P. A. C. No. 275

PUBLIC ACCOUNTS COMMITTEE

(1969-70)

(FOURTH LOK SABHA)

HUNDRED AND SEVENTEENTH REPORT

[Chapters IV and V of Audit Report (Civil) on Revenue Receipts, 1969 relating to Direct Taxes]

LOK SABHA SECRETARIAT

NEW DELHI

April, 1970/Vaisakha, 1892 (Saka)

Price : Rs. 2·10 P.

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100	2.15	16	8299	9299
102	2.20	4	8,299	9,299
103		1	31-3-1969	31-3-1968
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138	1.33		Delete "6" in Column 1	
142	1.56	4	Rs.662.61 crores	Rs.622.61 crores
(against S. No.11)		1	1.5	1.56
147	1.113	4	prevalance	prevalence
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154	1.184	12	in lands	on lands
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22-12-1969 (AN)

5-1-1970 (AN)

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27-4-1970 (AN)

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*Not printed. (One cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library.)

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(1969-70)

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Shri A. L. Rai—*Deputy Secretary.*

Shri K. Seshadri—*Under Secretary.*

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*Ceased to be a Member of the Committee with effect from the 3rd August, 1970.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Hundred and Seventeenth Report (Fourth Lok Sabha) on Chapters IV and V of Audit Report (Civil) on Revenue Receipts, 1969 relating to Direct Taxes.

2. The Audit Report (Civil) on Revenue Receipts, 1969 was laid on the Table of the House on the 9th May, 1969. The Committee examined Audit paragraphs relating to Direct Taxes at their sittings held on 19th December, 1969 (AN), 22nd December, 1969 (AN), 5th January, 1970 (AN), and 6th January, 1970 (AN). The Committee considered and finalised this Report at their sitting held on the 27th April 1970 (AN). Minutes of these sittings form Part II* of the Report.

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

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

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

NEW DELHI;
April 27, 1970.
Vaisakha 7, 1892 (*Saka*).

ATAL BIHARI VAJPAYEE,
Chairman,
Public Accounts Committee.

*Not printed (One cyclostyled copy laid on the Table of the House and five copies placed in Parliament Library).

AUDIT REPORT (CIVIL) ON REVENUE RECEIPTS, 1969

CHAPTER I

TAXES ON INCOME

(a) *Proceeds from taxes on income (including Corporation Tax)—Number of assessees in the books of the Department.*

1.1. The total proceeds from both Corporation Tax and Taxes on income other than Corporation Tax (excluding the portion of Income Tax which was assigned to the State Governments) for the year 1967-68 amounted to Rs. 461.88 crores. The figures for the three years 1965-66, 1966-67, and 1967-68 are as follows:—

(In crores of rupees)

	1965-66	1966-67	1967-68
Taxes on income other than Corporation Tax (Gross proceeds) . . .	271·80	306·63	325.80
Deduct share of net proceeds assigned to States	123·34	137·10	174·52
Net	148·46	169·53	151·37
Add Corporation Tax . . .	304·84	330·80	310·51
TOTAL . . .	453·30	500·33	461·88

The total numbr of assessees in the books of the department as on 31st March, 1968 is 27,08,464. The corresponding figure as on 31st March,

1967 was 27,02,282. The number of assessees status-wise for the two periods is as follows:—

	As on 31st March, 1967	As on 31st March, 1968
Individuals	22,34,417	22,14,093
Firms	2,86,266	3,10,821
Companies	26,787	26,525
Hindu Undivided Family	1,40,203	1,42,180
Others	14,609	14,845
	27,02,282	27,08,464

[Para graph 46(a) and (b)—Audit Report (Civil) on Revenue Receipts, 1969]

1.2. The following table shows the number of assessees on record as at the end of 1961-62 to 1967-68 and the percentage addition of new assessees over the previous year.

Year	Total number of assessees	Percentage increase in the number of assessees.
1961-62	12,00,367	..
1962-63	13,08,854	8
1963-64	15,59,149	19
1964-65	21,26,398	36
1965-66	24,31,536	14
1966-67	27,02,282	11
1967-68	27,08,464	2

1.3. The following approximate figures of category-wise break-up of increase in the number of assessees year by year during the period 1964-65,

1965-66 and 1966-67 have been furnished by the Central Board of Direct Taxes:

Year		(rounded off to '000) Approximate increase in the number of assessees under
1964-65	*Category I	7,000
	II	8,000
	III	38,000
	IV V	5,14,000

*Category I : Business cases having income over Rs. 25,000.

Category II : Business cases having income over Rs. 15,000 but not exceeding Rs. 25,000.

Category III : Business cases having income over Rs. 7,500 but not exceeding Rs. 15,000.

Category IV : All other cases except those mentioned in Category (V) and refund cases

Category V : Small income scheme cases, Government salary cases and non-Government salary cases below Rs. 18,000.

Year		(rounded off to '000) Approximate increase in the number of assessees under
1965-66	Category I	9,000
	II	8,000
	III	15,000
	IV V	2,73,000
1966-67	Category I	18,000
	II	13,000
	III	21,000
	IV V	2,18,000
1967-68	Category I	14,000
	II	12,000
	III	21,000
	IV V	(—)41,000

1.4. From paragraph 1.2 of their 73rd Report (1968-69), the Committee observe that out of the total addition of 2,70,197 cases during the year 1966-67, 2,11,984 related to Government salary and non-Government salary cases below Rs. 18,000.

1.5. The Committee desired to know the reasons for a fall in the percentage increase in the number of assessees since 1964-65. In a written note, the Ministry of Finance have stated:

"There had been a sharp rise in the number of assessees in 1964-65 due to an intensive survey drive launched in 1964. The drive continued in 1965 and was suspended in July, 1966. As the intensive survey drive of 1964 succeeded in spotting a very large number of new assessees, there was no scope for a sharp rise in the number of new assessee for several years after 1964-65. Besides, it was detected that some infructuous cases had been added in 1964 and 1965. These were weeded out gradually. The number of such cases weeded out in 1968-69 was 1,38,842. There was another factor also for a decline in the percentage increase in the number of assessees after 1964-65. It was the raising of the minimum exemption limit from Rs. 4,200 in 1965-66 to Rs. 4,800 in 1966-67."

1.6. The Committee desired to know whether the Department proposed to take any special steps to strengthen external survey and bring in new assessees. In their written reply, the Minister have stated:

"Since the suspension of the external survey drive in July, 1966, the Department has been employing its limited manpower available to selective survey only. It is felt by the Ministry that it will be premature to undertaken any external survey on a large scale at this stage."

1.7. The following information regarding assessment of income from property in the city of Delhi was furnished by Government to the Public Accounts Committee (1968-69):

	1962-63	1963-64	1964-65
(a) No. of assessments completed	10,013	11,766	12,638
(b) Amount of tax realised (in lakhs of rupees) . . .	57·48	57·92	60·62

1.8. Commenting upon the above data, the Public Accounts Committee (1968-69) observed as follows in paragraph 1.57 of their 73rd Report (Fourth Lok Sabha):

"From the information furnished by Government, the Committee observe that the number of assessments relating to property income in Delhi has not shown a very perceptible rise over the period 1962-63 to 1964-65. It is well known that there has been a substantial increase in real estate investment in Delhi and other metropolitan cities in the last few years."

1.9. The Administrative Reforms Commission which deal with the problem of locating income evading tax made the following observations:

"The sources of information which may lead to the discovery of new assessees or will be relevant to the assessment of those already on the books of the Department may be grouped into three categories:

(i) Government agencies outside the Income-tax Department which have dealings with the general public. The following are examples:

(a) Departments making disbursements on a large scale to contractors and suppliers of goods, e.g., Railways, Defence and Supply Departments and the Public Works Departments;

(b) Registrars' Offices where the transfer of immovable properties are registered;

(c) Municipalities which have a record of properties built from time to time;

(d) Sales Tax Department which will have information regarding turn-over of their assessees;

(e) Chief Controller of Imports and Exports who has details about import licences granted.

(ii) Details which can be obtained from non-Government agencies. Examples are:

(a) Information furnished by companies under Section 186 of the Income-tax Act in respect of dividends exceeding Rs. 5,000 paid to non-corporate shareholders;

(b) Information furnished by contractors under Section 285A of the Income-tax Act regarding contracts for the construction of buildings or supplies of goods or services for amounts exceeding Rs. 50,000.

(c) Information furnished by banks about advances made or loans granted by them to their constituents on the security furnished by third parties;

(d) Information received from financing companies regarding deposits made with them;

(e) Information gathered by the Income-tax Officer while examining the accounts of an assessee about substantial payments made by him for the purchase of goods, payment of commission, brokerage, etc.

(iii) Results of a physical survey of properties in a selected area including the eliciting of information from those residing or doing business therein."

"The collection and dissemination to the concerned authorities of the information obtained from the first two sources is entrusted to the 'Special Investigation Branches' in the various Commissioners' offices. It would appear that the attention paid to this work has not been adequate. Further, the information furnished is not made full use of. One of the reasons for the unsatisfactory working of the Special Investigation Branches is stated by the Group to be the saddling of these Branches with items of work not relevant to their main function. The position in this regard may be rectified by divesting Special Investigation Branches of other items of work. Further, there does not appear to be an adequate supervision of the work of the Branches and checking of the utilisation of the information made available by them. The third reason may be the inadequacy of manpower. The attach great importance to the successful working of these Branches. Their working should be reviewed immediately and any needed addition to staff should be provided. We have elsewhere recommended that the Internal Audit Department of the Commissioner should be placed in the charge of an Inspecting Assistant Commissioner. This officer may also be in charge of the Special Investigation Branch. He should continuously keep himself informed about the progress of the work of the Branch as well as of the utilisation of the information furnished by it as well as by such Branches in other Commissioners' charges. (The Special Investigation Branch in each Commissioner's charge should receive in the first instance relevant information from other Branches and then pass it on to the concerned assessing authorities). Periodical inspections of the functioning of the Special Investigation Branches should be organised by one of the Directors of Inspection.

"The third source of information usually called 'External Survey' which had been carried on for the past several years has now been suspended. We recommend that at a suitable time this may be revived, particularly in view of the fact that we have recommended a quick method of disposal for small income cases of the type which is likely to be thrown upon on a large scale by the external survey:

"We recommend:

(1) (a) The Special Investigation Branches in the Commissioners' charges should be strengthened.

(b) They should concentrate on collection and dissemination of information relevant for purposes of assessment and their energies should not be directed to other items of work.

(c) They should be placed under the immediate supervision of an Inspecting Assistant Commissioner who will also be in charge of Internal Audit Department.

(d) Periodical Inspection of their work should be organised by one of the Directors of Inspection.

(2) External Survey, which has been suspended, may be revived at a suitable time."

1.10. The Committee observe that while the drive to locate new assessees has produced very impressive results in terms of numbers, the addition to the assessees has been mainly of salaried and small income cases. The addition of these cases might not substantially augment the tax revenue, particularly in respect of small income groups, where it is even possible that the cost of collection might outweigh the revenue realised. The Committee have already drawn attention to this point in paragraph 1.10 of their Hundredth Report (Fourth Lok Sabha) and would like pilot studies to be conducted in selected ranges to determine the cost of collection in respect of various income brackets vis-a-vis revenue realised.

1.11. The Committee feel that the emphasis in the drive to enrol new assessees should be on cases with revenue potential. There are special Investigation Branches in Commissioners' charges which are responsible for collecting information from Government agencies, municipalities and other organisations like banks, financing companies etc., so as to discover new assessees or sources of income not disclosed by existing ones. The Administrative Reforms Commission reported that the working of these Special Investigation Branches is "unsatisfactory" due, amongst other things, to lack of adequate supervision and their being saddled with items of work not relevant to their main functions. These defects in the working of these branches should be removed. The Committee feel that if all the available information is collected from these sources and systematically analysed and promptly processed in each Commissioner's charge it would lead to the discovery of most of the persons liable to assessment. Apart from this, external surveys should also be conducted in selected areas in accordance with a time-bound programme as suggested by the Committee in paragraph 1.31 of their Hundredth Report.

(b) *Results of Test Audit Under-assessments*

Audit Paragraph:

1.12(i) In the course of test-audit during the period from 1st September, 1967 to 31st August 1968 a total under assessment of tax of Rs. 1062.52* lakhs was noticed in 10,980 cases. Over-assessment of tax of Rs. 85.25 lakhs was also noticed in 2,872 cases. Besides these, various defects in following the prescribed procedure also came to the notice of audit.

Of the total 10,980 cases of under-assessment, short-levy of tax of Rs. 934.99 lakhs was noticed in 689 cases alone. The remaining cases accounted for an under-assessment of tax of Rs. 127.53 lakhs.

(ii) The under-assessment of tax of Rs. 1062.52 lakhs has been the result of the following lapses:

	Amount in lakhs of rupees
(1) Errors and omission attributable to negligence or failure to apply the correct rates of tax.	52·21
(2) Under-assessment of tax due to incorrect determination of status of assessees.	33·16
(3) Incorrect determination of income under the head "salary".	2·81
(4) Incorrect determination of income under the head "house-property"	9·18
(5) Incorrect computation of income from business.	49·28*
(6) Mistakes in computing depreciation and development rebate.	93·80
(7) Incorrect computation of Capital gains and levy of tax thereon.	7·72
(8) Irregular exemptions or excess reliefs given	77·62
(9) Incorrect computation of tax payable by companies	49·88
(10) Omission to levy tax on Section 23A/104 companies	8·46
(11) Income escaping assessment	25·80
(12) Omission to levy penalty correctly	1·35
(13) Non-levy/incorrect levy of penal interest	63·56
(14) Incorrect determination of Super-profits tax or sur-tax payable by companies	11·84
(15) Other lapses	132·85

*This includes a sum of Rs. 4.03 crores in the case of two Corporations on account of incorrect deduction of interest paid, in the assessments. The legality of the issue involved is under examination of the Attorney General of India.

[Paragraph 47—Audit Report (Civil) on Revenue Receipts, 1969]

1.13. During evidence, the representative of the Board stated that the tolal amount of under-assessment mentioned in the Audit paragraph (Rs. 10.63 crores) included a sum of Rs. 4.03 crores in respect of two corporations. The legality of the issues involved in these cases was under examination of the Attorney General. Leaving aside these two cases, the number of cases involving an under charge of over Rs. 10,000 was 682. Audit objections in respect of 246 of these cases, where, according to Audit, there was an under charge of Rs. 2.46 crores, had not been accepted by the Department. In respect of 374 cases Audit objections had been accepted by the Department. These involved an under charge of Rs. 2.71 crores according to Audit (and Rs. 2.09 crores according to the Department). 62 cases were still under consideration. The number of cases involving an under charge of less than Rs. 10,000 was 10,291.

1.14. The Committee enquired how many of the above cases of under assessment had also been checked by Internal Audit. The representative of the Board stated that as priorities for examination by Internal Audit had been laid down only recently, in some cases. Revenue Audit had preceded Internal Audit. Secondly, as the scope of examination by Internal Audit was then largely confined to checking of arithmetical calculations some of the mistakes pointed out by Revenue Audit were outside the purview of Internal Audit parties.

