

[Ministry of Finance (Department of Revenue) O.M. No. 236/431/72-A&PAC—I dated 17-2-1977]

Recommendation

Since the object of this additional levy was 'to curb excessive investment in urban property which has been rising rapidly in value due to a variety of reasons', the Public Accounts Committee (1972-73) had, in paragraph 2.60 of their 88th Report (Fifth Lok Sabha), *inter alia*, desired that a review should be conducted to find out how far the objective of this fiscal enactment had been achieved. This recommendation had also been reiterated by the Public Accounts Committee (1973-74) in paragraph 1.21 of their 118th Report (Fifth Lok Sabha) wherein the Committee had requested Government to give further consideration to this issue. More than two years have elapsed since then and the Committee would like to be apprised of the steps, long overdue, taken in pursuance of this recommendation. It requires to be stressed that the findings of the review could be meaningfully utilised for the implementation of economic measures envisaged by the country's present national policy.

[S. No. 48 (para No. 6.18 of Appendix IV to 226th Report on Wealth-tax of the Public Accounts Committee (1976-77) (Fifth Lok Sabha)]

Action Taken

The Finance Minister in his Budget Speech, 1976-77 had stated that the additional Wealth-tax currently levied in respect of urban lands and buildings had lost its rationale in vie wof the ceiling on urban lands and other measures in regard to urban property. In view of the above and withdrawal of the additional tax on urban lands and buildings, no further study appears to be necessary to find out how far the objective of this fiscal enactment had been achieved. The results of the earlier study were forwarded to the Committee in reply to recommendation contained in para 1.21 of

118th Report, *vide* F. No. 231|5|72-A&PAC-I 326|3/72-WT dated 8-3-1976.

[Ministry of Finance (Department of Revenue) O.M. No. 236/431/72-A&PAC-I dated 17-2-1977]

Recommendation

The Committee have been informed that though the Department had accepted the Audit objection and initiated penalty proceedings, these have been stayed by the High Court on a writ petition filed by the assessee. The Committee would like to know the latest position of the case and the steps, if any, taken by the Department to get the stay vacated.

[Sl. No. 50 (para No. 7.13) of Appendix IV to 226th Report of Wealth-tax of the Public Accounts Committee (1976-77) (Fifth Lok Sabha)]

Action Taken

The proceedings initiated under section 18(1)(a) have been held to be without jurisdiction by the Andhra Pradesh High Court and the writ Petition has been allowed in its judgement dated 8-8-1974.

[Ministry of Finance (Department of Revenue) O.M. No. 236/806/72-A&PAC-I dated 17-2-1977]

Recommendation

To a query whether the Central Board of Direct Taxes would consider having a general review conducted with a view to ensuring that in such cases of belated filing of returns, either the penalty proceedings had been initiated or necessary reasons for the non-levy of penalty had been recorded in the files, the Department have replied that no purpose will be served by a general review in view of the fact that the issue of penalty notices in such cases after the completion of the assessment may not be sustained. The Committee would, in this context, invite the attention of the Government to the legal position as enunciated by the Madras High Court in the case of M. Ramaswamy Pillai *Vs.* State of Madras (22 STC 224), according to which where an assessment order is silent, on the question of penalty, the presumption in law being that the discretion has been exercised in favour of the assessee, this would by itself amount to an order. Thus, if the order is prejudicial to revenue, it can be revised by the Commissioner in exercise of his revisionary jurisdication. The Committee would also draw attention to the fact that even in the present case, penalty proceedings had been initiated only after the assessment had been completed, on the omission being pointed out by Audit. In the circumstances, the Committee are unable to accept the Departments contention in this regard and are of the view that such a general review would

be worthwhile. However, having due regard to the difficulties likely to be involved in conducting a review of a large number of assessments spread over several years, the Committee would recommend that, in the first instance, the review may be confind on a selective basis, to cases where the net wealth exceeded Rs. 10 lakhs during the past three assessment years.

[Sl. No. 51 (para 7.14) of Appendix IV to 226th Report of the PAC (Fifth Lok Sabha]

Action Taken

The question whether in a case in which the Wealth-tax Officer has omitted to initiate penalty proceedings the Commissioner of Income-tax can pass an order under section 25(2) of Wealth-tax Act setting aside the assessment and directing the Wealth-tax Officer to make a fresh assessment, was referred to the Ministry of Law. A copy of their advice is attached Annexure. In view of the legal position expressed in the opinion of the Ministry of Law, no useful purpose is likely to be served by carrying out the suggested review.

[Ministry of Finance (Department of Revenue) O.M. No. 236/806/72-A&PAC-I dated 17-2-1977]

ANNEXURE

COPY OF LAW MINISTER'S ADVICE

Before penalty proceedings can be initiated it is necessary that the concerned authority is satisfied that the assessee has failed to furnish return or failed to comply with the notices or there is a concealment of income. The said satisfaction must be arrived at during the assessment proceedings. Once the assessment proceedings are over, the concerned authority becomes *functus officio*. Further, the authorities whose satisfaction is required under the Act are Income-tax Officer and the Appellate Assistant Commissioner. The Commissioner of Income-tax is not a competent authority to arrive at any such satisfaction. Therefore, if the order of assessment does not suffer from any infirmity, the Commissioner of Income-tax is not competent to take action under section 263 and to direct the Income-tax Officer to initiate penalty proceedings. The failure on the part of the ITO to initiate penalty proceedings may be a mere case of omission. Such an omission will not give power to the Commissioner of Income-tax to say that the order of the Income-tax Officer is prejudicial to revenue. We, therefore, feel that the opinion expressed by the Ministry earlier needs no change.

It may, however, be added that if in a case the Commissioner of Income-tax (not because the ITO has failed to initiate penalty

proceedings) finds that the order of assessment passed by the ITO is prejudicial to revenue and the same is set aside, in such a case there will be no bar to the ITO initiating penalty proceedings if he is satisfied in the re-assessment proceedings that the case is fit for imposing penalty and the limitation is still available.

Recommendation

For lack of time, the Committee have not been able to examine some of the paragraphs relating to Wealth-tax included in Chapter IV of the Reports of the Comptroller & Auditor General of India for the years 1971-72 and 1972-73, Union Government (Civil), Revenue Receipts, Volume-II, Direct Taxes. The Committee expect however, that the Department of Revenue and Banking and the Central Board of Direct Taxes will take necessary remedial action in these cases, in consultation with Statutory Audit.

[Sl. No. 52 (Para 7.15 of Appendix IV to 226th Report of the PAC (1976-77) (Fifth Lok Sabha) Wealth-tax]

Action Taken

The general practice is that every audit objection is settled in consultation with the Comptroller and Auditor General of India and any recommendation/observation made by the Comptroller and Auditor General is examined and the results intimated to the C&AG of India.