1.15. The Committee desired to know the measures taken by the Board to make the functioning of Internal Audit more effective. The representative of the Board stated that the following steps had been taken by the Board to this end:

(i) the number of Internal Audit parties had been increased;

(ii) the scope of functions of Internal Audit had been extended and made co-extensive with Revenue Audit;

(iii) priorities had been fixed for the checking of the following category of cases:

(a) all company cases;

(b) all cases with an assessed income of over Rs. 50,000;

(c) all assessments completed in the months of February-March;

(d) all cases which were about to become time-barred.

1.16. The Committee enquired about the feasibility of bringing all cases with an assessed income of over Rs. 25,000 within the purview of Internal Audit. The representative of the Board stated: "In that case the work-load would not be manageable with the existing staff that we have. We are trying to experiment with the increased units of the Audit party. Later on, when this is established on a firmer footing, we will reduce the limit from Rs. 50,000 to say, Rs. 25,000."

1.17. The Committee desired to know the latest position regarding rectification of under-assessments/over-assessments reported in the Audit paragraph. In a written reply, the Ministry have stated:

> "The information available to the Ministry is incomplete and it will be difficult to indicate the correct position about the points raised till a number of Audit objections disputed by the Ministry are settled after a joint consultation of the Ministry and the Audit.
>
> "It may be mentioned in this connection that the bulk of the cases commented on by the Audit relate to under-charge of tax below Rs. 10,000. The Ministry is finding it difficult to watch the progress of the rectification and collection in such cases and feel that the matter can be best attended to at the level of the Commissioners of Income-tax. For this purpose, they propose to approach the Comptroller and Auditor General with a proposal for the settlement of the disputes relating to the cases of under-assessment below Rs. 10,000 after a joint consultation between the Commissioner of Income-tax and the concerned Accountant General. In the cases where the disputes cannot be settled locally, a representative of the Audit and the Ministry may go and help them in coming to a settlement."

1.18. The Committee desired to know the reasons for an increase in the number of cases of under-assessments. The Finance Secretary stated: "We do admit that the increase in the number of cases of under-assessments... (The number) has been going up in the last three or four years. It has been a matter of grave concern to us. I would mention two or three basic reasons why this is so. Although there has been a very large number of increases in the number of assessees, our organisation has not kept pace with the increase with the number of assessees with the result that our officials have been to a great extent overworked. Secondly, in spite of our reorganisation there has been admittedly some deterioration in the quality of the staff... We have added to the strength in the last two years about 500 additional Income-tax Officers. Our previous strength was somewhere roundabout 1800 or so. It is now nearer to 2400. Simultaneously we have increased both the strength of Assistant Commissioners as well as the Appellate Assistant Commissioners. We have added 15 in the current year. All these additions of officers have brought about quite a substantial addition to the strength of our lower categories... Our hope is that this addition of strength will take care of the more routine kinds of work. This would enable our experienced officers to be able to devote better attention to their cases in making their assessments."

1.19. In reply to a question, the representative of the Board added: "So far as the quality question is concerned, I would submit that, with the work load the quality has disappeared."

1.20. The Committee pointed out that during the course of discussions on individual Audit paragraphs they had noticed that "a great number of cases" in which mistakes or irregularities had been found, had been rushed through in the months of February-March. The representative of the Board stated: "So far as this question is concerned, I have to submit that we deal with many more assessments during the months of February-March. And there is such a sort of rushing about assessments that chances of mistakes are certainly more because of that." Asked why the assessment work was not evenly spread over throughout the year, the representative of the Board stated. "An ITO's job begins no doubt from April. The present trend has been that he has not been working like a machine turning out some output month by month. Rightly or wrongly we start the year at a snail's pace. But the speed goes up in these three months. I admit that this is not the correct way of doing it."

It was, however, added in extenuation: "In complicated and bigger cases, in spite of the best efforts of the officers, the lawyers and the assessees somehow delay and adopt dilatory tactics whereby assessments are necessarily dragged to the close of the financial year.... As far back as 1952, there are instructions to see that time-barring assessments were completed by September of the financial year. In spite of the serious efforts to complete it, we could not, because this type of attitude prevails. This is one of the reasons why cases were dragged on."

1.21. The Committee desired to know the views of the Ministry on the feasibility of finalising all company and big income cases by the end of December and taking up smaller cases in subsequent months. The representative of the Board stated: "All the while our efforts have been to ensure disposal of assessment cases on this line but somehow we have not been able to do it so far." In reply to a question he added: "Now we have set up separate wards or charges where income-tax officers would be handling important cases only, that is, category I and above or company cases. We want to specialise in and give special attention to these important cases to see that they are disposed of well before the time-limit comes to an end. But we have not succeeded yet and it may take a little longer. We have revised our assessment system under the Taxation Laws (Amendment) Bill, we may have provision to look into the cases quickly."

1.22. The Committee enquired whether one of the reasons for mistakes in assessments was the time-lag between completion of hearings and passing of assessment orders. The representative of the Board stated: "We have issued instructions from time to time that the cases should be disposed of

at the earliest so that the ITO may not forget the facts and figures and the discussions he had with the party in coming to a decision." He further stated : "There is a regular order sheet kept in which the officer has to make entry from day-to-day. After hearing if he again takes up the case, he writes that he has partly examined the case on such and such date and he has fixed the case again for further hearing. After getting some more information from the assessee he completes the assessment after six weeks' time or after a month if he so likes."

1.23. In reply to a question as to what would be a reasonable time for finalisation of assessment after the completion of hearing, the representative of the Board stated: "Between seven to ten or fourteen days will be a reasonable time for completing the assessment."

1.24. In reply to another question, the Finance Secretary added: "One of the specific functions of the I.A.Cs (Inspecting Assistant Commissioners) is to pick up the records to see whether the ITO has done his job properly.....This is the sort of inspection which has to be exercised continuously all the time."

1.25. The Committee desired to know the existing arrangements for checking of demands. In a note furnished to the Committee, the Ministry have stated that the relevant instructions are contained in Chapter XII, para 22(xvii) of the Office Manual, Vol. II, Section II. These are as follows:

"(a) There must obviously be an effective check on the accuracy of calculations of demands and refunds. Accordingly all tax calculations of demand or refund will be made by one clerk and checked by another before the issue of demand notices or refund orders. In cases of income of over Rs. 10,000 or refunds of over Rs. 1,000 either the Head Clerk or the Supervisor should check and initial I.T.N.S. 150 form. The Income-tax Officers's responsibility does not cease at that; he must satisfy himself that calculations are being properly made. He is, therefore, advised that he should personally re-check demands in cases with incomes over 1 lakh and refunds over Rs. 10,000. The working sheets showing the calculations should not be destroyed either, but be filed in each case in the Miscellaneous Record, duly signed by the person doing the original work as also the person checking it.

(b) At the time of inspection, the Inspection Assistant Commissioner's Supervisor who assists him in the inspection should check not only big refund cases but also test check large demands in cases selected by the Inspecting Assistant Commissioner himself."

1.26. The Board invited the attention of the Commissioners of Income-tax to these instructions on 13th December, 1968. The Committee enquired about the nature of check exercised by the Inspecting Assistant Commissioners. The representative of the Board stated: "The inspection by the Inspecting Assistant Commissioner is not from the point of view of finding out the mistakes in tax calculation as such. His point of view is whether the ITO has handled the case correctly vis-a-vis the law point, tax evasion and all that. On going through the cases he gives his comments and directions to the officers and if he finds any defect in the officer, the Assistant Commissioner takes action to correct him."

1.27. The Committee desired to know the views of the Ministry regarding the increased utilisation of computers for checking final assessment, self-assessment and demand notices. The representative of the Board stated: "The computer helps both in accuracy and speed and we tried it in Bombay and some other places where the volume was great. If we take the total of category I and II cases all over India, in 1968-69 we had about three lakh cases. It would be about three lakhs spread all over India. That would make it very difficult to feed the computers because the cases would arise not at the same point of time but throughout the year and throughout the whole country. So, we would have very little to feed the computer with. Further the calculations of taxes in smaller cases have been simplified to an extent that it would be more easy for calculating than preparing the proformae and then punching cards and then sending them for feeding and so on."

1.28 The Committee enquired whether any record was maintained in the Department to indicate which of the Income-tax Officers made the same type of mistake year after year. The representative of the Board stated: "We have started the ledger card system in respect of ITOs making mistakes and from that we would know if they are making similar mistakes in the same cases or different cases and what is their weakness and so on."

1.29. Asked whether the Department had tried to find out whether the under-assessed parties and the assessing officers were the same year after year, the representative of the Board stated: "so far as parties are concerned, we can say that they are not the same year after year. It may be that a similar mistake may have occurred in two or three assessments if handled by the same officer but otherwise it is not so."

1.30. Over the years Audit has been reporting a large number of cases of under-assessment. During the year under report (1st September, 1967—31st August, 1968), the number of such cases detected by Audit was 10,980, involving an under-assessment of Rs. 10.63 crores. The Committee note

that Government have so far accepted the under-assessment to the extent of Rs. 2.09 crores in 374 cases. 64 cases of under-assessment are stated to be under examination, including 2 cases, involving a reported under-assessment of Rs. 4.03 crores, where the legality of issues is under examination by the Attorney-General. The Committee would like to be apprised of the outcome of this examination and of the rectificatory action taken pursuant to the acceptance of under-assessment in all the foregoing cases. The cases under examination should also be speedily finalised.

1.31. In the opinion of the Committee, the large number of cases of under-assessment brought to notice year after year is indicative of a deep seated malaise in the Income Tax Department. It is significant that these cases were thrown up in the course of a test-audit which covered only a percentage of assessments done in the Department. The Finance Secretary himself admitted during evidence that the number of cases of under-assessment "has been going up in the last three or four years" and that this tendency has been causing Government "grave concern."

1.32. While the under-assessments have been caused by a multiplicity of reasons, an important contributory factor, in the opinion of the Committee, has been the tendency on the part of many Income-tax Officers to delay and rush through assessments at the close of the financial year. During the course of discussions on individual Audit paragraphs, the Committee noticed that quite a number of cases in which mistakes or irregularities occurred had been rushed through in the months of February-March. The representative of the Board also conceded that the Income-tax Department tended to work at a "snail's pace" in the initial months of the financial year. The Committee have already drawn attention to this matter in their previous reports and would like Government to take effective steps to curb this tendency so that work is evenly spaced out over the year.

1.33. In re-ordering the assessment work, it is important to ensure that high income cases are taken up for assessment sufficiently in time during the course of the year. The efforts should be to finalise all such cases by the end of December. The Committee would like the Board to issue suitable instructions to this effect, so that range officers who are responsible for fixing the priorities for assessment take suitable action in the matter.

1.34. The Committee would like the following steps to be taken to minimise the possibility of under-assessments:

(i) The time-lag between the final hearing in a case and the decision by an assessing officer should be the minimum. The Board should consider whether as a working rule the time-limit for issuing an assessment order should be fixed as fourteen days

after the date of last hearing. The representative of the Board agreed during evidence that this would constitute a reasonable period.

(ii) Internal Audit has not so far played an effective role in checking faulty assessments. A number of assessments were in fact checked by it only after they had been scrutinised by statutory audit. Now that Internal Audit Organisation has been strengthened and the scope of its functions also enlarged, the Committee hope it would be possible for this organisation to detect all cases of under-assessments well in time. Based on the experience of its performance, Government should also consider the question of extending its scrutiny to cases below Rs. 50,000.

(iii) Under the Board's instructions, in cases of incomes over Rs. 10,000, tax calculations are required to be checked by the Head Clerk/Supervisor and in cases of incomes over Rs. 1 lakh, calculations are required to be counter-checked by the Income-tax Officer himself. The Committee observed during their examination of cases that in a number of high income cases (over Rs. 1 lakh), the prescribed counter-check had not been exercised by Income-tax Officers. The Committee desire that the Board should take a serious view of such lapses. To speed up arithmetical computation, the Board should arrange to have ready reckoners supplied to the staff in charge of the work.

(iv) It was stated during evidence that there had been a deterioration in the quality of work done by assessing officers. The Committee note that the Department is now maintaining a record of the Income-tax Officers making mistakes. The Inspecting Assistant Commissioners have also taken action to watch the work of assessing officers. Apart from this, Government should examine what positive measures should be adopted to improve quality through 'in-service' training, rationalisation of assessment procedures, relief from routine work etc. This is a matter on which the Committee have made suggestions from time to time and should engage the constant attention of Government.

(c) *Arrears of Assessments, Tax demands and appeals*

*Arrears of Assesments**

Audit Paragraph

1.35. As on 31st March, 1968, 23.30 lakhs cases were outstanding with Income-tax officers pending assessment. The approximate tax involved in these cases is stated by the Ministry to be Rs. 185.16 crores. The

*Figures are as furnished by the Ministry.

position of pendency of assessments for the last three years is indicated below:—

Year	As on 31-3-1966	As on 31-3-1967	As on 31-3-1968
1963-64 and earlier years . . .	3,60,283	1,93,101	37,928
1964-65	6,01,100	3,14,037	2,17,397
1965-66	12,08,146	6,38,623	3,02,572
1966-67	..	12,01,752	5,64,555
1967-68	..	..	12,07,198
TOTAL	21,69,529	23,47,513	23,29,650

[Paragraph 65 (a) of Audit Report (Civil) on Revenue Receipts, 1969.]

1·36 Category-wise break-up of the pending cases is as follows:

	As on 31-3-1967	As on 31-3-1968
(i) Business cases having income over Rs. 25,000	1,41,277	1,64,810
(ii) Business cases having income over Rs. 15,000 but not exceeding Rs. 25,000. . . .	1,36,498	1,62,337
(iii) Business cases having income over Rs. 7,500 but not exceeding Rs. 15,000.	3,35,866	3,96,989
(iv) All other cases except those mentioned in category (v) and refund case	13,58,222	12,38,023
(v) Small income scheme cases, Government salary cases and non-Government salary cases below Rs. 18,000	3,75,650	3,67,491
TOTAL	23,47,513	23,29,650

1.37. The number of assessments completed out of the arrear assessments and out of current assessments during the past five years are given below:—

Financial year	Number of assessments for disposal	Number of assessments completed				Number of assessment pending at the end of the year
		Out of current	Out of arrears	Total	%	
1963-64 . .	27,09,107	9,22,670	5,60,031	14,82,701	54·7	12,26,406
1964-65 . .	36,26,144	11,54,834	6,86,795	18,41,629	50·8	17,84,515
1965-66 . .	45,58,556	14,59,776	9,29,251	23,89,027	52·4	21,69,529
1966-67 . .	47,65,607	13,32,672	10,85,422	24,18,094	50·7	23,47,513
1967-68 . .	48,86,204	13,31,493	12,25,061	25,56,554	52·3	23,29,650

(The percentage in column 6 represents cases disposed of to total number of assessments for disposal).

1.38. The following table shows category-wise disposal and pendency of assessments as on 31st March, 1968 and 31st March, 1969:—

ategory of Cases	Pendency as on 31-3-68	Disposal during 1967-68	1968-69	Pendency as on 31-3-69 (adjusted upto 31-7-1969)
(1)	(2)	(3)	(4)	(5)
I	1,64,810	1,52,679	1,95,268 [+28% in relation to figures given in Column (3)]	1,94,454 [+18% in relation to figures given in Column (2)]
II . .	1,62,367	1,29,791	1,75,242	1,64,232
III . .	3,96,989	3,02,403	4,33,313	3,27,979
IV . .	12,38,003	13,65,258	18,29,841	7,94,085
V . .	3,67,481	6,06,423	7,87,618	2,65,589
TOTAL . .	23,29,650	25,56,554	34,21,282	17,46,339

1.39. In a subsequent note furnished to the Committee, the Ministry have stated that the total number of assessments completed during 1968-69 was 34,21,282 and the number of pending assessments as on 31st March, 1969 was 15,84,657.

1.40. The following table shows pendency of assessments in Category I as on 31st March, 1966, 31st March, 1967, 31st March, 1968 and 31st March, 1969:

As on	No. of cases pending
31-3-1966	1,20,185
31-3-1967	1,41,277
31-3-1968	1,64,810
31-3-1969	1,94,454

1.41. During evidence, the representative of the Central Board of Direct Taxes stated, "We have been able to reduce the backlog (of assessments); we are not carrying forward 50 per cent (backlog now). Out of a total workload of 46 lakhs assessments, we propose to dispose of at least 36 lakhs and carry forward 10 lakhs. Last year we brought forward 15 lakhs assessments and this year we propose to reduce that by further 1/3, and carry forward only 10 lakhs". Asked whether by 1972, the Department would be able to reduce the pendency to an insignificant figure, the representative of the Board replied in the affirmative.

1.42. The data furnished by Government indicates that the number of pending Income-tax assessments has come down from 23,29,650 as on 31st March, 1968 to 15,84,657 as on 31st March, 1969. From the category-wise analysis of the pending assessments, the Committee, however, observe that the reduction has been only in lower income categories (categories III, VI and V). As regards Category I—business incomes exceeding Rs. 25,000, the pendency has been continuously going up. The number of pending cases in this category which was 1,64,810 as on 31st March, 1968 rose to 1,94,454 as on 31st March, 1969—an increase of 18 per cent in one year alone. Compared to the pendency on 31st March, 1966, the increase was as high as 62 per cent. The Committee are unhappy at the increase in pending assessments of bigger cases. The Committee have already drawn attention to this matter in paragraph 1·12 of their Hundredth Report (Fourth Lok Sabha). They would like the Board to draw up a suitable programme of priorities for disposal of assessments so that these cases, which have high revenue potentiality, receive greater attention at the hands of assessing officers.

1.43. The Committee note that the Board expected to reduce the pendency to ten lakh assessments by the end of the financial year 1969-70 and to "an insignificant figure" by 1972. The Committee trust that vigorous efforts will be made by the Board to fulfill the undertaking given by it.

*Arrears of tax demands**

Audit Paragraph

1.44. The total effective demand of tax outstanding on 31st March, 1968 was Rs. 468.86 crores (which excludes a demand of Rs. 153.75 crores, the collection of which had not fallen due as on 31st March, 1968). Of this, the net effective arrears representing recoverable demands was Rs. 410.05 crores. The balance Rs. 58.81 crores comprised the following:—

	(Rs. in crores)	
1. Reduction expected on account of:		
(a) D.I.T. relief	3·79	
(b) Appellate relief	12·94	
(c) Protective assessments	5·93	22·66
2. Irrecoverable dues which will be written off ultimately :		
(a) from persons who have left India	9·98	
(b) from companies in liquidation	4·68	
(c) from cases pending before certificate officers	21·49	36·15
		58·81

*Figures are as furnished by the Ministry.

The net effective arrears of Rs. 410.05 crores included Rs. 56.30 crores being the amount of advance tax relating to the demands included in the gross demand.

(ii) The following table shows the net effective arrears pending without recovery as at the close of five years ending 31st March, 1968:—

Net effective arrears	(Rs. in crores)
As on 31st March, 1964	161·41
As on 31st March, 1965	184·85
As on 31st March, 1966	244·67
As on 31st March, 1967	337·70
As on 31st March, 1968	410·05

(iii) The figures of corporation tax, income-tax and interest comprised in the gross arrears of Rs. 622.61 crores and the years to which they relate are shown below:

(Figures in crores of rupees)

	Corpo-ration Tax	Income Tax	Interst	Total
(i) Arrears of 1957-58 and earlier years . . .	5·01	51·61	1·79	58·41
(ii) 1958-59 to 1965-66 .	28·33	122·12	7·26	157·71
(iii) 1966-67 . . .	32·12	80·57	6·83	119·52
(iv) 1967-68 . . .	110·15	163·23	13·59	286·97
TOTAL . . .	175·61	417·53	29·47	622·61

(iv) The table below shows the number of cases from whom gross arrears of Rs. 622.61 crores are due together with the dues involved range-wise.

Arrear demand	No. of cases	Total arrears (in crores of Rs.)
Upto Rs. 1 lakh in each case	11,83,488	338·23
Over Rs. 1 lakh upto Rs. 5 lakhs in each case . . .	4,467	98·29
Over Rs. 5 lakhs upto Rs. 10 lakhs in each case . .	737	50·09
Over Rs. 10 lakhs upto Rs. 25 lakhs in each case . . .	474	53·37
Over Rs. 25 lakhs in each case	147	82·63
TOTAL	11,89,313	622·61

[Paragraph 66(a) of Audit Report (Civil) on Revenue Receipts, 1969.]

1.45. The following table brings out the comparison between the demands of tax in arrears to total realisation in the corresponding years:

Period (year ending)	Total realisation	Arrears outstanding	Percentage of Column 3 to Column 2
	(Amount in crores of rupees)		
March, 1965	456·80	322·72	70
March, 1966	453·30	381·88	84
March, 1967	500·33	541·73	108
March, 1968	461·88	622·61	134

1.46. Of the gross arrears of Rs. 622.61 crores, an amount of Rs. 153.75 crores representing the demands raised in March, 1968 but not fallen due for recovery on 31st March, 1968 was excluded. The Committee enquired whether the above demands could not have been raised earlier. The representative of the Board stated, "We are trying to look to this serious deficiency on our part and so much under-assessment during this period and carrying forward so much demand. We hope to remedy it".

1.47. In a note furnished to the Committee, the Ministry have stated that the gross and net arrears as on 31-3-1969 were Rs. 774.40 crores and Rs. 435.49 crores respectively.

1.48. The Committee desired to know whether any special steps were proposed to be taken by the Department to liquidate tax arrears in higher income brackets. The representative of the Board stated, "So far as tax arrears of over 5 lakhs are concerned, we, in the Board, are watching the progress of collection personally. We are getting information from the Commissioners from time to time and suggesting the ways and means as to how they can be expedited. So far as items between Rs. 1 and 5 lakhs are concerned, the Commissioners are watching them personnally. They are keeping a similar eye on the progress of these items and items below 1 lakhs are being watched by the Inspecting Assistant Commissioners.

Our efforts are all along to reduce the arrears not only of 5 lakhs and above but below as well."

1.49. While considering the problem of mounting tax arrears, the P.A.C. (1968-69), *inter alia,* made the following observations in para 1.80(iii) of the 73rd Report (Fourth Lok Sabha):

> "The real and serious reason for heavy arrears", as pointed out by the Working Group of Administrative Reforms Commission, "is the tendency on the part of many Income-tax Officers to delay assessments till the end of the financial year and make cumulative assessments for more than one year, particularly in big assessment cases, resulting in piling up huge demands which naturally the assessee is unable to discharge". This tendency should be firmly checked and the assessment work spaced out evenly over the year".

1.50. In the action taken note on the above recommendation, the Ministry stated as follows :

> "The assessing officers' work is closely watched by the Inspecting Assistant Commissioners and the Commissioners of Income-tax and necessary directions are issued where it is noticed that the disposal of cases per month is not uniform, which may lead to heavy disposal of cases in the last months of February and March. Instructions have already been issued to Income-tax Officers to avoid accumulation of arrears of assessments by proper phasing of their programme".

1.51. Some other suggestions made by the Public Accounts Committee (1968-69) for tackling the problem of tax arrears were as follows:

(i) "The Committee would like Government to consider the suggestion made by the Working Group of the Administrative Reforms Commission to the effect that the Act should be amended to "provide that where an appeal is preferred against an assessment, such an appeal will not be admitted unless tax is paid on the undisputed amount involved in the assessment".

(ii) "An allied suggestion made by the Working Group to reduce arrears is to fix "a time limit for giving effect to appellate orders", so that tax demand disallowed are promptly refunded to assessees".

(iii) "Amongst other suggestions for amending the law to tackle the problem of arrears is the one relating to demands against assessees who have become untraceable. The Working Group of the Administrative Reforms Commission have pointed out that there is a tendency for assessees to go "underground till the period of limitation of 8 years is over" to evade demands made against them. The Committee would like to be considered whether amendment of the law to make it permissible

tb reopen assessments in such cases without any time-limit would help to meet this situation".

1.52. As regards suggestion (i), the Ministry, while stating that they have found it unacceptable because of certain difficulties, have, *inter alia*, stated as follows :

> "Income-tax Officers have, even now, adequate powers under the Income-tax Act to enforce the collection of tax even where assessments are under appeal. They are, however, required to hold in abeyance collection of tax on amounts which they consider to be genuinely disputed."

1.53. As regards suggestions (ii) and (iii), the Ministry have stated that these are under consideration of Government.

1.54. The Committee are perturbed over the progressive increase of (net effective) arrears of Income-tax. The net effective arrears which amounted to Rs. 161·41 crores as on 31-3-1964 rose to Rs. 435·49 crores as on 31-3-1969. The percentage of realisations to outstandings has been continuously going down and has fallen from 141 on 31-3-1965 to 74 on 31-3-1968. Year after year, Government have been enumerating the steps taken by them, besides addition to the numerative strength of the staff, to arrest the growth in arrears but it is obvious that they have not had the desired effect. The Committee feel that the Department would have to launch an all-out drive if a substantial reduction in tax arrears is to be brought about.

1.55. From the data regarding gross arrears, the Committee observe that cases involving tax arrears of over Rs. 1 lakh numbered 5,825, as on 31-3-1968. These account for arrears of Rs. 284·38 crores out of total (gross) arrears of Rs. 662·61 crores. The Committee desire that special attention should be paid to these cases. The Committee would in this connection also like Government to consider whether a sort of system of tax insurance, on the lines of that prevalent in the United States, could be introduced in case of high incomes in this country.

1.56. One of the suggestions made by the Working Group of the Administrative Reforms Commission was that the Act should be amended "to provide that where an appeal is preferred against an assessment, such an appeal will not be admitted unless the tax is paid on the undisputed amount involved in the assessment." While expressing difficulty in implementing the above suggestion, Government have stated that Income-tax officers have, even now, adequate powers under the Income-tax Act to enforce the collection of tax even where assessments are under appeal. To ensure that by filing appeals, assessees are not able to retain undisputed tax dues, the Committee desire that Government should issue instructions to assessing officers to make maximum use of their powers for timely recovery of tax dues. This would also reduce the number of frivolous appeals.

1.57. In their 73rd Report (Fourth Lok Sabha), the Public Accounts Committee (1968-69) had also referred to a tendency on the part of assessees to "go underground till the period of limitation of 8 years was over" to evade demands made against them. The Committee had desired Government to consider whether an amendment of the law to make it permissible to re-open assessments in such cases without any time-limit would help to meet this situation. In their reply, Government had indicated that the suggestion is under their consideration. The Committee desire that an early decision should be taken on the suggestion.

*Appeals pending on 30th June, 1968**

Audit Paragraph

	Income-tax appeals with Appellate Assistant Commissioners	Income-tax revision petitions with Commissioners
1.58.		
(a) Number of appeals/revision petitions	2,00,928	7,342
(b) Out of appeals/revision petitions instituted during 1957-68	1,12,479	3,348
(c) Out of appeals/revision petitions instituted in earlier years	27,971	2,384

Year-wise break-up of appeal cases and revision petitions pending with the Appellate Assistant Commissioners and Commissioners of Income-tax respectively for the periods ending 30th June, 1967 and 30th June, 1968 respectively with reference to the year of institution are indicated below:—

Year of Institution	Appeals with Appellate Assistant Commissioners		Revision petitions with Commissioners of Income-tax	
	30-6-67	30-6-68	30-6-67	30-6-68
1953-54	1	..	..	..
1954-55	1	..	1	1
1955-56	8	1	5	3
1956-57	14	7	3	2
1957-58	17	8	10	3
1958-59	27	1	27	15
1959-60	50	31	34	18

*Figures are as furnished by the Ministry.

Year of Institution	Appeals with Appellate Assistant Commissioners		Revison petitions with Commissioners of Income-Tax	
	30-6-67	30-6-68	30-6-67	30-6-68
1960-61	60	26	53	38
1961-62	162	88	37	28
1962-63	486	234	127	62
1963-64	1,301	517	299	165
1964-65	4,621	1,887	465	271
1965-66	16,744	5,088	1,126	512
1966-67	90,086	20,083	3,100	1,266
1967-68	53,934	1,12,479	1,257	3,348
1968-69	..	60,478	..	1,610
TOTAL	1,67,512	2,00,928	6,544	7,342

[Paragraph 66(b) of Audit Report (Civil) on Revenue Receipts, 1969.]

1.59. The total number of cases pending with Appellate Assistant Commissioners as on 30-6-1965, 30-6-1966, 30-6-1967 and 30-6-1968 is as follows:—

As on	*Total number of cases*
30 th June, 1965	1,20,736
30 th June, 1966	1,56,162
30 th June, 1977	1,67,512
30 th June, 1968	2,00,928
30 th June, 1969	2,30,789

1.60. In paragraph 1·67 of their 100th Report (Fourth Lok Sabha), the Public Accornts Committee, *inter alia,* observed as follows:

> "The Committee would like to suggest that Government should collect further data about the pending appeals. An analysis of pending appeals category-wise should be carried out to determine in which income-bracket the appeals fall and the extent of relief sought".

1.61. The Committee desired to have a category-wise break-up of appeals. The representative of the Board stated, "We do not maintain any register of data vis-a-vis the amount and the appeal————(However) so far as percentage is concerned, naturally assessees' higher income bracket would file more appeals because each writ that they secure would mean a saving of 80 or 60 per cent of the tax". In reply to a question, the witness stated that the percentage of appeals in the Central Charges was very high. For instance, in the Calcutta Central Charge, the number of appeals instituted was 1,738 out of a total of 2,724 assessments, the percentage being 63.77 per cent. In the Bombay Central Charge, the number of appeals instituted was 903 out of a total of 2,591 assessments, the percentage in this case being 34.85. As against this, the percentage in the Bombay City (ordinary) was only 3.67. Asked whether for having an idea of a category-wise break up of appeals, a sample survey could not be conducted. The Finance Secretary stated, "We can do that".