[Ministry of Finance (Department of Revenue) O.M. No. 241/46/76-PAC-I dated 17-2-1977]

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS REPLIES TO WHICH HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation

The Committee regret the lack of adequate care on the part of the Wealth Tax Officers in the fourteen cases of mistakes in the allowance of basic exemption commented upon by Audit and involving a tax effect of Rs. 36,155. It is surprising that though the initial exemption (Rs. 1 lakh of net wealth admissible in the case of an individual and Rs. 2 lakhs in the case of a Hindu Undivided Family) is in-built in the rate of schedule itself, the assessing officers should have allowed the exemption in the separate processes with the result that the exemption was conceded twice. As the assessing officers are expected to have a clear grasp of the taxation Laws and keep themselves abreast of the changes and amendments made from time to time the Committee cannot accept the plea that such mistakes could be attributed to the assessing officers continuing to follow the old practice of allowing the initial exemption in the assessment orders despite the change in the rate schedule. The Committee have, in the past, repeatedly commented on such lapses. It remains to be seen how far with the steps now stated to have been taken by the Department, such mistakes would be eliminated. (Para 1.15).

The Committee would also like to know whether these cases were checked either by the Inspecting Assistant Commissioner or by Internal Audit and, if not, the reasons therefor. (Para 1.15).

The Committee are concerned that the mistakes in three of the aforesaid cases occurred in the charge of the same Commissioner of Wealth Tax and that the Commissioner had apparently not considered it necessary to review generally the calculations of tax in these wards. As the mistake is one of principle and the old practice of allowing the initial exemption in the assessment order seems to have continued unchecked for quite some time, the Committee emphasise the importance of such a review. The Committee, however note that with reference to the eight cases commented upon in Audit Report for the year 1971-72 a review of cases where the assessed wealth exceeds Rs. 10 lakhs has been ordered with a view to correcting similar mistakes. Much time has lapsed since then

and the Committee expect that the proposed review has been completed by now and its outcome should be intimated early.

[S. Nos. 1, 2 & 3 (Para Nos. 1.14, 1.15 and 1.16 of PAC's Report (1976-77) (Fifth Lok Sabha)—Appendix-IV)]

Action Taken

The cases were not checked either by the Inspecting Assistant Commissioner of Income Tax or by the Internal Audit Parties. A statement showing the reasons for the same is attached as Annexure 'A'.

When the mistakes of the nature pointed out by the Audit came to the notice of the Board, Instruction No. 615 dated the 13th September, 1973 (F. No. 328|105|72-WT) was issued directing the Commissioners of Income Tax to ensure that the practice of taking the basic exemption of Rs. 1 lakh or Rs. 2 lakhs (for individuals and Hindu undivided families respectively) while computing the net wealth itself should be stopped forthwith for and from assessment year 1972-73. The Commissioners of Income-tax were also directed to view all assessments of net wealth over Rs. 10 lakhs completed during the financial years 1971-72 and 1972-73 to see whether any such deductions had led to incorrect calculations of tax. However, due to certain reasons the review directed earlier was stopped in April, 1974. Subsequently the Board *suo moto* ordered a similar review for assessment year 1973-74 in August, 1974. Out of 1433 cases reviewed, incorrect computation was detected only in 42 cases with net tax effect of Rs. 1,55,137|- (overcharge). On the basis of the results of review for assessment year 1973-74, it may be assumed that the tax involved in the cases covered by the review for assessment year 1971-72 would also be not very material and would not be commensurate with the time and labour involved in the exercise.

[Ministry of Finance (Department of Revenue) O.M. No. 236/904/73—A & PAC-I dated 28-2-77]

ANNEXURE—'A'

Statement showing whether the cases were checked either by I.A.C. or I.A.P. if not, the reasons therefor

	I.A.P.	I.A.C.
1. Shri C. Sambasivam (HUF) 2. Shri S. Senthil Kumar 3. Shri V. T. Krishnamurthy (HUF) 4. Shri V. P. Thirumurthy (indl.) 5. Kum. V. V. Thirukamalai. 6. Kum. V. P. Thirulakshmi	No. These cases, being non-priority ones, were not checked by the Internal Audit.	No.*

*Under the existing instructions, the IAC is not required to check such cases personally.

7. Shri Madanchand Sowcar (HUF)	No. The files could not be made available to IAP when they visited the Circle, as they were sent to AAC for appeals.	Do.
8. Shri R. V. G. K. Ranga Rao.		
9. Smt. Sushilaben Shantilal Patel.	No. Being a non-priority case, the IAP did not take up for audit.	Do.
10. Shri V. N. Sunder	No. Due to paucity of staff the cases cold not be taken up before Revenue Audit took up the audit.	
11. Mrs. M. Malathy Amma.	No. Being non-priority cases, the IAI did not take up for audit.	Do.
12. Shri G. R. Doshi.	Do.	Do.
13. Shri Thoma P. Koshi.	Do.	Do.
14. Shri Ooman P. Koshi.	Do.	Do.

Recommendations

The Committee take a serious view of the number of avoidable mistakes in the computation of the net wealth that have come to notice in this case. According to various judicial pronouncements, the right to receive compensation for property acquired by Government also constitutes properly falling within the definition of 'asset' in the Wealth Tax Act, and its value has to be computed for inclusion in the net wealth. Again, while computing the net wealth of an assessee for purposes of assessment to wealth-tax, the amount payable to the assessee as compensation fixed is liable to be included even though the amount is payable only in future instalments or at a future date. In this particular case, the Committee are concerned to note that though the assessee became entitled to compensation for the resumption of his estate right from the assessment year 1963-64, when the estate was acquired, and the compensation amount had aslo been correctly included in his net wealth for the assessment years 1963-64 to 1965-66 by the concerned officers, their successors omitted to include this asset in the subsequent assessment for the years 1966-67 to 1970-71. Further, 5 acres of plantation lands owned by the assessee, which were exempt from wealth-tax only upto the assessment year 1969-70, had not been included in the wealth for the assessment year 1970-71. In the same assessment year, the value of the shares owned by the assessee which were quoted on the stock exchange, and, therefore, should have been assessed at the prevailing market price on the relevant valuation date, had been incorrectly valued on the basis of the break-up method, which is only applicable to unquoted equity shares, in the case of shares in one company and at the lower rate at which

the shares had been subsequently sold in the case of shares held in another company. That such mistakes should have occurred in an 'A' ward which is normally manned by senior officers causes some uneasiness to the Committee and is a sad reflection on the calibre of the officials assigned to an important ward. The Committee trust that Government would analyse carefully the reasons for the recurrence of such simple but costly mistakes and take appropriate remedial measures. [Para 3.68].