1.62. In reply to a question, the representative of the Board stated that the Department concentrated on complicated cases in special circles. Appeals in these circles were handled by experienced Appellate Assistant Commissioners. Other appeals were handled by relatively Junior Appellate Assistant Commissioners.

1.63. In reply to another question whether the percentage of appeals arising from assessments made in the months of February and March was more than that arising from assessments made in other months. The representative of the Board stated, "Naturally, they are rushed assessments".

1.64. The Committee enquired whether the mounting arrears of appeals were, *inter alia,* due to two frequent amendments of the income-tax law. The representative of the Board stated, "So far as the result (of too frequent amendments of the Income-tax law) is concerned there has been too much litigation. I do accept it. But the so called tinkering with (the law) is necessary in a developing economy. We have to provide for new things that are coming up. We have to provide for incentives to new industries, relief to our taxpayers etc. That is why the so called tinkering is not totally unjustified."

1.65. The Committee enquired whether it was a fact that the total number of appeals pending before the income-tax tribunals (numbering 23) on 30-11-1969 was 71,000. The representative of the Board replied in the affirmative. In reply to another question he stated that an appeal took about two years to reach the Tribunal's level.

1.66. As to the measures taken to reduce the pendency of appeals, the witness stated that the number of Members of Income-tax tribunals and the number of Appellate Assistant Commissions had been increased. It

was also proposed to empower a single Member of tribunal to hear and dispose of appeals involving incomes upto Rs. 50,000 instead of Rs. 25,000, as before.

1.67. The Committee desired to know the views of the Ministry regarding the feasibility of placing the Appellate Assistant Commissioners under the control of the income-tax tribunals. The representative of the Board stated, "It would not be proper administratively to have a separate set up for Appellate Assistant Commissioners because they also look forward to becoming Commissioners of Income-tax".

1.68. In successive Reports on Direct Taxes, the Committee have been expressing concern over the heavy pendency of appeals with Appellate Assistant Commissioners. The number of such cases, which, at the end of June, 1965, was 1,20,736 increased to 2,30,789 at the end of June, 1969,—an increase of over 90 per cent. It is not only the large number of pending appeals that is disturbing but also the time taken for disposal. Of the appeals pending with the Appellate Assistant Commissioners on 30-6-1969, nearly 8,000 had been pending for more than three years.

1.69. The Committee have made certain suggestions in regard to the measures necessary to cope with this situation in paras 1.67 and 1.68 of their Hundredth Report (Fourth Lok Sabha). They would like them to be acted upon.

(d) *Income escaping assessment*

Audit Paragraph

1.70. On the death of his wife in 1958, an assessee inherited two house properties the values of which were declared in the wealth-tax returns of his wife at Rs. 1,80,000 and Rs. 1,00,000 respectively. Of the two properties, one was purchased by a University for a sum of Rs. 10 lakhs while the other was acquired by the State Government for a sum of Rs. 21,28,219 during the previous year relevant to the assessment year 1961-62. As a result of these transactions the assessee derived a capital gain of Rs. 28,48,218 which was omitted to be taxed as capital gains resulting in under-assessment of tax of Rs. 7,12,055. The Ministry have accepted the under-assessment (March, 1969). Report regarding rectification and recovery is awaited.

[Paragraph 58(a)—Audit Report (Civil) on Revenue Receipts, 1969.]

1.71. Under Section 12-B of the Income-tax Act 1922, an assessee is liable to be taxed under the head "Capital gains" in respect of any profits or gains arising from the sale, exchange, relinquishment or transfer of a Capital asset effected after 31st March, 1956 and such profits and gains shall be deemed to be the income of the previous year in which the sale exchange, relinquishment or transfer took place.

1.72. During evidence, the Committee enquired when the assessee made the capital gains. The representation of the Board stated that one of the two properties was acquired by Govt. "during the previous year relevant to the assessment year 1960-61."

In a note on this point furnished to the Committee, the Ministry has stated:

"One of the properties was acquired by a Government Notification dated 24th March, 1960 and the Land Acquisition Officer gave an award on 25th June, 1960 for Rs. 21,81,217 for this property. The other property was acquired in December, 1959 as per Land Asquisition Case No. 23 of 1959-60. The compensation payable was put at Rs. 10 lakhs.

On 8th August, 1966, the Government paid further sum of Rs. 5,12,000 in settlement of a claim for higher compensation in respect of the first property."

1.73. During evidence, the representative of the Board stated that after Audit drew attention to this case, the assessment was re-opened under Section 147, and revised demand raised on 27th January, 1969. Asked when the original assessment was made, the witness replied that it was done on 31st March, 1962.

1.74. As to the latest position regarding rectification/recovery of the tax short levied, the Ministry have stated:

"Assessments for 1960-61 were reopened under Section 147 for assessing the capital gains earned on the two properties acquired by the State Government. The additional demand raised on the basis of the assessments, as rectified under Section 154, stands at Rs. 8,50,467. Appeals against both the assessments are pending before the Appellant Assistant Commissioner of Income-tax. Tax has not been paid and penalties under section 221 have been levied for non-payment of tax.

Both the assessments have been reopened on 25th March, 1969 for covering the additional sum of Rs. 5,12,000 payable by Government in respect of one property. These assessments are pending."

1.75. The Committee desired to know the action taken against the assessee for his failure to return capital gains tax for the assessment year 1960-61. In their written reply the Ministry stated:

> "Penalty proceedings were initiated under section 271/(1)(c) for the assessee's failure to return capital gains tax for the assessment year 1960-61. These are pending."

1.76. During evidence, the representative of the Board stated that the Commissioner of Income-tax was examining what further action could be taken against him for concealment of income.

1.77. The Committee learnt from Audit that the Capital gain made by the assessee was noticed by Audit by collecting the Income-tax & wealth-tax assessments.

1.78. In paragraph 1.50 of their 73rd Report (Fourth Lok Sabha), the Public Accounts Committee had observed as follows:—

> "There is need to link these (Wealth Tax Assessment) cases with the corresponding income-tax cases as that the quality of administration of Income-tax could be improved and it could be ensured that tax evasion is curbed. The Committee would in this connection like Government to examine the suggestion made by the Working Group of the Administrative Reforms Commission for an integrated return."

1.79. Government's reply to the above recommendation was as follows:—

> "As regards the linking of Income-tax and Wealth-tax assessments, the Government have to state that even now the Income-tax Officers making the Wealth-tax assessments of an assessee invariably refer to his Income-tax assessments for the corresponding period. Beides, it is the practice to put the same I.T. O. In charge of both the Income-tax and Wealth-tax assessments of the same assessee."

1.80. The suggestion of the Administrative Reforms Commission for evolving an integrated return form for both the Income-tax and Wealth-tax cases is not considered by the Ministry to be quite practicable. The number of Wealth-tax assessees is only about 4 per cent of the number of Income-tax assessees. An integrated Income-tax-cum-Wealth-tax return form would place an unnecessary burden on about 96 per cent of the assessees who are not liable to pay Wealth-tax. Besides, Section 14(2) of the Wealth-tax Act authorises the Wealth-tax Officer to call for a return of net wealth only if the former is of the opinion that the assessee would be assessable to Wealth-tax. When an assessee will obviously not be taxable under the Wealth-tax Act, it would not be legally possible for the Wealth-tax Officer to obtain a return of Wealth-tax from him. The Ministry feels that the present system of calling for separate Wealth-tax returns may be allowed to continue.

1.81. During evidence when the Committee drew attention to their observations in the Seventy Third Report and Government's reply thereto, the Finance Secretary stated, "We have given some further consideration to this point in the last few weeks or so.....We feel we need not have an integrated return but to have some system of coordination by

which on either side we could have some additional two or three columns added to the Wealth-tax return as well as, if necessary, to the income-tax return, where the assessee would have to give information that either he is a wealth-tax assessee or not. If he is one, he files such a return, and the officer would be the same. We are working out a system where we can enlarge the present form to some extent in each of these returns so that this check and counter-check would be possible."

1.82. The Committee desired to know the feasibility of adding one more column regarding Gift Tax in the Income tax return. The Finance Secretary stated, "Gift tax and Estate Duty are distinct—they come once in a blue moon. But it is a point for consideration."

1.83. The Committee enquired how the Income-tax Officer concerned had failed to take the capital gains into account. The representative of the Board stated that according to the view expressed by the I.T.O. "This did not amount to capital gains as it was a case of acquisition by Government." This view was, however, not accepted by Government and the Income-tax Officer was given a warning. In reply to a question, the witness added, "There could be two views. The matter went to two High Courts. In the Madhya Pradesh case, Tribunal decided in favour of assessee. In the Madras case, it was decided in favour of the Department. The assessee went up to the High Court. Both the High Courts have said there was capital gain."

1.84. The Final Report on Rationalisation and Simplification of Tax Structure *inter alia* contains the following suggestions regarding valuation of properties:

> "Low valuation of properties is resorted to for various purposes, although it is not easy to determine its extent. One possible way of discouraging it would be for the State to have the right to acquire the property at the value declared by the owner in various situations"

1.85. The Committee take a very serious view of the omission that occurred in this case.

1.86. The assessee made substantial capital gains amounting to Rs. 33.60 lakhs in 1960-61 which he did not report in his assessments. The assessing officer, who finalised the assessment on the 31st March, 1962 also failed to detect this concealment. It was left to Audit to point out, after a cross-check of the income-tax return with the relevant wealth-tax return, that an omission had occurred, after which the Department raised the demand.

1.87. The Committee were informed during evidence that the explanation of the Income-tax Officer for his failure to take the capital gain into account was that as the properties had been acquired by Government, it was not a case of capital gains. The Committee see little force in this explanation. Considering the magnitude of the case, the assessing officer should have, even if he had entertained such doubts, sought instructions from his superiors. The Committee note that the officer concerned has been warned.

1.88. An important issue which emerges from this case is the magnitude of the problem of under-declaration of value of properties for tax purposes. The value of one of the properties acquired by the State at Rs. 26.40 lakhs had been declared by the assessee in the Wealth Tax return as Rs. 1,80,000. The declared value in this case was thus about 1/15th of the market value. In the case of the other property, the declared value was about 1/10th of the market value determined by the Land Acquisition Officer. These are not stray isolated cases. In another case mentioned in the later part of this Report, the declared value of the property for the purpose of Wealth Tax which was based on municipal valuation was found to be just a fraction of the market value. The Committee have also in para 1.30 of their Hundredth Report (Fourth Lok Sabha) drawn attention to the results of a sample survey recently conducted by the newly created Valuation Cell which disclosed that the value of 71 properties in Delhi was 73 per cent more than what was shown in the returns filed by assessees. These cases illustrate the extent to which property values are depressed in tax returns. The Committee note that for proper evaluation of properties, a Valuation Cell has been created by Government. The Committee have already emphasised the need to undertake a survey of all metropolitan properties in accordance with a time-bound programme (vide para 1.31 of their Hundredth Report). They would like immediate action to be taken in this regard.

1.89. Another useful safeguard would be to have an integrated tax return covering both wealth and income tax. The experience in the instant case itself suggests that it would be a useful tool for checking concealment of income. The Committee have already suggested the institution of an integrated return in para 1.50 of their Seventy-Third Report. The Committee have further suggested in para 1.23 of their Hundredth Report that it would not be necessary to burden all the assessees with the obligation of having to submit an integrated return. Only assessees liable to both income tax and wealth tax need be called upon to do so. This purpose could be achieved by having a different form of return for such assessees. The Committee would like Government to consider these suggestions and come to an early decision. It seems to the Committee imperative that if the quality of tax administration is to be improved, it is essential to co-ordinate properly the administration of income-tax and wealth-tax.

(c) *Cases involving bogus hundi loans*

Audit Paragraph

1.90. A sum of Rs. 1,25,000 representing bogus hundi loans shown in the books of account of a registered firm for the assessment year 1962-63, which was to be added back to the total income of the firm was, at the time of computing the total assessable income on 28th February, 1967, omitted to be added back to the total income. As a result, the sum of Rs. 1,25,000 escaped assessment. Besides the tax calculated by the department on the total income assessed was undercharged by Rs. 10,000 due to a mistake in totalling. As a result of these two mistakes tax was under-charged to the extent of Rs. 1,15,034.

[Paragraph 48(c)—Audit Report (Civil) on Revenue Receipts, 1969]

1.91. During evidence, the representative of the Board stated that the facts mentioned in the Audit paragraph were correct. The Income-tax Officer wrote in his order that the amount of Rs. 1,25,000 on account of bogus hundi loans was being treated as the concealed income of the firm. He, however, forgot to include this amount while computing the total income of the firm for the purpose of assessment. Asked whether the Ministry were satisfied that the non-inclusion of the sum of Rs. 1,25,000 in the income of the firm was not deliberate, the representative of the Board stated: "One can attribute one way or the other. The point here is that the quantum of work involved was so much we feel that this is a mistake. In reply to another question, the witness stated that the Income-tax Officer concerned had been cautioned....."

1.92. In a note, the Ministry have added:

"The assessment in question has been set aside by the Appellate Assistant Commissioner of Income-tax and it will have to be made afresh. About the assessment originally made, the Ministry would like to place before the Committee, the following factors, which establish the '*bona fides*' of the Income-tax Officer:—

(i) The details regarding the hundi loans were discussed at length in the assessment order.

(ii) Penalty proceedings were initiated by the Income-tax Officer on the ground that Rs. 1,25,000, representing the unexplained amount of hundi loans, was the assessee's concealed income.

The Ministry feel that in this context, the failure of the Income-tax Officer to include Rs. 1,25,000 in the computation of income from the head office of the assessee, should be held to be a '*bona fide*' mistake."

1.93. In reply to a written question, the Ministry have stated that the assessment had not been audited by the Internal Audit Party.

1.94. The Committee enquired whether the Department had prepared a list of parties operating bogus hundies and circulated it to formations for information. The representative of the Board stated: "This list has been well circulated and we are working on that. This racket was becoming very common and extending to all parts of India. We organised a large-scale search of such hundi-wallahs in 1965 and collected necessary information. Since then.....this racket has disappeared more or less. People are now not interested in going for bogus hundis and taking advantage of them."

1.95. Asked whether the Department had come across any new device, in place of hundis, for concealing income, the witness stated: "There is a recent case in Gujarat about cross-word puzzles and prizes of lakhs for those who solve the puzzles and this was being exploited to bring in their black money. We raided the cross-word houses and got hold of the materials and names of the parties and many of them came forward to admit concealment." Further asked whether any steps had been taken to ban cross-word puzzles used as a device for concealment of income, the witness stated: "So far as banning is concerned, it is not for us but it has been made unprofitable for the organisers."

1.96. The Committee were informed by Audit that the assessments of the firm and its partners were revised and the additional demands of Rs. 22,500 and Rs. 92,534 raised but on appeal the assessment of the firm had been set aside by the Appellate Assistant Commissioner. The representative of the Board stated that in this case the Appellate Assistant Commissioner had given a chance to the I.T.O. to reframe the assessment after giving the assessee full opportunity. The assessment had not yet been completed by the Income-tax Officer.

1.97. In reply to a question, he added: "The problem of hundi loans has been a fairly complicated problem. Unless all witnesses connected with the hundi loans are examined by the I.T.Os and they are given an opportunity of being cross-examined, the appellate bodies do not accept such additions, the experience so far has been that the appellate authorities usually set aside the assessments."

1.98. In reply to another question, the representative of the Board stated: "After an order of the Appellate Assistant Commissioner is received by the Commissioner, he looks into that and if he considers it necessary he goes in appeal to the tribunal."

1.99. The Committee enquired whether the Board had any machinery to satisfy itself that the Appellate Assistant Commissioners had performed their judicial work properly. The representative of the Board stated:

"Sometime back, we had the Director of Inspection (Income-tax) who was looking into inspection of the A.A.Cs. That post was suspended for some time. It was again revived only a few months back. And he has started looking to the backlog of the assessments which were set aside. He has to see whether there are hardships involved and whether the cases are disposed of properly or not. He conducts this type of administrative inspection of the Appellate Assistant Commissioners."

1.100. The Committee are surprised to note that the Income-tax Officer in this case who had himself detected in the course of assessment concealed income of Rs. 1,25,000, representing bogus hundi loans and discussed it at length in his assessment order should have omitted to add it back to the total income of the assessee. There was also a mistake in totalling. The cumulative effect of the two mistakes was short-levy to the extent of Rs. 1,15,034. The Committee note that although this was a high income case it was not scrutinised in Internal Audit. The Committee consider the omissions regrettable.

1.101. The Committee were given to understand that the assessment in this case is being reframed after the assessee went up in appeal. The Committee would like to be apprised of the further developments in this case.

1.102. The Committee note that the Board have circulated lists of bogus hundi dealers to the assessing officers. They desire that the Board should keep the position under constant watch with a view to finding out whether any new devices are being used for concealment of income. It was stated during evidence that in a recent case some assessees had resorted to the expedient of crossword puzzles to conceal incomes. The Committee trust that the Department will maintain constant vigilance and keep the assessing officers fully posted with the results of their findings in various types of cases involving concealment. Government should take such other measures as may be found necessary for making concealment of income unrewarding.

Audit Paragraph

1.103. Cash credits of Rs. 2,75,000 in the shape of Hundi Loans introduced by three assessees (a firm and two of its partners) in their returns for the assessment years 1963-64 and 1964-65 were considered as genuine and the assessments were finalised accordingly in March, 1965. It was pointed out that the names of some of the creditors had appeared in the list of "Bogus Hundi dealers" published by the Central Board of Direct Taxes in their circular dated 12th May, 1964 and the credits should have to be treated as concealed income and the tax levied accordingly. When the cases were scrutinised again by the Income-tax Officer regarding the genuineness of the Hundi Loans after the above mistake was pointed out, it was found that cash credits worth Rs. 3,36,500 introduced by the assessees for the assessment years 1961-62 to 1964-65 required to

be taxed and the additional demand on the above account would be Rs. 1,40,000. The case was brought to the notice of the Ministry in August, 1968 and a reply is awaited (March, 1969).

[Paragraph 58(c)—Audit Report (Civil) on Revenue Receipts, 1969]

1.104. Under Section 68 of Income Tax Act, 1961 where any sum is found credited in the books of an assessee maintained for any previous year and the assessee offers no explanation about the nature and source thereof to the satisfaction of the Income-tax Officer, the sum so credited is chargeable to Income Tax as the income of the assessee for the previous year.

1.105. The Central Board of Direct Taxes have issued a detailed circular on 12-5-1964, detailing how bogus Hundi transactions are operated upon by the assessees for introducing the secreted profits into the business. To the circular, the Board also appended a list of Hundi Bankers who had admitted or found to be lending names to enable business-men to introduce their secreted profits in books. The Board has instructed that the cash credit appearing in the books of accounts of assessees against Hundi dealers whose names figure in the list of the Central Board of Direct Taxes should be brought to tax as per the instructions of the Board.

1.106. In the case reported in the para, it was noticed that the assessee firm and two of its partners had introduced cash credits in its books in the previous years relevant to the assessment years 1963-64 and 1964-65. These cash credits were treated as genuine by the Income-tax Officer. It was pointed out in audit in May-June, 1966 that since the names of some of the creditors, in the books of the assessees were appearing in the list of "Bogus Hundi dealers" circulated by the Central Board of Direct Taxes, the genuineness of the credits should be verified and if they were found to be not genuine, the same should be subjected to tax. As a result of the audit objection, the Income Tax Officer reviewed the assessments of the firm and partners and found cash credits as detailed below were not genuine:

	1961-62	1962-63	1963-64	1964-65	Total
Firm	20,000	35,000	95,000	..	1,50,000
Partner 'A' . . .	16,000	42,500	60,000	8,000	1,26,500
Partner 'B' . . .	20,000	10,000	20,000	10,000	60,000
TOTAL					3,36,500

and had since initiated proceedings under Section 147(a) for the assessment of the firm and partners. The additional tax that would be recoverable if the above cash credits are treated as not genuine is as under:

	Rs.
Firm	13,092
Partner 'A'	34,324
Partner 'B'	92,584
	1,40,000

1.107. The Committee desired to know whether the Ministry had accepted the audit objection. In a written reply, the Ministry have stated:

> "The audit objection has been accepted and the assessments of the firm M/s..... and its two partners for the assessment years 1961-62 to 1964-65 have been reopened."

1.108. The Committee learnt from Audit that the Ministry had not replied to the Audit paragraph referred to them for comments in August, 1968. The Committee desired to know the reasons for delay in replying to the Audit paragraph. In their reply, the Ministry have stated:

> "In a letter dated 1-12-1969 addressed to the Audit, the Ministry have intimated that the final outcome of the audit objection can be known only when the assessment proceedings started under Section 147(a) are completed. Detailed investigations have to be made in this case before the assessments can be finalised. It was also stated that not all Hundi loans from even the suspect Hundiwallahs are treated as the assessee's own money and that those which occur after the peak credits are treated as having come out of previous withdrawals. It is because of the protracted investigations needed in this case that the Ministry's reply to the Audit was delayed."

1.109. A similar case was brought to the notice of the Committee in Audit Report, 1967. The Committee learnt from Audit that the case under reference also related to the same Commissioner's charge.

1.110. The Committee desired to know whether the Board had issued any instructions to Commissioners to arrange for a review of all high income group assessments so that incomes escaping assessments by way of bogus hundi loans could be brought to tax. In their reply, the Ministry have stated: "The Board have issued instructions for special review by Internal Audit Parties of all high income group assessments, where the total income is Rs. 50,000 or more, irrespective of whether they involve bogus Hundi loans or not."

1.111. The Working Group of Administrative Reforms Commission which had considered the problem of bogus hundi transactions made the following suggestions:

> "As a considerable amount of black money is introduced through indigenous bankers and hundi brokers, legislation may provide that in their cases, every such indigenous banker or hundi broker or a person engaged in money lending business other than a banking company should not possess a book cash balance exceeding Rs. 20,000 and that every payment made or amount received by him in excess of Rs. 10,000 should be by way of a crossed 'Account Payee' cheque on a scheduled bank. It should further be provided that they should not hold cash outside the accounts exceeding Rs. 5,000."

1.112. The Administrative Reforms Commission which considered these suggestions made the following observations:

> ".....We endorse, in principle, the suggestion that persons engaged in money-lending business (other than banking companies) should clearly indicate in the accounts of the business the money available for the business and keep in the banks all amounts in excess of a prescribed maximum. What this maximum should be, may be fixed by law, after taking all relevant factors into consideration. As regards the suggestion that the transactions in excess of Rs. 10,000 should be by way of a crossed cheque, we find that a variant of this suggestion has already been implemented by a provision in the Income-tax Act, 1961 as introduced by the Finance Act of 1968 to the effect that subject to certain exemptions, no payment exceeding Rs. 2,500 at a time would be permitted to be deducted as an admissible expenditure for purposes of computing income from business unless it is made by way of a crossed cheque or draft."

1.11. The Committee feel that the assessing officer in this case failed to take cognisance of very important instructions issued by the Board while finalising the assessment. The Board had issued a detailed circular in May, 1964 bringing to the notice of all assessing officers the prevalance of bogus Hundi transactions and cautioning them particularly against transactions involving certain Hundi brokers. In the present case, though the assessees' books showed certain cash credits stated to have been obtained from Hundi brokers who figured in the suspect list circulated by the Board. the assessing officer held these Hundi loans amounting to Rs. 2,75,000 as genuine. Subsequent investigations conducted at the instance of Audit revealed that credit worth Rs. 3,36,000 introduced by the assessees in

question during the assessment years 1961-62 to 1964-65 represented secreted income which was required to be taxed. In the opinion of the Committee, this is a fit case for investigation for fixing responsibility.

1.114. The Committee note that relevant assessments of the assessees have been re-opened. The Committee would like to have a report regarding recovery of the tax short-levied, and the action taken as a result of investigations.

1.115. The Committee note the Board have issued instructions for a special review of all high income group assessments. The Committee trust that as a result of the review, other cases of bogus hundi loans, if any, will be unearthed and incomes escaping assessments by way of such loans brought within the tax net. The Committee also hope that Government would maintain constant vigilance lest new rackets emerge in place of old rackets detected by the Department.

1.116. The Committee would also commend to Government the suggestion made by the Administrative Reforms Commission that indigenous bankers or hundi brokers or persons engaged in money lending, other than banking companies, should be required to indicate in the accounts of the business the money available for business and keep in banks all amounts in excess of a maximum to be prescribed by law.

(f) *Errors and omissions attributable to carelessness and negligence and failure to apply the correct rates of tax.*

Audit Paragraph

1.117. Under-assessments on account of errors and omissions attributable to carelessness and negligence and failure to apply the correct rates of tax have been commented upon in the Audit Reports on Revenue Receipts from 1964 onwards. The figures for the years 1965 to 1969 are as follows:

Year of Audit Report	No. of cases	Amount of under-assessment (in lakhs of Rupees)
1965	1786	38·57
1966	1059	41·86
1967	1455	35·81
1968	2612	33·99
1969	2650	52·21

A few instances which are only illustrative are given below

(a) In terms of the Finance Act, 1962 an individual was required to pay income-tax on the first Rs. 20,000 of his total income at various slab rates and on the balance of his total income above Rs. 20,000 at the rate of 25 per cent. As regards super-tax, the assessee was required to pay the same on the first Rs. 70,000 of his total income at various slab rates and on the balance of his total income above Rs. 70,000 at the rate of 47.5 per cent.

(i) In the case of an assessee whose assessment for the year 1962-63 was completed on 23rd March, 1967, the total income was determined at Rs. 3,52,699. While arriving at the tax payable by the assessee, the Income-tax Officer calculated the income-tax and super-tax on the total income of Rs. 1,00,000 and multiplied the same by three in order to arrive at the tax on the first Rs. 3,00,000 of his total income. To this amount was added the tax payable on the next Rs. 52,699 in order to arrive at the total tax payable on the total income of Rs. 3,52,699. The incorrect method of calculation adopted by the department resulted in an undercharge of tax of Rs. 49,648 for the assessment year 1962-63. The Ministry have stated that an additional demand of Rs. 49,648 has been raised (December, 1968). Report regarding recovery is awaited.

(ii) In another case, which was also completed on 23rd March, 1967 by the same Income-tax Officer an assessee was assessed for the asessment year 1962-63 on a total income of Rs. 3,00,258. In this case also the incorrect method of calculation mentioned above was adopted by the department resulting in an undercharge of tax of Rs. 48,335. An additional demand of Rs. 48.335 has since been raised. Report regarding recovery is awaited.

[Paragraph 48(a)—Audit Report (Civil) on Revenue Receipts, 1969]

1.118. Cases involving similar mistakes were also reported in paragraph 61(d) of Audit Report. 1965 and paragraph 41(a) of Audit Report, 1968.

1.119. During evidence, the representative of the Board stated that the Upper Division Clerk who had calculated the tax in this case had at the particular point of time 80 limitation cases. He took the assistance of others for this purpose, and his work was "really perfunctory." The Income-tax Officer was required to check the calculation but he failed to

do so. Asked whether the ultimate responsibility for the proper calculation was not on the Income-tax Officer, the witness replied in the affirmative. In reply to another question, he stated: "This is not a human error..... I do agree that this sort of serious mistakes should not have been committed by an officer who is handling the assessments of over Rs. 3 lakhs." The Officer concerned had been warned in this case.

1.120. In reply to a further question, the witness stated that a subsequent rechecking of tax calculations made by the Upper Division Clerk concerned in all category I cases after 30-9-1965 revealed that he had made mistakes in 8 cases.

1.121. The Committee enquired whether ready reckoners were supplied to the clerks employed on tax calculations, the representative of the Board stated that ordinarily these were supplied.

1.122. As to the latest position regarding recovery in the cases referred to in sub-paragraph, the Ministry have stated in a written reply:

> "Assessments in both the cases were rectified on 21st August, 1968 raising additional demand of Rs. 49,648 in the case referred to in sub-paragraph 48(a)(i) and Rs. 48,335 in the case referred to in sub-paragraph 48(a) (ii). Both the assessments have been reduced in appeal before the A.A.C. The figures of reduced total income and the tax due thereon in these two cases are as under

Name of the assesse	Total income as reduced in appeal before the A.A.C.	Demand on the reduced total income
Case 1	Rs. 31,573	Rs. 7,004
Case 2	Rs. 69,982	Rs. 14,187

Additional demand raised has been realised in full in both the cases."

1.123. The Committee note that in respect of both the cases mentioned in the Audit paragraph which were handled by the same Income-tax officer, the tax on an income of Rs. 3 lakhs to be worked out on a slab basis was calculated by computing the tax on Rs. 1 lakh in the first instance and then multiplying it by 3. It is surprising that such an elementary mistake was made by an assessing officer. There have been other instances in the past of similar mistakes. As action has been taken against the officer, the Committee do not wish to pursue this case further. The Board should, however, take steps to ensure that these mistakes do not recur.

Audit Paragraph

1.124. While determining the total income of a company for the assessment year 1962-63, the assessing officer decided to disallow various items of expenses which aggregated to Rs. 2,93,975. In the assessment completed on 31st March, 1967, it was noticed that a sum of Rs. 1,93,975 only was disallowed and added back to income. The arithmetical mistake resulted in under-assessment of income by Rs. 1,00,000. Consequently an amount of Rs. 55,024 by way of tax and interest was under-assessed. Though the assessment was revised on 29th April, 1967 on some other grounds, the mistake in totalling remained undetected by the department.

[Paragraph 48(b) of Audit Report (Civil) on Revenue Receipts, 1969]

1.125. The Committee learnt from Audit that the mistake had occurred in a Central Circle where the number of assessments dealt with is relatively less than in other circles.

1.126. During evidence, the Committee enquired whether the tax short levied had been recovered. The representative of the Board stated that the assessment was revised on 16th March, 1968 and the additional demand raised. There was, however, an appeal in this case. The combined effect of the additional demand raised on this account and the refund allowed in appeal on other grounds was a net refund to the assessee.