The Committee would like to know if these assessments were checked in Internal Audit. In case the mistakes had gone undetected even in Internal Audit, the failure should be suitably dealt with. [Para 3.69]

[S. No. 32 & 33 (Para No. 3.68 & 3.69) of Appendix IV to 226th Report of the PAC (1976-77)].

Action Taken

The Ward in which this case was assessed for assessment year 1970-71 was manned by a senior Class I Officer. The mistake occurred due to failure on the part of the Income Tax Officer to properly interpret the relevant facts and law to arrive at a correct conclusion. The explanation of the concerned officer was not accepted and he has been cautioned to be more careful in future.

2. Necessary instructions have already been issued by the Board regarding the assigning of different circles/wards to Class I (Senior Scale), Class I (Junior Scale) and Class II Officers. The circles and wards have accordingly been classified and officers of appropriate seniority are being posted to the extent feasible.

3. The assessments for assessment year 1969-70 and 1970-71 were not checked by the Internal Adit Party as the relevant records were not made available to them. Assessments for the assessment years 1966-67 to 1968-69 had been checked by the Internal Audit Party but the mistake went undetected. No action was, however, taken against the Internal Audit Parties because the mistakes pointed out did not relate to arithmetical errors or calculation as the functions of the Internal Audit Parties were restricted to these areas only at that time. The scope of check by the Internal Audit Parties has since been extended to cover all aspects of cases. Incidentally, it may also be mentioned that the Revenue Audit did not point out the mistakes during the course of an earlier audit carried out by them in July, 1970.

[Ministry of Finance (Department of Revenue) O.M. No. 236|608|72—A & PAC-I dated 17-2-1977].

CHAPTER V

RECOMMENDATIONS|OBSERVATIONS IN RESPECT OF WHICH GOVERNMENT HAVE FURNISHED INTERIM REPLIES

Recommendation

This case and other similar cases reported in the present and earlier Audit Reports only serve to reinforce the Committee's earlier conclusions that tht omission to correlate the wealth-tax assessments with the income-tax assessments is fairly widespread and that the periodical instructions issued in this regard by the Central Board of Direct Taxes have had little or no effect on the assessing officers. The Committee note, in this connection, that certain measures aimed at ensuring better coordination in matters connected with the administration of Income-tax and Wealth tax have been taken and are proposed to be taken by the Central Board of Direct Taxes. While the Committee wish success to these endeavours, they would reiterate once again an earlier suggestion of theirs contained in paragraph 1.89 of the 117th Report (Fourth Lok Sabha) and paragraph 121 of the 25th Report (Fifth Lok Sabha) that Government should examine the feasibility of prescribing an integrated tax return for income-tax and wealth-tax for assessees liable to both the Taxes so as to ensure a more effective coordination in the administration of these two direct taxes.

[Sl. No. 16 (Para 2.27) of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha)].

Action Taken

Action taken report may kindly be awaited.

[Ministry of Finance Department of Revenue) O.M. No. 236|425|72-A & PAC-I dated 10-1-1977].

Recommendation

The Committee have been informed that the non-agricultural lands in question had been purchased by the assessee in 1942 and continued to be in his possession till they were acquired by Government on 19 March, 1962, in the accounting year relevant to assessment

year 1962-63, when an initial compensation of Rs. 4,36,547 had been awarded to the assessee. The assessee, not being satisfied with the quantum of compensation had succeeded on appeal, in obtaining an additional compensation of Rs. 2,34,856 which was awarded in the accounting year relevant to the assessment year 1967-68. This right to extra compensation as an asset was not included in the wealth-tax assessment from the year 1962-63 and it is only subsequently that the assessments for the years 1964-65 to 1967-68 have been reopened, as a preventive measure, under Section 17(1)(a) of the Wealth Tax Act for making good this omission, while action under this Section for the assessment years 1962-63 and 1963-64 is stated to be barred by limitation. The Committee find that the nature of the 'right to extra compensation' had come up for consideration before the Andhra Pradesh High Court in the case of Khorshed Shapoor Chenai Vs. ACED (90 ITR 47) and that, in its judgement dated 7 November, 1971, the Court had, *inter alia*, held that the 'right to receive compensation and the 'right to extra compensation' are one and indivisible and that the right to receive market value as compensation for the lands acquired by the Government under the Land Acquisition Act, 'is not an illusory right, but a real right to property'. The Court had also held that the right to extra compensation accrued to the assessee as soon as the lands were acquired and not when the Civil Courts pronounced their orders. In view of this clear exposition of the nature of this right by the High Court, the very fact that the assessee in the present case had not accepted the original award but had gone in appeal shows that, according to the assessee, the right had a greater value than the value initially computed by the land acquisition authorities. This additional compensation should have also been, therefore, treated as a valuable right from the assessment year 1962-63 onwards and accordingly assessed to tax till the amount was received by the assessee and included in his wealth.

[Sl. No. 17 (para No. 2.28) of Appendix IV to 226th Report of the PAC (1976-77) (Fifth Lok Sabha)].

Action Taken

The reopened wealth-tax asstts for the years 1964-65, 65-66 & 66-67 were completed in March 74 raising additional demand of Rs. 2793, Rs. 3033 & Rs. 6728 respectively. These additional demands were collected by way of adjustment. The reassessment for 67-68 is pending.

[Ministry of Finance (Department of Revenue) O.M. No. 236|425|72—A & PAC—I dated 10-1-1977].

Recommendation

This relates to the under-assessment of wealth to the tune of Rs. 11.74 lakhs pointed out by Audit in two cases. In both cases the lands owned by the assessees had been initially treated as agricultural land and exempted from wealth-tax. Though the assessing officers themselves had subsequently come to the conclusion that the lands were, in fact, non-agricultural and hence taxable, the assessments already completed were not reopened to subject these assets to wealth-tax. This is surprising. What causes further perturbation is that in the first case, the lands continued to be treated as agricultural and, therefore, exempted from tax even in the assessments for the years 1965-66 to 1967-68 which were completed after the character of the land had been determined as non-agricultural by the officer himself. The lapse has, as usual, been attributed to carelessness. The Committee are constrained to observe that such carelessness at the cost of the exchequer is in excusable and must cease. (Para 3.20).

The Department contend that all the land in an urban area under the jurisdiction of a Municipal Corporation can be *ipso facto* treated as non-agricultural land and that it was only when non-agricultural development took place in the area in which the land was located that the land ceased to be agricultural land and become non-agricultural and liable to tax. It has, therefore, been argued that even that land, was treated as non-agricultural in a particular year, it did not automatically follow that it bore the same character in the previous years also. While this may conceivably be so, the Committee find, at least in respect of the first case, that the land had been held to be non-agricultural right from the assessment year 1957-58 both by the assessing officer and the Appellate Assistant Commissioner. Besides, the assessee's representative had also given up, at the time of hearing of the appeal which related to the assessment years 1957-58 to 1958-59, the earlier contention that the land was agricultural, and had only contested its valuation. The Committee are, therefore, inclined to take a serious view of the lapse and desire that appropriate action should be taken against the assessing officer for his negligence. (Para 3.21).

It appears peculiar that, in this case, the assessee, after relinquishing before the Appellate Assistant Commissioner his earlier claim that the land was only agricultural, went up on appeal before the Tribunal contesting the decision in regard to the character of the land. Whether even after giving up a particular contention the assessee could raise it again on appeal may or may not be a matter for legalistic hair-splitting, but such ingenious hurdles in the way of the tax administration should be examined and removed.

The Committee will be surprised if the appeal has not yet been disposed of by the Tribunal and in any case would like to know how it stands at present. (Para 3.22).

The Committee note also in this case an omission to include in the assessee's wealth, for the assessment years 1966-67 and 1967-68, debts valued at Rs. 2,36,985 after having rejected the assessee's plea that they were bad debts and, therefore, exempt. The Commissioner it appears, has been asked to look into the Wealth Tax Officer's explanation and decide if any action was necessary. The Committee would like to know whether the Officer's explanation has been found to be satisfactory. (Para 3.23).

As regards the second case reported in the Audit paragraph, an investigation undertaken, at the Committee's instance to determine whether the assessee's land had been valued by the Municipal Corporation for purposes of levy of local taxes, had disclosed that the land in question was an open site, the rental value of which had been estimated as Rs. 15,282, bearing an annual municipal tax of Rs. 4,529 and that though demand notices appeared to have been issued annually, no municipal tax had been paid. The Committee have learnt that the value of the property, computed on the basis of the municipal tax, would not be less than Rs. 2 lakhs, while it had been assessed for wealth-tax purposes at a much lower value. The Wealth-tax Officer had, therefore, been directed to make a thorough enquiry to ascertain the true position and come up with proposals under Section 25(2) or Section 17(1) of the Wealth Tax Act in case there had been an under assessment. A similar enquiry, was also proposed to be made by the Central Board of Direct Taxes in the first case. More than two years have elapsed and the Committee presume that these enquiries have been completed by now and conclusive action taken. The Committee would like to be informed of the precise action taken to recover the Government dues as also the general instructions which may have been issued by Government to correctly assess the value of such lands falling in the jurisdiction of municipalities. (Para 3.24).

[S. No. 21 to 25 (Para Nos. 3.20 to 3.24) of Appendix-IV to 226th Report of P.A.C. (1976-77) (Fifth Lok Sabha)]

Action Taken

The recommendations made by the Committee in the above paras relate to the cases of two assessees, namely, Shri Subhakaran Gangabishen (HUF) and Shri Raja Ramdev Ram. In the first case the Committee have desired to know—

(i) the present position of the assessee's appeal before the Tribunal for the assessment years 1963-64 to 1967-68 on the

question of nature of land, a point which was conceded by the assessee in respect of assessment years 1957-58 and 1958-59.

(ii) action taken against the assessing officer for his omissions in this case.

(iii) action taken by the Government to recover the dues as a result of the proposed action u|s 25(2)|17(i) of the Wealth Tax Act.

In respect of the second case, the Committee desire to know the result of the action u|s 25(2)|17(1) taken, if any.

The Committee further desire the Department to take steps to ensure that the assessee is not able to contest a point before the Tribunal if he had conceded the same point before the Appellate Assistant Commissioner. The Committee also want to be informed about the general instructions issued by the Government to correctly assess the value of such land falling in the jurisdiction of municipalities.

2. (i) In the case of M|s. Subhakaran Gangabishen HUF, the Income Tax Appellate Tribunal decided the appeals on 17-2-1975 holding for the assessment years 1963-64 to 1967-68 that the Marredpally property was agricultural land and therefore should be exempted from Wealth-tax. Both the Department and the assessee have filed reference applications which are pending before the High Court.

(ii) The Income-tax Officer was asked to explain his omission to include the value of the plot of land in the assessee's net wealth. His explanation was examined by the Addl. Commissioner of Income-tax, West Bengal-I, Calcutta and was found to be not acceptable. The Income-tax Officer was cautioned to be more careful in future.

(iii) In the first case the valuation of the Marredpally land has been made by the Wealth Tax Officer for assessment years 1963-64 to 1967-68 after taking into consideration the Valuer's report filed by the assessee for the year 1968-69 valuing the land at Rs. 85,000. Besides, the re-assessments having been made on 7-8-1972 and the matter being pending in reference before the High Court, the question of the Commissioner of Income-tax exercising any revisionary

action, at this stage u|s 25(2) of the Wealth-tax Act was not considered necessary.

In the case of Shri Raja Ramdev Ram also, the assessments for 1963-64 to 1967-68 have been confirmed by the Appellate Assistant Commissioner and the assessee has not gone in second appeal to the Tribunal. The matter has thus become final. In the light of the above, the question of the Commissioner of Income-tax taking any revisionary action was not considered necessary.

3. The question as to whether even after giving up a particular contention the assessee could raise it again on appeal is under consideration of the Department.

4. As regards the general instructions issued by the Government to correctly assess the value of such lands falling in the jurisdiction of Municipalities, the decision of the Supreme Court dated 6-8-1976 as to what are agricultural and non-agricultural lands, given in the case of CWT *Vs.* Officer-in-Charge (Court of Wards) Paigah in Civil Appeal Nos. 2552-2556 of 1969 has been circulated to all the Commissioners of Income-tax for bringing it to the notice of all officers in their respective charges for guidance. Regarding the question of issuing general instructions on the valuation of land in the municipal areas, the matter is under consideration of the Department.

[Ministry of Finance (Department of Revenue) O.M. No. 236| 616.72—A & PAC—I dated 19-3-1977].

Further Information

Kind attention of the Committee is invited to para 3 of Action Taken note on paras 3.20 to 3.24 sent under cover of O.M. of even number dated the 19th March 1977.

2. The question whether even after giving up a particular contention the assessee could raise it again in appeal, has been examined in consultation with the Ministry of Law. A copy of the advice of the Ministry of Law is enclosed as annexure. No amendment of the law is considered necessary.

3. As regards the observations made in the concluding sentence of para 4.22, kind attention of the Committee is invited to para 2(i) of Action Taken note referred to in para 1 above.

[Ministry of Finance (Department of Revenue) O.M. No. 236| 616|72-A & PAC-I dated 10-10-1977].

ANNEXURE

Ministry of Law, Justice & Company Affairs (Department of Legal Affairs) Advice (B) Section.