1.127. The Committee learnt from Audit that although the original assessment underwent revision on 29th April, 1967 on some other ground, the mistake in total remained undetected. The Committee desired to know whether the original assessment and the subsequent revision were subjected to counter-check. In a written reply, the Ministry have stated:

> "Neither the original assessment nor the rectification made on 29th April, 1967 seem to have been counter-checked. Besides, the rectification related to the computation of income of the General Department, while the mistake in totalling had occured in the computation of income from the Cotton Department. Since the entire computation was not required to be revised, the mistake remained undetected at this stage."

1.128. The Committee enquired whether the under-assessment had been checked in Internal Audit and if not, the reasons therefor. The representative of the Board stated that the assessment was completed by the Department on 31st March, 1967 and audited by Revenue Audit in October, 1967. The Internal Audit had not scrutinised the assessment by then. In reply to a question he stated that the work to be done by the Internal Audit Department was more than they could cope with, with the result that sometimes big cases like the one under consideration were lift out. To remedy this, priorities for scrutiny of assessments by Internal Audit

had now been laid down. According to the relevant instructions, the following categories would have priority:

(i) Assessments completed in the months of February-March;

(ii) All company cases;

(iii) Cases with an assessed income of Rs. 50,000 and over;

(iv) Cases which were about to become time-barred.

The Committee enquired whether any action had been taken against the officer found responsible for the lapse. In their written reply, the Ministry have stated:

> "The Commissioner of Income-tax called for the explanation of the officer concerned and carefully considered the circumstances in which the mistake had occurred. He found that the concerned Income-tax Officer was very busy in March, 1967 when he had to dispose of 16 limitation assessments, of which all but one was in the high income group. Besides, the particular Income-tax Officer was also incharge of establishment matters relating to the staff in the Central charge. After examining the circumstances the Commissioner considered the mistake to be a *bona fide* one occurring due to pressure of work. Therefore, no action has been taken against the concerned officer."

1.129. The Committee note that the various items of expenses disallowed by the assessing officer in this case aggregated Rs. 2,93,975. Due, however, to a mistake in totalling, the amount of disallowed expenses was taken as Rs. 1,93,975, resulting in an under-assessment of Rs. 55,024. While the Committee note that tax short-levied has since been adjusted, they cannot help pointing out that the mistake occurred in a Central Circle where the number of assessments dealt with is comparatively less. The Committee further observe that though this was a big income case, it had not been subjected to a counter-check at the original assessment or the revised assessment stage. Nor had the assessment been scrutinised in Internal Audit. The Committee note that according to the instructions now issued by the Board cases of the present type would come in priority category for the purpose of scrutiny by Internal Audit. The Committee trust that the Board will ensure that their instructions in regard to counter-check of tax calculations as also scrutiny by Internal Audit are strictly complied with.

Audit Paragraph

1.130. For the assessment year 1966-67 a non-resident association of persons was assessed on a total income of Rs. 35,75,912. Though according to the provisions of the Finance Act, 1966, surcharges on income-tax were leviable, the Income-tax Officer charged only income-tax and did

not levy any surcharge on income-tax. As a result a sum of Rs. 2,64,754 was under-charged for the assessment year 1966-67. The Ministry have accepted the audit objection but they have stated that retrospective recognition of the status of the assessee as a company is under consideration (March 1969).

[Paragraph 48(d)—Audit Report (Civil) on Revenue Receipts, 1969.]

1.131. Under the provisions of the Finance Act 1966, an assessee individual, Hindu Undivided Family Association of Persons, whose total income includes earned income in excess of Rs. 1 lakh is liable to pay a surcharge on the Income-tax attributable to such income in excess of Rs. 1 lakh at the following rates.

On income-tax calculated on earned income in excess of Rs. 1 lakh.

(1) in the slab between	Rs. 1,00,001 2,00,000	5% of Income-tax
(2) in the slab between	Rs. 2,00,001 3,00,000	10% of Income-tax
(3) in the slab over	Rs. 3,00,000	15% of Income-Tax

Further the assessees are also liable to pay a special surcharge calculated at the rate of 10 per cent on the amount of Income-tax and earned income/unearned surcharges (on earned/unearned) payable by the assessee.

1.132. The Committee were given to understand by Audit that in the case mentioned in the Audit Paragraph, the Central Board of Direct Taxes had since issued a notification on recognising the status of the assessee as a company with retrospective effect. The Committee desired to know the considerations that led to the recognition of the status of the assessee as a company with retrospective effect. In a written reply, the Ministry have stated:

> "The company in question was recognised as a "Company" by Board's letter F. No. 16(ix)-IT/53 dated 30th September, 1953. This company later took over the assets and liabilities of another concern which is now extinct. In the process, the name of the concern was changed. Therefore, the assessee was declared to be a company with effect from the assessment year 1965-66 by the Board. Hence, what happened in this case was that the Board continued the recognition already granted as a company to an existing concern with effect from the assessment year 1965-66".

1.133. The Committee desired to know the usual policy followed by the Board in such cases. In their written reply, the Ministry have stated:

> "The usual policy followed by the Board in such cases is to grant recognition with effect from the assessment year for which assessments are pending on the date of filing of application to the Board requesting for the issue of a declaration under section 2(17). However, in certain exceptional cases, having regard to the circumstances of the case, recognition is allowed even for those assessment years for which assessments had been completed on the date of the filing of application".

1.134. The Committee enquired whether the statute authorised the Board to issue an order according the status of a company to an assessee with retrospective effect. In their written reply, the Ministry have stated:

> "The orders declaring an Association as a company are issued by the Central Board of Direct Taxes under the powers vested in them under section 2 (17) of the Income-tax Act, 1961. This section does not bar the C.B.D.T. to issue such an order with retrospective effect. However, no legal opinion on this particular point has been taken so far. But a reference has recently been made to the Ministry of Law in this regard".

1.135. The Committee note that the normal policy followed by the Board is to allow benefit to an assessee arising from his recognition as a company for assessments pending on the date on which the assessee applies for such recognition. In this case, however, recognition as a company was given with retrospective effect covering those assessment years for which assessments had already been completed on the crucial date. The Committee do not in principle approve of deviations from general policies laid down by Government. They feel that if, in any case, an exception has to be made, it should be in accordance with well defined criteria within the four corners of Law. It is also essential that the benefits of such exceptions should be available to anyone who statisfies the criteria.

1.136. The Commitee note that there is no provision in the Income Tax Act, 1961 enabling or barring the Board from issuing an order according the status of a company to an assessee with retrospective effect. After the matter was raised by the Committee, it has been referred to the Ministry of Law for opinion. The Committee would like to be informed of the opinion of the Ministry of Law in the matter.

Audit Paragraph

1.137. The Finance Act, 1964 provides that super-tax is to be charged at the effective rate of 35 per cent on the income of a company provided (i) the company's income exceeds rupees five lakhs, (ii) the company is one in which the public are not substantially interested and (iii) the

company has made the prescribed arrangements for the declaration and payment within India of the dividends payable out of its profits liable to tax under the Income-tax Act, 1961. A lower rate of tax at 29 per cent is to be applied if such a company is engaged in any one of the priority industries specified in the Finance Act, 1964 itself.

It was noticed that in the case of a company the department incorrectly treated the company as engaged in priority industry and levied super tax at 29 per cent. Further, though the assessee's non-business income of Rs. 44,045 for the same assessment year was chargeable to super-tax at 35 per cent under the provisions of the Finance Act, super-tax was charged by the department at 25 per cent. The total under-charge of tax for the assessment year 1964-65 was Rs. 8,83,738. Report regarding rectification and recovery of the tax is awaited (March, 1969).

[Paragraph 56(c)—Audit Report (Civil) on Revenue Receipts, 1969.]

1.138. Under the provisions of Finance Act 1964, (Paragraph 'D' of the first Schedule to the Finance Act 1964) a company is liable to be charged for super-tax at the general rate of 55 per cent and from this rate, a rebate at a prescribed percentage is allowed depending upon the nature of the company, the source from which it derived its income and the amount of its total income. In the case of a company in which the public are not substantially interested and whose total income exceeds Rs. 5 lakhs, the percentage of rebate admissible to it from the general rate of super-tax viz. 55 per cent, is 26 per cent if its income is attributable to the business of generation or distribution of electricity or of the manufacture or production of any one or more of the articles specified in the list in part IV of the first schedule to the Finance Act and 20 per cent in respect of its other income. Thus the effective rate of super-tax in respect of the former company is 29 per cent (55 per cent—26 per cent) or 35 per cent (55 per cent—20 per cent) in the case of companies of the latter type.

1.139. Explaining the circumstances in which the under-assessment had taken place in the case mentioned in the Audit paragraph, the Finance Secretary stated that the word 'Metal' occurred in the name of the company in question. Because of this, the clerk who worked out the calculation treated the company as one engaged in a priority industry.

1.140. In a note furnished to the Committee, the Ministry have stated:

> "In this particular case, it was not the Income-tax Officer who mentioned that the assessee was engaged in "priority industry" but while computing the tax it was his office who made that assumption. The ITO's mistake lies in not detecting the error in tax calculation when he signed the tax calculation sheet and the demand notice."

1.141. It has also been added in the note that "the I.T.O. did not check the tax calculation although the income exceeded Rs. 1 lakhs."

1.142. Pointing out that the assessee in this case was a well-known company, the Committee enquired during evidence whether the Income-tax department was not expected to have a knowledge of the line of its manufacture. The Finance Secretary stated, "I would agree, especially as the mistake was committed in Calcutta itself. They should have known."

1.143. The Committee desired to know in cases belonging to high income group, what was the procedure laid down to have a counter check before the assessment was finalised. The representative of the Board stated that under the instructions, the Income-tax Officer was required to check all cases of income of over Rs. 1 lakh. Below that amount, the counter check was exercised by subordinate staff—Upper Division Clerk and Head Clerk.

1.144. In reply to a question, the representative of the Board stated that the assessment was not counter checked by Internal Audit before issue.

1.145. The Committee enquired whether a list of priority industries was furnished to Income-tax Officers. The representative of the Board stated that it was, but added that the relevant assessment year was the very first year in which the idea of priority industries had been introduced.

1.146. The Committee desired to know the measures taken by the Department to obviate the recurrence of such cases. The representative of Board stated that a list of priority industries had been included in the Internal Audit Manual and the officers concerned before treating a concern as one engaged in a priority industry, were required to ensure that it was specifically mentioned in the said list. Internal Audit was also being strengthened.

1.147. In reply to a question, the representative of the Board informed the Committee that the assessments had been rectified and the tax short levied recovered.

1.148. In reply to another question, the representative of the Board stated that as a result of the review of the cases dealt with by the Income-tax Officer concerned, mistakes had been found in 49 cases. A Character role warning had been given to him.

1.149. The Committee observe that the company in question, not being a priority industry, was assessable to super-tax at the effective rate of 35 per cent. However, just on the basis of the company's name which included the word 'metal' (a priority industry), the Income Tax Department treated it as one engaged in a priority industry and assessed it to a lower effective rate of super-tax (29 per cent) applicable to priority industries. Another mistake made by the Department was that non-business income of the company which was chargeable to super-tax at 35 per cent was charged at the rate of 25 per cent. The cumulative effect of the two mistakes was an under-charge of tax to the tune of Rs. 8,83,738.

1.150. While the Committee note that the whole amount of short-levy has since been recovered, they consider that the officials concerned were extremely lax. Another lapse that occurred in this case was that though the assessment was to have been counter-checked by the Income-Tax Officer, as the assessee's income exceeded Rs. 1 lakh, this was not done, with the result that the mistake made at the lower level remained undetected. It was stated that this officer was found to have made mistakes in as many as 49 cases assessed by him and that a character roll warning had been given to him. The Committee are not satisfied with this. They desire that Government should review the matter and see whether deterrent punishment is not called for in this case.

1.151. A further omission revealed was that although the case belonged to a company circle, the assessment was not checked in Internal Audit. The Committee would like such omissions to be seriously viewed in future.

(g) *Mistakes in computing depreciation and development rebate*

Audit Paragraph

1.152. For the purpose of allowing depreciation on plant and machinery in assessing the income of a business under the Income-tax Act, 1961, the term 'actual cost' has been defined as the actual cost of the asset to the assessee, reduced by any amount met directly or indirectly by any other person or authority. In the case of an Electric Supply Company, however, it was noticed that the depreciation allowance had been allowed on the entire cost of the additional meters, mains and service connections provided during the assessment years 1962-63 to 1966-67, without deducting a portion of the cost met out of the contributions made by the consumers. The written down value of the meters, mains and service connections, carried forward from the assessment year 1961-62 to the assessment year 1962-63 for assessment under the Act of 1961, was also not reduced by the amount contributed by the subscribers. An additional demand of

Rs. 1,73,857 has since been created against the company in respect of the assessment years 1962-63 to 1966-67. Of this, a sum of Rs. 1,51,632 is reported to have been recovered by adjustment. Report of recovery of the balance amount of Rs. 22,225 is awaited (March 1969).

[Paragraph 53(a) of Audit Report (Civil) on Revenue Receipts, 1969.]

1.153. The following table shows the number of cases in which mistakes in computing depreciation and development rebate admissible were pointed in Audit and the under-assessments of tax resulting therefrom:

Year	No. of cases	Amount of under-assessment
		(in lakhs of rupees)
1966	979	368·42
1967	892	97·85
1968	63[illegible]	41·94
1969	759	93·80

1.154. During evidence, the representative of the Central Board of Direct Taxes stated that the following steps had been taken to reduce the number of mistakes in computation of depreciation and development rabate:

(i) Internal Audit Parties which were till recently concerned only with arithmetical calculations had been authorised to check the correctness of written down values.

(ii) An Internal Audit manual had been issued for the use of Internal Audit Parties.

(iii) Steps were also being taken to simplify the depreciation rate schedule. Draft rules to replace the existing rates of depreciation by consolidating rates on industry-wise basis had been published in the Gazette for eliciting public opinion. These rules would be brought into force in due course after taking into account the suggestion received.

1.155. Under the provisions of the Income-tax Act, 1922/1961 [(10)(2)(vi) of Income-tax Act, 1922/32(ii) of Income-tax Act, 1961] an assessee is entitled to depreciation on the assets used by the assessee for the purpose of the business on the actual cost of the asset of written down value thereof according as the asset was acquired during the previous year or they were acquired before the previous year.

1.156. Under the explanation below sub-section (5) of Section 10 of Income-tax Act, 1922 the 'actual cost' meant the actual cost of assets to the assessee reduced by any portion of the cost met by the *Government or a local public authority*. However, in the Income tax Act, 1961 a slight modification was made in the term of "actual cost". Under Section 43(1) of Income tax Act, 1961 "actual cost" means the actual cost of the assets to the assessee, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly *by any other person or authority*. Thus under the provisions of the new Act, whatever expenditure is not met by the assessee in acquiring an asset is to be deducted for the purpose of arriving at the 'actual cost' of the asset. So also under the new Act [Section 43(6)], "written down value" meant in the case of assets acquired in the previous year, the actual cost to the assessee and in the case of assets acquired before the previous year, the actual cost to the assessee less all depreciation allowed to him under the new Act or under the old Act.