The PAC (5th Lok Sabha) in its 226th Report had occasion to go into a case where land held by an assessee was treated as non-agricultural land for the assessment year 1957-58 onwards, but was held in appeal for the assessment years 1963-64 to 1967-68 to be agricultural. As it was held to be agricultural land it was exempt from wealth tax. In para 3.22 of its Report, the Committee observed:

> "It appears peculiar that in this case the assessee after relinquishing before the A.A.C. his earlier claim that the land was only agricultural went up on appeal before the Tribunal contesting the decision in regard to the character of the land. Whether even after giving up a particular contention the assessee could raise it again in appeal may or may not be a matter for legal hair-splitting, but such ingenious hurdles in the way of tax administration should be examined and removed."

The C.B.D.T. have posed two questions for our advice in the matter, namely:—

(i) whether under the existing law the assessee can raise an issue again in appeal in a subsequent year after giving up that particular contention in an earlier year before an income tax authority, and

(ii) whether after declaring the land as agricultural in wealth tax returns, an assessee can change his stand on appeal proceedings?

I shall examine the two questions seriatim.

2. In *I.R.* Vs. *Sneath*—(17 T.C. 149, 163 C.A.), Hanworth M.R. said:

> "The assessment is final and conclusive between the parties in relation to the assessment for a particular year for which it is made. No doubt a decision reached in one year would be a cogent factor in the determination of a similar point in the following year but I cannot think that it is to be treated as an estoppel binding upon the same party for all years."

The Supreme Court in *C.I.T.* Vs. *Brijlal Lohia and Mahabir Prasad Khemka*—84 ITR 273 at p. 277—had observed:

> "The fact that in the earlier proceedings the Tribunal took a different view of those deeds is not a conclusive circumstance. The decision of the Tribunal reached during those proceedings does not operate as *res judicate*. As seen earlier, there was a great deal more evidence before the Tribunal during the present proceedings relating to those gifts."

It would be seen there from that the decision in one particular year cannot be conclusive for the subsequent years, and have no binding effect against or in favour of an assessee in a subsequent year, though they are relevant and in some cases may even constitute cogent evidence.— See also *Investment* Vs. *C.I.T.*—77 ITR 533, 536 (S.C.). In the recent case of *Javeri Bhai Patel* Vs. *C.I.T.* Bihar—103 ITR 728—the Tribunal held in 1960 that gifts by entries in books of account of a firm were not complete. That finding was with reference to the assessment year 1954-55. In respect of re-assessment proceedings for assessment years 1958-59 and 1959-60, the High Court, following the Supreme Court decision in *Brijlal Lohia's case* (Supra) held that the doctrine of *res judicate* does not apply to income-tax proceedings. The fact that in an earlier proceeding the Tribunal took a different view of the gifts was not a conclusive circumstance and the decision of the Tribunal reached in those proceedings did not operate as *res judicate*.

3. In view of what is aforesaid, the position seems to be fairly clear that the assessee is not prevented from raising an issue again in appeal in a subsequent year. But it is equally clear that normally a finding arrived at would not be disturbed in a subsequent proceedings, unless fresh facts come to light or the earlier decision had been rendered without taking into consideration certain aspects of the case. Thus, the answer to Question No. (i) of the referring note is in the affirmative.

4. The Punjab & Haryana High Court in *Vijaykumar Jain* Vs. *C.I.T.*—99 ITR 349—held that the Tribunal was not justified in refusing to consider the validity of the notice issued under section 148 of the Act even though the ground challenging the same had not been pressed before the A.A.C. In that case, the assessee gave up certain grounds of appeal before the AAC but tried to agitate them before the Tribunal in second appeal. The Tribunal refused to deal with those grounds for the reason that they were specifically given up by the assessee before the AAC. The High Court held

that the assessee is entitled to urge before an appellate authority any ground which he had given up before the AAC.

5. The Gujarat High Court in C.I.T. Vs. *Karamchand Premchand Ltd.*—74 ITR 254—(followed in *panchura Estate* Vs. *Government of Madras* 87 ITR 698) held that if a point arising in an assessment order is not taken in appeal by an assessee and is therefore not dealt with by A.A.C., the assessee cannot raise that point before the Tribunal. The main ground of the judgement is that the assessee cannot be said to be "aggrieved" by the order of the A.A.C. on a point which was not agitated before him. In their Commentary on the Income-tax Law Kanga and Palkhiwala (7th edition), the learned authors have commented on the correctness of the Gujarat High Court decision. In the view of the learned authors, the assessee could raise before the AAC for the first time a point which he has not raised before the Income-tax Officer and which was not dealt with in the assessment order. The correct position of the law according to the learned authors is that both the Apellate Assistant Commissioner and the Tribunal have jurisdiction in every case to entertain a ground which was not urged before the authority or the order appealed against but the appellate authorities judicially exercising their discretion may or may not entertain the new ground.

6. In this connection, attention is invited to Rule 46-A of the Income-tax Rules, 1962 wherein production of additional evidence before the AAC is permissible in certain circumstances. If the AAC finds that the assessee failed to adduce evidence before the ITO and seeks to take advantage of such evidence before him for the first time without sufficient cause, then, he may not entertain the plea.

7. In *M. K. Mohammed Kunhi* Vs. *C.I.T.* (1973) 92 ITR 341, the assessee claimed in the course of estate duty proceedings that certain investments were made by him with his funds and not by his father Thereupon the ITO started reassessment proceedings to assess the investments as income from undisclosed sources for the assessment years 1954-55 and 1955-56 and the assessee claimed in these proceedings that the investments were made by his father, (a stand contrary to the one he had taken in the estate duty proceedings). On reference, the High Court held that the rule of estoppel does not apply of cases of successive assessments. It applies to the same assessment. The assessee will be bound by his earlier representation of facts and will not be allowed to go back on it at a subsequent stage of the same assessment.

8. In this connection, attention is invited to the decision in *Kamala Mills Case*—(57 ITR 643). In that case, the Supreme Court held that if a dealer who had returned certain sales and allowed them to be taxed found on a later decision of the Court that the same was not taxable, he could file an appear and ask for condonation of delay.

9. It would therefore appear that so long as an assessee could show that he took a particular stand before the ITO on the basis of wrong understanding either of facts or of law, it cannot be said that he is prevented from changing his stand and agitating the assessment made against him before the appellate authorities.

10. In view thereof, the answer to Question No. (ii) is also in the affirmative, so long as the assessee can show a valid reason for shifting his stand.

11. As the reference arose out of the Report of the Public Accounts Committee, the file is submitted to the law Minister.

Sd|- *Secretary*.
20-4-77

Sd|- (M. B. RAO),
20-4-77

Sd|- M|J & CA
23-4-77

(Department of Revenue & Banking Shri A. S. Thakur).

U.O. No. 21977|77 Advice-B, Ministry of Law, Justice & Co. Affairs dated 27-4-77.

Recommendation

The Committee consider it regrettable that though the officer assessing the trust in this case had informed the Wealth Tax officer assessing the beneficiaries of the trust that, pursuant to the directions of the Central Board of Direct Taxes, no assessment of the wealth of the beneficiaries in the hands of the trustees was being made from the assessment year 1965-66 onwards, the shares of the two beneficiaries in the trust were not included in their wealth. After giving credit for the taxes paid on behalf of the assessees by the trust and the taxes deducted at source, the short-levy of tax on account of this omission works out to Rs. 70, 174 in respect of both the beneficiaries. It is evident that the relevant assessments had been completed without adequate scrutiny of the earlier records. While the Committee note that the concerned officer has been warned to be more careful in future, they have a feeling of disquiet over the recurring cases of such negligence year

after year. As pointed out elsewhere in this Report and also repeatedly emphasised in the past, only adequate deterrent steps can prevent such recurrence. The Committee urge the Central Board of Direct Taxes to analyse the reasons for such repeated mistakes and implement remedial measures. (Para 3.54).

Incidentally, the Committee observe that in cases where assessments of the beneficiaries of a trust are made on the trustees under Section 21(1) of the Wealth Tax Act, the tax burden would be comparatively less than what it would be if the assessments were made directly in the hands of the beneficiaries, under Section 21(2) of the Act. In the former case, the beneficiaries share of wealth would suffer tax only at the average rate whereas in the latter case, the same wealth would be subject to tax at the highest slab rate applicable to the total net wealth of the beneficiaries. As an option is available to the Wealth Tax Officer to complete such assessment under either of the Sections, the Committee would like to know whether any guidelines have been laid down by the Board specifying the circumstances in which the respective provisions are to be invoked by the Wealth Tax Officers. The Committee feel that this ought to be done in case this has not already been done. [Para 3.56].

Sl. No. 29 and 31 (Paras No. 3.54 & 3.56) of Appendix IV to of PAC (1976-77) (Fifth Lok Sabha)].

Action Taken

The question of taking remedial measures to prevent recurrence of such mistakes and laying down suitable guidelines are under consideration of the Department.

[Ministry of Finance (Department of Revenue) O.M. 236| 451/72-A&PAC-I dated 25-2-1977]

Recommendation

The Committee have been informed that after adjusting the taxes already paid on behalf of the beneficiaries by the trust, there would still be a balance demand of Rs. 16,518 and that while the modalities for adjusting the amount paid by the trust were being worked out, orders of attachment in respect of Rs. 16,518 were being finalised. The Committee trust that this protracted exercise has been completed by now and tax short--levied recovered in its entirety.

[Sl. No. 30 (Para No. 3.55) of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha)].

Action Taken

Information regarding recovery of tax may kindly be awaited.

[Ministry of Finance (Department of Revenue) O.M. No. 236|451|72—A&PAC-I dated 25-2-1977].

Recommendation

This is yet another instance of omission to include in the wealth of an assessee the compensation awarded by the State Government for resumption of an estate, resulting in short-levy of tax to the extent of Rs. 60,000. It is surprising that though in another case relating to payment of additional compensation which had been assessed in the same Commissioner's charge, the Department had taken the view that the claim to additional compensations was property and hence liable to wealth-tax, a different stand should have been taken in the present case that the claim for enhanced compensation was 'only a matter of mere chance'. Happily, however, the Finance Secretary conceded during evidence that he was unable to support this stand taken by the Department and has accepted the view, which has also been confirmed by various judicial pronouncements, that the value of the land as on the date of acquisition is to be reckoned with reference to the compensation finally determined by the appellate authorities. The Committee have also been informed that while assessment proceedings have been initiated, as a precautionary measure, for assessment years 1962-63 and 1963-64, re-assessment proceedings have been taken for assessment years 1964-65 and 1965-66. The Committee trust that these proceedings would have been completed by now and the additional tax due recovered. Suitable instructions may also be issued to the lower formations clarifying the correct legal position in this regard. [Para 3.85].

The Committee note that the interest allowed by the appellate authority in this case had been assessed to income-tax for the assessment years 1966-67, 1968-69 and 1969-70 and that the assessment for the year 1967-68, which had been reopened to include the interest, was pending. The Committee would like to be informed whether these reassessment proceedings have since then been completed and the tax due thereon recovered. [Para 3.86].

[Sl. Nos. 34 & 35 (paras 3.85 and 3.86) of Appendix IV to 226th Report of the PAC (1976-77) (Fifth Lok Sabha) Wealth-tax].

Action Taken

3.85. The wealth tax assessments for the years 1962-63 to 1968-69 have since been completed estimating the value of the right to

receive compensation with reference to the value of the land finally fixed. This has resulted in tax demand of Rs. 1,15,500 for all the assessment years under reference.

2. The Board has examined the matter and suitable instructions hav been issued to the field authorities *vide* Instructions No. 825 dated the 20th January, 1975 (Copy enclosed).

3.86. The Income-tax assessment for the year 1967-68 has since been completed resulting in tax of Rs. 15,233 which is covered by security offered by the assessee by way of fixed deposit receipts. However, the assessee's appeal against the assessment is pending before the AAC.

[Ministry of Finance (Department of Revenue) O.M. No. 236/605|72-A&PAC-I, dated 17-2-1977].

Instruction No. 825

F. No. 328/76/73-W.T.

Government of India

Central Board of Direct Taxes

New Delhi, the 20th January, 1975.

To

All Commissioners of Income-tax.

Sir,

SUBJECT: *Manner of computation of net wealth in case of acquisition of lands under the Land Acquisition Act.*

In cases where lands owned by an assessee are the subject matter of acquisition under the Land Acquisition Act and the compensation initially awarded for acquisition is enhanced by Court in reference proceedings, the following questions could arise in connection with Wealth-tax assessments of the assessee:

(i) How have the lands to be valued prior to their acquisition.

(ii) Whether the final compensation awarded can be treated as an asset from the date the assessee is dispossessed of the land or whether the right to receive the additional compensation is created only when the Courts pronounce their orders.