1.157 The Committee were informed by the representative of the Central Board of Direct Taxes that the entire amount of short-levy of Rs. 1,73,857 had been recovered in this case. All the assessments had been completed by the same Income-tax Officer. This was the reason that the mistake occurring in the first assessment had been repeated in the subsequent assessments.

1.158 Asked whether the assessments had been checked in Internal Audit, the representative of the Board stated that these had been but the question of admissibility of depreciation allowance on the original or written down values of assets did not fall within the jurisdiction of Internal Audit then. Instructions enlarging the scope of functions of Internal Audit had since been issued.

1.159. The Committee enquired whether a review of assessments of other Electric Power Supply Companies had been made and if so, with what results. In a written reply, the Ministry have stated:

> "The Board issued instructions on 12-8-69 to all the Commissioners to review the depreciation calculations of all electric supply companies in the light of the audit objection. Reports from 16 Commissioners have been received which indicate that mistakes have been found in 20 cases and corrective action, wherever possible, was taken. The approximate amount of under-asessment of tax detected, as a result of the review, was about Rs. 86,000".

1.160. The Committee enquired whether the Board had analysed the reason for an identical mistake occurring in all these cases. The representative of the Board stated that it was a peculiar feature of Electric

Companies that a part of the cost of meters, mains and service connections was recovered from consumers. In all these cases, depreciation was allowed on the entire cost without deducting the portion of the cost recovered from the consumers. The Committee enquired whether instructions regarding the important change made in the definition of the term "actual cost" in the 1961 Act were issued for the guidance of Assessing Officers. The representative of the Board stated: "The 1961 Act was a comprehensive Act which replaced the (entire) Act of 1922. Therefore the Board did not issue instructions on all points, it issued instructions only on points which were to be highlighted."

1.161. The Committee observe that in computing the allowance to be made for depreciation, the assessing officers failed to apply correctly the relevant provisions in the Income Tax Act. This mistake occurred not in one but 16 other Commissioners' offices. None of the assessing officers was apparently aware that the Income Tax Act, 1961 had made a substantial departure from the provisions of the 1922 Act in that the actual cost of an asset (for purpose of depreciation) was to be reckoned after excluding the portion of the cost met not only by Government or a local or public authority alone (as in 1922 Act), but by "any person or authority" other than the assessee. It was stated that the mistake that occurred could not be detected by Internal Audit as at that time its scope did not extend to checking correctness of depreciation allowances made in assessments.

1.162. The Committee would like the Board as a working rule to ensure that whenever important changes are made in the Income Tax law, the implications thereof are fully explained to all the assessing officers, so that correct assessments are facilitated. The implications of such changes in Law should also be brought to the notice of the public through notices or handouts which incorporate suitable working illustrations.

Audit Paragraph

1.163. In the case of an assessee engaged in the manufacture of blades, it was noticed that for the assessment years 1962-63 and 1963-64, the department allowed depreciation allowance on the plant and machinery owned by the assessee at the rate of 10 per cent. In the Income Tax Rules, 1962, no special rate was prescribed in respect of blade manufacturing concerns and in the absence of such a special rate, the general rate of 7 per cent was applicable in this case. As a result of the allowance of depreciation at a higher rate than admissible, there was under-assessment of income of Rs. 2,52,478 for the assessment years 1962-63 and 1963-64. The undercharge of tax on this account was Rs. 1,26,239 for both the assessment years. Report regarding rectification and recovery of the tax is awaited (March, 1969).

[Paragraph 53(b) of Audit Report (Civil) on Revenue Receipts, 1969].

1.164. Appendix I to the Income-tax Rules, 1962 provides for the rates at which depreciation is admissible. In respect of plant and machinery, the rates at which depreciation is admissible fall under the following three categories:—

(i)	General rate	7%
(ii)	Special rates to be applied to the whole of the machinery and plant used in the concerns specified in items III(ii) of Appendix I. .	Varying rates ranging from 9% to 40%.
(iii)	Special rates to be applied to other machinery and plant . . . . . 2 .	Varying rates ranging from 25% to 40%.

1.165. In the case reported in the paragraph, the assessee in question was engaged in the manufacture of blades. The blade manufacturing industry is not specifically mentioned either in item III(ii) or item III(iii) of Appendix I to the Income-tax rules. As such, according to Audit, the assessee would be entitled to the general rebate of 7 per cent only applicable to machinery and plant.

1.166. During evidence, the Committee desired to know whether it was a fact that while the concern mentioned in the Audit paragraph was allowed a depreciation of 10 per cent, another blade manufacturing concern in the same district had been allowed a rebate of only 7 per cent. The representative of the Board replied in the affirmative but he added that both the concerns did not stand on the same footing. One of these was doing some other business also.

1.167. The Committee enquired whether both the assessments had since been rectified and the additional demand recovered. The representative of the Board stated rectification has not been possible in this case. Action was taken for 1964-65 assessment year. The case was reopened. The assessee went in a writ and proceedings have been quashed. In a written reply, the Ministry have added:

> "The two assessments have not yet been rectified. The proceedings initiated under Section 147(b) for 1964-65 have been quashed. For the two earlier years, the C.I.T. had directed the issue of notices under Section 147(a). The advisability of taking action under Section 154 is being considered by the Commissioner".

1.168. In reply to a question, the representative of the Board stated that in subsequent years they had been allowing a rebate of 7 per cent only to blade manufacturing concerns.

1.169. The Committee enquired whether assessments of similar blade manufacturing concerns had been reviewed. In their written reply, the Ministry have stated:

> "It has not yet been possible to undertake a review of the assessments of similar blade manufacturing concerns in the country to find out the rate of depreciation allowed in their assessments; the Ministry propose to do so early in the next financial year."

1.170. The Committee enquired whether any action was taken against the ITO concerned, the representative of the Board stated that the matter was brought to the notice of the Commissioner concerned who made an enquiry. According to him, it was a *bona fide* mistake.

1.171. Drawing attention to the fact that classification of industries was done long back and newer industries were since coming up, the Committee enquired whether it would not be desirable to make a fresh classification covering all the industries. The representative of the Board stated, "the list as it existed was a large one. We gave an increased rate of depreciation so that the residuary industries could be covered under that". According to information furnished to the Committee by Audit some of the important industries for which no industry-wise rates of depreciation have been laid down are:—

(i) Manufacturing fertilisers;
(ii) Plywood;
(iii) Radios, Electronic Equipment;
(iv) Scooters and Automobiles;
(v) Pharmaceutical Works;
(vi) Cable Industry;
(vii) Tractors;
(viii) Printing Press;
(ix) Typewriters;
(x) Pen Industries.

1.172. The Committee observe that the assessing officer allowed depreciation in this case at a higher rate than admissible under the rules. The rules allow varying rates of depreciation ranging from 9 per cent to 40 per

cent to specified industries and a general rate of 7 per cent which would apply to industries not so specified. Accordingly, the assessee, a blade manufacturing concern, which was not covered by the special rates specified in the rules was entitled to depreciation at 7 per cent. However, the assessing officer allowed depreciation to the assessee at the special rate (10 per cent) in two successive assessments, with the result that there was a short-levy of tax to the tune of Rs. 1.26 lakhs. A similar mistake occurred in the subsequent year also.

1.173. The Committee note that rectification has not been possible so far as proceedings initiated in this regard for one of the assessment years were quesioned in court. The Department is stated to be contemplating action under Section 154 of the Act. The Committee would like to be apprised of further developments in this regard.

1.174. The Government have also informed the Committee that they propose to undertake a review early in the next financial year to ascertain whether a similar mistake had occurred in assessments of other blade manufacturing concerns. The Committee would like to be informed of the results of the review and the rectificatory action taken pursuant thereto.

1.175. Pursuant to suggestions made by the Committee in paragraphs 3.65 and 3.66 of their Seventy-Third Report, Government have published draft rules for rationalisation of the provisions regarding depreciation on an industry-wise basis. The Committee, however, note that for important industries like scooters and automobiles, electronics etc., industry-wise rates of depreciation have not been prescribed. The Committee desire that Government should consider the question of laying down suitable rates of depreciation in respect of these industries also at an early date.

Audit Paragraph

1.176. The following mistakes were noticed in the assessments of a certain company for the assessment years 1954-55 to 1962-63:

(i) The company purchased certain lease-hold land along with the old cinema house standing thereon. The consideration paid by the company on account of the cost of the land and incidental charges amounted to Rs. 13,48,268 on which no depreciation of any kind would be admissible. But initial, additional and normal depreciation was allowed on this expenditure along with that on the construction of the new cinema building. The total amount of inadmissible depreciation amounted to Rs. 5,78,772 for the assessment years 1954-55 to 1962-63.

(ii) For the purposes of depreciation allowance the cost of the new cinema house was adopted as Rs. 22,65,653 instead of Rs. 17,23,653 shown in the certified accounts of the company, leading to the grant of depreciation in excess to the extent of Rs. 2,32,663 or the assessment years 1954-55 to 1962-63.

These two mistakes together with certain other discrepancies led to a total under-assessment of tax of Rs. 5,25,419 for the assessment years 1956-57 to 1962-63.

[Paragraph 53(c) of Audit Report (Civil) on Revenue Receipts, 1969.]

1.77. Under the provisions of the Income Tax Act, while computing the business income of an assessee, depreciation is admissible on buildings, machinery, plant or furniture. The Supreme Court, in the case of Commissioner of Income Tax, Punjab *Vs.* Alps Theatre (65, Income Tax Reports 377) (15th March, 1967) held that for the purpose of depreciation on building it would not be possible to include the cost of land.

1.178. The Committee were given to understand by Audit that in addition to allowing depreciation on the cost, the assessing officer made the following omissions:

(a) The income from house property was computed on the basis of municipal valuation even though the rent receivable far exceeded the former for the assessment years 1956-57 to 1960-61. This resulted in under assessment of income of Rs. 68,895 for assessment years 1956-57 to 1960-61.

(b) The interest paid on the loans secured by the mortgage against the cinema and office buildings for the construction thereof was entirely charged to the business income instead of allocating it between the income from business and income from house-property.

(c) Certain inadmissible expenses relating to the property let out were not disallowed and added back in the computation of income resulting in under-assessment of business income to the extent of Rs. 1,42,987 for the assessment years 1954-55 to 1962-63.

1.179 The Committee desired to know whether Government had accepted Audit objections and if so, what rectificatory action it had taken. in a written reply, the Ministry have stated :

"All the objections, except item (i), have been accepted by the Ministry. As regards item (i), the decision of the Supreme Court in the case of Alps Theatre, relied on by the audit, was communicated by the Board in its circular, dated 12.9.1967. The assessments for the nine years were completed during the period 31st May, 1958 to 13th March, 1967. There was, therefore, no mistake in the assessments. However, the Board has asked the C.I.T. to examine the facts. It appears that the assessee company was paying ground rent for the land, in which case the audit objection that depreciation was allowed on the land may not stand. The case is also being examined critically to ascertain whether

(i) the buildings concerned fall in the category of a newly constructed building entitled to initial and additional depreciation; and

(ii) the cost thereof is shown correctly for purposes of the depreciation claims.

The assessments have not yet been revised. The audit objection was received on 3rd April, 1968, when remedial action under section 154 was already barred by limitation for the assessment years 1954-55 to 1961-62. The Board feel that the case requires detailed investigations so as to make out a good case for taking action u/s 147(a), read with section 151(1) for assessment years 1954-55 and onwards. This would help the department to revise the assessments for 1954-55 assessment year onward and retrieve the lost revenue. The assessments for 1957-58 to 1960-61 were reopened for considering certain items of hundi loans."

1.180 The Committee enquired whether assessment for all the eight years were completed by the same Income-tax officer or by different Income-tax officers and if different Income-tax officers, how the mistake escaped the attention of all. In their written reply, the Ministry have stated:

"The assessments were completed by different officers. Investigations are still in progress."

1.181 The Committee enquired whether, in the light of the Audit paragraph, the Board had issued instructions to the Commissioners of Income-tax to arrange for a review of all assessments wherein depreciation was allowed on cost of land, and if so, with what results. In their written reply the Ministry have stated:

"The Board had already issued a circular on 9.11.1967, drawing the attention of all the officers to the decision of the Supreme Court in the case of M/s. Alps Theatre. They had also asked for particulars regarding the number of such cases and the approximate revenue involved in each case for each of the assessments that may have to be reopened."

1.182. The Committee enquired how the Income-tax Officers allowed depreciation on a value (of the Cinema House) higher than that shown in the certified accounts of the company. In their written reply, the Ministry have stated that investigations were still in progress.

1.183. In the opinion of the Committee, this is a bad case in which a number of lapses occurred. These were mainly:

(i) Under the Income-tax law, no depreciation is admissible on the cost of land. Yet initial, additional and normal depreciation was allowed on such cost for nine consecutive assessment years (1954-55 to 1962-63). The total (inadmissible) depreciation so allowed was Rs. 5,78,772.

(ii) For the purpose of depreciation allowance, the cost of the new cinema house was taken as Rs. 22,65,653, instead of Rs. 17,23,653 shown in the certified accounts of the company. The excess depreciation on this account amounted to Rs. 2,32,663.

(iii) The income from house property was computed on the basis of municipal valuation even though valuation on the basis of the rent receivable far exceeded the former. This resulted in an under-assessment of income of Rs. 68,895.

(iv) Certain inadmissible expenses relating to the property let out were not disallowed and added back in the computation of income resulting in under-assessment of business income to the extent of Rs. 1,42,987.

The aggregate under-assessment of tax as a result of all the above mistakes as also some other discrepancies amounted to Rs. 5,25,419.

1.184. A regrettable aspect of the case is that although the assessments were completed by different assessing officers, all made the same mistakes. Another significant feature of the case is that the assessee had certain suspect hundi transactions on account of which assessment for certain years were reopened. The Committee note that Government have accepted audit objections in respect of all the mistakes except (i) above. Investigations into the mistakes are stated to be in progress. The Committee would like to await the results of the investigations and of the action taken against the officers pursuant to the findings.

As regards (i), Government have stated that certain facts are being ascertained. The Committee would like to be informed of Government's decision in regard to admissibility of depreciation on lands in the light of the facts collected.

As regards revision of assessments for the year 1954-55 onwards, the Board have expressed the view that detailed investigations will have to be carried out for making out a case under section 147(a) of the Act, read with Section 151(1) thereof. The Committee trust that, after the completion of investigations, the Department will take necessary steps for retrieving the revenue lost.

1.185. The Committee note that the Board have asked the Income-tax Officers to furnish data regarding cases in which depreciation had been allowed on the cost of land together with the revenue involved. The Committee trust that efforts will be made by the Department to recover tax in all such cases where depreciation has been wrongly allowed on the cost of land.