2. The Board are advised that prior to the date of actual acquisition, the lands in question can be valued on the basis of the compensation ultimately awarded by the Court. This is because in awarding compensation under the Land Acquisition Act, the court has *inter-alia* to determine its market value as on the date of the issue of notification under section 4(1) of the Land Acquisition Act, 1894 or the corresponding provision in the local Act. The determination of the court can, therefore, be regarded as good evidence of the market value of the land at about the relevant valuation date. Even after the preliminary notification under section 4 of the Land Acquisition Act is published in respect of the particular piece of land, the land would continue to belong to the owner. The date of notification under the said Section is material only because compensation for the land, if it is acquired, has to be determined on the basis of its market value as on the date. Later, after an enquiry the Collector makes an award and takes possession of the land which then vests in the Government free from all encumbrances. Till such vesting the assessee is the owner of the land. Hence the Department would be justified in valuing the particular asset, namely, the land in question on the basis of its market value as ascertained by the court after a full and elaborate investigation. That would be good evidence as to the market value of the land.

3. The position, however, changes, once possession of the land has been taken over by the Collector. Thereafter, the assessee ceases to own the land and the asset to be included is the right to receive compensation.

The amount of compensation awarded by the Collector would certainly be included in the net wealth of the party. If the party has claimed additional compensation and a reference has been made to the Court, the claim to the compensation may ultimately be awarded by the court is also an asset. Thus, what the Wealth-tax officer has to assess is the right to receive full compensation for the land and not the small amount initially awarded by the Collector and which is the subject matter of reference.

4. The right to receive market value as compensation for the lands which were acquired, came into existance as soon as the lands were acquired. That right is property. Further, it is an indivisible right. There are no two rights, one to receive compensation and the other to receive extra compensation. The only right is to receive compensation for the land acquired by the Government which is the fair market value on the date of acquisition. The

final compensation awarded is, therefore, assessible from the date of vesting of lands in the Government.

5. If the quantum of compensation awarded by Collector is in dispute and if Wealth-tax assessments have to be made before the compensation matter is finally settled by courts in reference proceedings. the claim to compensation made by the assessee may be included in the net wealth without any deduction for uncertainties. The demand in respect of the difference between the Collector's award and the assessee's claim may be kept in abeyance with proper safeguards for recovery of disputed tax sill the dispute is finally resolved in the courts.

Yours faithfully,

Sd/-

(V. D. WAKHARKAR)

Under Secretary.

CENTRAL BOARD OF DIRECT TAX

Recommendation

Incidentally, the Committee find that with the abolition of the distinction between 'earned' and 'unearned' income for the purpose of Income-tax with effect from assessment year 1969-70, the Finance Acts from 1969 onwards contained no definition of 'unearned income'. However, an 'Investment Company' has been defined, for the purposes of wealth-tax, in Rule IA of the Wealth Tax Rules as a company whose total income consists mainly of income which, if it had been the income of an individual would have been regarded as unearned income and in terms of the explanation below this clause, the expression 'unearned income' has the meaning assigned to it in the Finance Act of the relevant year. There being no definition of 'unearned income' in the Finance Acts from 1969 onwards, it is obvious that an investment company can no longer be identified as distinct from other companies for purposes of wealth-tax. On the attention of the Department of Revenue and Insurance being drawn by the Committee to this lacuna in the legal provisions, the Committee were told that the matter was being examined. There has been, since then, a long efflux of time and the Committee would like to know whether this examination has in fact been completed. More important, the Committee would like to know if necessary steps have been taken to plug the loophole in this regard as well as to firmly guide the assessing officers and remove all ambiguities.

[Sl. No. 38 (Para No. 4.21) of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha).]

Action Taken

The rules prescribing a definition of investment companies applicable for and from assessment years 1977-78 have already seen framed. The question whether these rules should be made applicable to assessment years 1969-70 to 1976-77 is under consideration.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 236/695/72-A&PAC—I dated 25-2-1977].

Recommendation

Companies which do not declare dividends presumably with a particular design, and accumulate their profits in the form of reserves also derive a tax advantage. The Finance Secretary was good enough to tell the Committee that he was reviewing all the rules relating to the valuation of shares when this aspect of the matter would also be examined. This was an important exercise and the Committee, still very much in the dark about it, would like to know whether it has been completed and what remedial measures have been adopted in pursuance thereof. [Para 4.22)]

[Sl. No. 39 (Para No. 4.22) of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha).]

Action Taken

The rules regarding valuation of shares are under examination of the Committee appointed for the purpose. The report of the said Committee is expected after April, 1977.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 236/695/72-A&PAC-I dated 25-2-1977.]

Further Reply

The report of the Study Group on the valuation of unquoted equity shares of companies had been received in the middle of August, 1977. The report is under consideration.

[Ministry of Finance (Deptt. of Revenue) D.O. No. 241/46/76-A&PAC-I dated 27-10-1977.]

Recommendation

The Committee are surprised that in spite of a clear decision of the Supreme Court that dividends received by the shareholders of a company which also had agricultural income was not to be treated as agricultural income in their hands but at income from other sources assessable under Section 12 of the Income-tax Act, 1922, the Wealth-tax Officers in this case had wrongly excluded the

value of shares held by five assessees in a company running an agricultural and stud farm from their net wealth on the assumption that these shares constituted agricultural property. Since the mistake is due to misapprehension on the basis of principle, the Committee desire that the correct legal position should be clarified to the assessing officers. The Committee would also like to know if any action has been taken against the officer concerned his lapse in the Present case.

[Sl. No. 43 (Para 5.29) of Appendix IV to 226th Report of PAC (1976-77) (Fifth Lok Sabha)—Wealth-tax.]

Action Taken

The issue of instructions clarifying the correct legal position on the point at issue is under hand.

The Wealth Tax Officer responsible for the lapse has been advised to avoid such mistakes in future.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 236/426/72-A&PAC-I dated 25-2-1977.]

Recommendation

According to the Audit paragraph an amount of Rs. 23,156 out of the total short-levy of Rs. 2,50,179 had been collected after Audit had pointed out the omission to levy the additional tax. Now that considerable time has elapsed since then, the Committee trust that the balance would have also been recovered by now. This needs to be confirmed.

[Sl. No. 46 (Para No. 6.16) of Appendix IV to 226th Report on Wealth Tax of PAC (1976-77) (Fifth Lok Sabha).]

Action Taken

The balance amount of short levy pointed out has since been collected except in four cases. A statement giving the reasons for non-recovery of demands in respect of these four cases out of twenty-four is attached, as Annexure.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 236/431/72-A&PAC-I, dated 17-2-1977.]

ANNEXURE

Name of the assessee	T. E. as per audit	Demand raised on rectification	Reasons for non-collection of demand
	Rs.	Rs.	
1. Sh. D. V. Appa Rao Bahadur.	26,408	26,408	Rs. 10,948 collected and the balance of Rs. 15, 460 was stayed which has been reduced to Rs 7551 as a result of reduction given by the appellate authorities. There were other arrears also amounting in all to Rs. 27,000 including the above as on 1-4-76. The assessee has filed a reference application against the above assessment which is pending. The assessee was allowed to clear arrear in quarterly instalments of Rs. 3,000 each. The assessee has accordingly paid two instalments of Rs. 3,000 each on 22-6-76 & on 29-9-76.
2. Official trustees of Late Chitra Devi.	13,968	13,968	The addl. demand could not be collected so far because permission of the Calcutta High Court, sought by the official Trustee, West Bengal to utilise the capital funds of the Trust for payment of tax, has not yet been accorded.
3. Mahammed Razual Haque. .	15,953	15,953	The addl. demands raised for a.y. 65-66, 67-68 & 69-70 have been reccovered. The addl. demand for asst. years 1966-67 & 68-69 of Rs. 2809 and Rs. 2689 are yet to be recovered.
4. P. M. Banerjee. .	10,142	10,142	The assessee has since died. Attachment notices have been issued for realisation of dues from the official liquidator High Court and Collector of Central Excise.

Recommendation

The Committee have also been informed that as a result of a review orders in September, 1971 to find out if any other completed assessments in such cases required rectification under section 35 of the Wealth Tax Act, omission to levy additional wealth tax amounting Rs. 3.25 lakhs had been detected in 105 cases and that rectificatory action in respect of 94 of these cases has since then been completed. The Committee would like to know whether the additional tax due in all those cases has been recovered

and whether rectificatory action has been completed in the remaining 11 cases and the tax due recovered.

[Sl. No. 47 (Para No. 6.17) of Appendix IV to 226th Report on Wealth Tax of PAC (1976-77) Fifth Lok Sabha).]

Action Taken

The assessments in six cases have since been revised and in five other cases assessments have been set aside. Out of these five cases, no additional wealth-tax in one case involving 4 assessments is leviable. The assessment in the fifth case is yet to be completed. The information regarding recovery of additional demand will be furnished shortly.

[Ministry of Finance (Deptt. of Revenue) O.M. No. 236/431/72-A&PAC-I, dated 17-2-1977.]

NEW DELHI;
March 15, 1978.

C. M. STEPHEN,
Chairman,
Public Accounts Committee.

Phalguna 24, 1899 (*S*).

APPENDIX

Statement of Conclusions Recommendations

Sl. No.	Para No. of the Report	Ministry concerned	Conclusion/Recommendation
(1)	(2)	(3)	(4)
1	1.4	Ministry of Finance (Department of Revenue)	The Committee hope that the final replies in regard to those recommendations to which only interim replies have so far been furnished, will be submitted to them expeditiously after getting them vetted by Audit.
2	1.18	-Do-	The Committee regret to note that these 14 cases where mistakes were detected by Audit were not checked either by the Internal Audit Parties or the Inspecting Assistant Commissioners. The Committee would like the checking by the Internal Audit Parties and supervisory level officers to be more effective and concurrent so that such mistakes are detected promptly and corrective steps taken at the earliest stage.

(1)	(2)	(3)	(4)
3	1.9	Ministry of Finance (Department of Revenue)	The Committee note that the Commissioners of Income-tax were directed to review all assessments of net wealth over Rs. 10 lakhs completed during the financial years 1971-72 and 1972-73 to see whether the practice of taking the basic exemption of Rs. 1 lakh or Rs. 2 lakhs (for individuals and Hindu Undivided Families respectively) while computing the net wealth itself had led to incorrect calculation of tax. However, due to 'certain reasons' the review directed earlier was stopped in April, 1974. They are unable to appreciate the view taken that as the net tax effect of review of cases completed during 1973-74 was comparatively small, the review of cases completed during 1971-72 and 1972-73 "would not be commensurate with the time and labour involved in the exercise." The Committee are of the view that mistakes pointed out by Audit earlier would have cautioned the Income tax Officers to avoid committing the same mistakes during 1973-74, as the results of the review of cases completed during 1973-74 would not be a true index of the mistakes committed during the earlier years. The Committee are of the view that if the review had been carried out it would have helped Government retrive losses of revenue before the remedial action got time barred.
4	1.12	-Do-	The Committee note that the wealth-tax assessments for the years 1964-65, 1965-66 and 1966-67 in the case were reopened and

			completed in March 1974. They hope that the reassessment for the year 1967-68 would also have been completed by now. They, however, feel that this mistake would have been avoided if there was coordination between the assessments of Income-tax and Wealth-tax. In this context they would like to reiterate the recommendation made in para 2.27 of the original Report (226th, Fifth Lok Sabha) to examine the feasibility of presenting an integrated tax return for income-tax and wealth-tax for assessees liable to both the taxes so as to ensure a more effective coordination in the administration of these two direct taxes.
5	1.15	-Do-	The Committee are constrained to note that whereas the assessments for the assessment years 1969-70 and 1970-71 were not checked by the Internal Audit Party as the relevant records were not made available to them, the assessments for the years 1966-67 to 1968-69 had been checked by the Internal Audit Party but the mistakes went undetected. Time and again the Committee have had occasion to comment upon the lapses and inadequacies of Internal Audit and it is distressing that such errors of omission and commission involving substantial loss of revenue continue to escape their attention. The extension of scope of the check exercised by Internal Audit brings into sharp focus the need for proper training to Audit staff, so as to equip them with the necessary expertise to check the occurrence of such oft-repeated mistakes. The Committee hope that this aspect is being given the attention that it deserves.

GMGIPMRND—LS I—3790 LS—7-4-78—1150.

Sl. No.	Name of Agent	Agency No.
	DELHI.	
24.	Jain Book Agency, Connaught Place, New Delhi.	11
25.	Sat Narain & Sons, 3141, Mohd. Ali Bazar, Mori Gate, Delhi.	3
26.	Atma Ram & Sons, Kashmere Gate, Delhi-6.	9
27.	J. M. Jaina & Brothers, Mori Gate, Delhi.	11
28.	The Central News Agency, 23/90, Connaught Place, New Delhi.	15
29.	The English Book Store, 7-L, Connaught Circus, New Delhi.	20
30	Lakshmi Book Store, 42, Municipal Market, Janpath, New Delhi.	23
31.	Bahree Brothers, 188 Lajpatrai Market, Delhi-6.	27
32.	Jayana Book Depot, Chapparwala Kuan, Karol-Bagh, New Delhi.	66
33.	Oxford Book & Stationery Company, Scindia House, Connaught Place, New Delhi—1.	68
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36.	Hind Book House, 82, Janpath, New Delhi.	95
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38.	Shri N. Chaoba Singh, News Agent, Ramlal Paul High School Annexe, Imphal.	77
	AGENTS IN FOREIGN COUNTRIES	
39.	The Secretary, Establishment Department, The High Commission of India India House, Aldwych, LONDON, W. C.—2.	59

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