Audit Paragraph

1.186 Under the Income-tax Act, an allowance by way of development rebate at the rate of 25 per cent is admissible in respect of new plant and depreciation on a value (of the Cinema House) higher than that shown in machinery installed prior to 1st April, 1961 and used for the purpose of business.

In one case, it was noticed that development rebate of Rs. 60,61,702 was allowed in the assessment year 1958-59 completed in 1963 without ascertaining whether all the plant and machinery had actually been purchased and installed during the previous year. A review of the case by the department revealed that the development rebate admissible to the assessee was only Rs. 33,80,825 and the excess development rebate of Rs. 26,80,877 allowed to the assessee was withdrawn. Since the assessee was assessed on loss for the year 1958-59, the withdrawal of excess development rebate for this year, reduced the carry forward loss to the extent of Rs. 26,80,877 and the actual under-assessment on account of the above mistake would be reflected when the company is assessed to a positive income in a subsequent year. The Ministry have replied that there cannot be a total withdrawal of the development rebate but only a shifting of the claim from this year to the earlier year. While it may be that it would be more equitable to try and shift the claim to an earlier year, there appears to be no provision under the existing law to enable when the Ministry feels in equity should be allowed.

[Paragraph 53(d) of Audit Report (Civil) on Revenue Receipts, 1969]

1.187. Under the provisions of section 10(2) (vi) of Income-tax Act, 1922 an assessee is entitled to development rebate at 25 per cent of the actual cost of new machinery installed and put into use in the business. The above deduction was admissible only in the year in which it was installed and put into use in the business. The above deduction would be admissible subject to fulfilment of certain conditions by the assessee *viz.*, the prescribed particulars of the plant and machinery are furnished and a reserve equal to 75 per cent of the cost of the plant and machinery in respect of assets installed after 1st January, 1958 is also created.

2.188. The Committee learnt from Audit that in this case the Income-tax Officer had allowed development rebate amounting to Rs. 60,61,702 for the assessment year 1958-59 (completed on 15-12-1963) on the following assets valued at Rs. 2.42 crores.

	Development rebate @ 25%
1. Plant and machinery	Cost 1,68,21,809 — 42,05,452
2. Underground cables	1,88,000 — 47,000
3. Overhead cables	68,64,000 — 17,16,000
4. Motor Vehicles	3,73,274 — 93,250
	2,42,47,083 — 60,61,702

The development rebate was allowed by the Department on the basis of figures of addition to assets furnished by the assessee without actually ascertaining whether they had been actually purchased, installed and put into use during the previous year relevant to the assessment year. It was, therefore, suggested in Audit that this would require a detailed scrutiny in order to ascertain whether the assets on which the development rebate had been claimed and allowed would really be entitled to the same under the provisions of the Act.

1.189. As suggested by Audit the Income-tax Officer reviewed the case and rectified the assessment for 1958-59 on 16th December, 1966 holding that the assessee would be entitled to development rebate of Rs. 33,80,825 on as under:—

	Value	Development rebate allowed
	Rs.	Rs.
1. Plant and Machinery		Nil
2. Underground cables	2,86,000	71,500
3. Overhead cables	1,28,64,300	32,16,075
4. Motor vehicles	3,73,000	93,250
		33,80,825

	Rs.
Development rebate as originally allowed as per assessment order dated 15-12-1963	60,61,702
Development rebate allowed as per the rectificatory order dated 16-12-1966.	33,80,825
Excess Development rebate allowed. Withdrawn	26,80,877

1.190. The Committee further understand from Audit that the assessee in compliance with Section 19(2) vi(b) of the Income-tax Act, 1922 had not furnished the date of installation of the assets etc. Instead they had furnished merely a copy of the statement of Capital expenditure incurred (forming part of the audited accounts for the year 1957-58). Even the cost of plant and machinery shown in this statement by the assessee differred from the figures shown in the accounts as shown below:

Name of the asset	Figures of cost as in the Development rebate chart furnished by the assessee	Figures as per Audited Statement of Capital expenditure
1. Plant and Machinery	1,63,21,809	1,03,93,066
2. Overhead Cables	68,64,000	1,04,10,460
3. Underground Cables and devices	1,88,000	1,88,706
4. Motor vehicles	3,73,274	2,89,329

1.191. The representative of the Central Board of Direct Taxes stated that assessment for the assessment year 1958-59 had been revised and the excess development rebate computed was Rs. 7,24,677 as against Rs. 26,80,877 reported in the Audit paragraph.

1.192. The Ministry of Finance had originally intimated Audit in reply to the Audit paragraph that the development rebate though inadmisable for 1958-59 could have been shifted to earlier assessment years. The Committee enquired whether the assessee was a new one and if so, how it was possible to give the allowance during the earlier assessment years. The representative of the Board stated, "In this case the assessee was a new assessee. That is why we did not rectify the assessment order for 1957-58. Even if we had done that, the unabsorbed development rebate carried forward would not be available to the assessee. Therefore, that assessment has not been rectified for any attempt made for that".

1.193. The Committee enquired what checks were applied by the Department to ensure that the assets on which depreciation or development rebate was claimed were actually in use. The representative of the Board stated, "For this purpose Income-tax returns prescribe the declaration of the value of the assets and the date from which they have been brought into use. The I.T.O. obviously cannot go and physically check up. He has to go by what has been declared by the assessee in the return about the date from which they have been brought into use. In this case the problem gets a little complicated because of the Electricity Act. As far as this Act is concerned, whatever additions were made in any year under the Act, would be shown as if they were made on the first day of the next year, that is they will be treated for the purpose of the Electricity Act as having come into use from that year. Though the I.T.O. legally has no right to accept that, he should have taken into account the individual dates on which each of the items of addition was brought into use. The company was itself experiencing a lot of difficulty. That is why in the assessment for 1958-59 the computation had to be changed four times—it was first changed on 15th February, 1963 which was rectified on 11th November, 1965. Thereafter it was rectified on 16th December, 1966 and again on 28th March, 1969 because of various additions and because of distribution of over fifty units spread over the whole of the M.P. area. The company was not in a position to get at the actual figures. Apart from that it is a Government company.....In 1958-59, the accounts were certified by the Accountant General, Madhya Pradesh. Therefore, the officer knowing that it was a Government company and the accounts having been certified by the Accountant General, did not probe into it".

1.194. An essential condition for admissibility of development rebate under the Income-tax law is that the plant and machinery in respect of which such rebate is claimed should have been in use in the previous year relevant to the assessment year. In this case, however, the assessing officer allowed development rebate without verifying whether this requirement had been fulfilled. Subsequently when Audit pointed out the omission, the Department reviewed the case and found that rebate to the tune of Rs. 26,80,877 had been allowed in excess. After a further review the excess development rebate has been computed at Rs. 7,24,677, as against Rs. 26,80,877 initially reported. It was urged by Government that the assessing officer had relied on the figures of cost of plant and machinery, duly certified by the Accountant General, Madhya Pradesh. The Committee are unable to accept this explanation, for they find a wide variation between the figures of cost mentioned in the Development Rebate Chart furnished by the assessee and figures contained in the Audited statement of capital expenditure. Besides, the assessing officer failed to notice that the assessee had not given particulars regarding date of installation of assets in respect of which the rebate was claimed. In the absence of this data it is

not clear how the assessing officer came to the conclusion that the assets were in use. In the opinion of the Committee, the assessing officer failed to verify whether the essential conditions of admissibility of development rebate laid down under the law had been fulfilled. The Committee desire that Government should take a serious notice of such omissions.

1.195. In their successive Reports on Direct Taxes, the Committee have been expressing concern over mistakes in working out depreciation and development rebate. There has been no perceptible improvement in the position. The amount of under-assessment on this account reported to this Committee last year was Rs. 41.94 lakhs and it has risen now to Rs. 93.80 lakhs. In paragraph 3.66 of their 73rd Report (Fourth Lok Sabha), the Committee had assessed the need for the rationalisation of the provisions of the Act bearing on depreciation and development rebate. Pursuant to this recommendation, Government have framed and published draft Rules to replace the existing rates of depreciation by consolidated rates on industry-wise basis and invited public opinion thereon. The Committee trust that, in the light of suggestions received from the trade and industry, Government will be able to work out a simple and rational depreciation rate schedule.

1.196. Another aspect to which the Committee would like to draw attention is that Internal Audit had not been going into questions relating to depreciation and development rebate while checking assessments. Till recently, the scope of internal audit was limited to scrutiny of arithmetical calculations. Although Internal Audit Parties are now required to check whether depreciation on a particular asset has been calculated with reference to the period of use and also whether the total depreciation allowed exceeds the original cost, there are still no specific instructions authorising them to check the admissibility of depreciation on intangible assets. The Committee feel that this should be specifically brought within the purview of Internal Audit. The Committee would in this connection draw attention to their observation in para 1.41 of their Hundredth Report (Fourth Lok Sabha).

1.197. The Committee also feel that in the course of check of assessments by Inspecting Assistant Commissioners, the allowances made in assessments on account of depreciation and development rebate should receive their special attention.

(h) *Incorrect determination of super Profits-tax or sur-tax payable by companies*:

Audit Paragraph:

1.198. Under the Companies (Profits) Sur-tax Act, 1964, sur-tax is payable on the amount by which the profits of the company exceed the amount of the statutory deduction. The statutory deduction is the amount

equal to 10 per cent of the capital computed in the manner laid down in the Act or an amount of Rs. 2 lakhs whichever is greater. The "capital" for this purpose comprises the following:—

(i) Paid-up share capital;

(ii) reserves;

(iii) debentures; and

(iv) long term loans obtained by the company from Government or the specified financial institutions.

A company issued 6½ per cent 'debentures' for a sum of Rs. 75 lakhs and lodged them with its bankers as security to facilitate overdrawal of funds from time to time. These debentures were not issued for cash and to the public at large; all the debentures of Rs. 75 lakhs were issued in favour of the bank; there was no attached liability for their eventual repayment at a future date and they did not also figure as such in the Balance Sheet. Having regard to these factors, the sum of Rs. 75 lakhs did not qualify to be treated as 'capital' for purposes of the Act. The assessing officer, however, incorrectly allowed the sum as 'Capital' thus over-stating the statutory deduction by Rs. 7.5 lakhs with corresponding reduction in chargeable profits.

Further a sum of Rs. 15 lakhs intended for meeting tax liability and shown as 'Provision for taxation' in the Balance Sheet of the company as on 31st October, 1962 (i.e. on the first day of the previous year relevant to assessment year 1964-65) was incorrectly taken as 'capital' thus overstating the statutory deduction by Rs. 1.5 lakhs with corresponding reduction in chargeable profits.

The two mistakes have resulted in under-assessment of sur-tax of Rs. 3.60 lakhs.

As regards treatment of the sum of Rs. 75 lakhs as debentures the Ministry have accepted that to the extent of Rs. 34.48 lakhs being the excess of the pledged security over the actual amount overdrawn did not qualify as capital for the purposes of the Act. They have maintained that the balance of Rs. 40.52 lakhs actually overdrawn, the security pledged could be treated as "debentures". It was pointed out that the entire sum of Rs. 75 lakhs however has to be excluded from the capital computation for the following reasons:—

(1) The value of the debentures issued as per the accounts of the company was Rs. 75 lakhs and not the amount of the overdraft in the bank, which could vary from day to day.

(2) It appears to be the scheme of the Act that only long-term borrowals intended for creation of capital assets and payment of which would arise after seven year should be taken as 'capital', thereby excluding short-term loans, bank overdrafts, etc.

The Ministry have stated in reply (March 1969) that the matter will have to be examined further and the Sur-tax rules or the Act amended with a view to making the intention clear. The mistake regarding the claim of Rs. 15 lakhs relating to 'Provision for taxation' has been accepted by the Ministry.

[Paragraph 61(b) of Audit Report (Civil) on Revenue Receipts (1969)]

1.199. The Sur-tax Act provides that long-term loans taken from Government, Industrial Finance Corporation, Industrial Credit and Investment Corporation of India should be taken as 'capital' provided they are not repayable during a period of less than seven years.

1.200. The Committee desired to know whether there was any increase in the 'capital' funds of the company due to issue of debentures in the case under reference and further whether the amount of debentures was shown as a liability in the Balance Sheet of the company. In a written note, the Ministry have stated as follows:—

"A copy of the relevant entries in the Company's Balance Sheet as on 31st October, 1963 is given below:

SECURED LOANS

Debentures:		
6¼% Debenture Stocks 1967 created . . .	75,00,000	
Deduct—Stocks allotted to bank as Security for Cash Credit Account No. 2 in the State Bank of India (as noted below)	75,00,000	

LOANS & ADVANCES FROM STATE BANK OF INDIA

Cash Credit Account No. 1	2,56,27,985	2,60,91,462
Cash Credit Account No. 2 (secured by the issue of Debenture Stocks amounting to Rs. 75,00,000)	4,63,477	

The above entries would show that:

(i) there was no actual increase in the working funds of the Company due to the issue of the debentures in question;

(ii) There was a liability to repay the debentures to the extent of the outstanding loans; and

(iii) The debenture was shown on the liability side of the Balance Sheet, but the net liability was nil."

1.201. During evidence, the representative of the Board stated that the term 'debenture' had not been defined in the Income-tax Act. According to ordinary usage it is a long term loan. The assessee in this case issued debentures of the value of Rs. 75 lakhs and lodged them with its bankers, the State Bank of India, as collateral security against cash credit operated by the Company with the Bank. The amount actually overdrawn and covered by debentures was treated as capital. This was also the view of the Ministry of Law with whom the matter had been discussed.

1.202. The Ministry of Law to whom the matter was referred gave the following opinion on 3rd October, 1968:—

> "Under rule 1(iv) of the Second Schedule to the Companies (Profits) Sur-tax Act, 1964, debentures issued by a company will be included in the capital of the company for the purposes of calculation of statutory deduction. Unfortunately, the word 'debenture' has not been defined in that Act or in the Income-tax Act, 1961, to which reference is made in section 2(9). We have, therefore, to take the view that debenture means what it connotes in ordinary usage in company law. A common form of borrowing by a company is by an issue of debenture. Although money raised by an issue of debentures is often referred to as working capital of a company, it is not strictly capital in the sense of money invested by share-holders. There are many points of difference between debenture-holders and share-holders. The former are creditors of the company, either secured or unsecured and they have no rights of membership by reason only of holding debentures. They are entitled to be paid interest whether or not company is making profits whereas shareholders cannot be paid dividends unless there are profits. A debenture may be issued in connection with an existing liability (for instance to secure a present debt) or with reference to creating a loan. Generally, the debenture in terms acknowledges the debt and states the date for the repayment of the loan, the rate of interest etc. There may or may not be a provision giving a charge over some or all of the company's property. Where no charge is given, there is no security for the loan and the debenture-holders stand in the same position as an unsecured creditor of the company.
>
> Having regard, however, to the object of the Companies (Profits) Sur-tax Act, 1964 and the scheme of that Act, it is reasonable to take the view that only such debentures as represent an acknowledgement of existing debt could be taken into account for the purposes of the rule in question. In the present case an amount of Rs. 40.52 lakhs was outstanding to the

• State Bank of India on the relevant date, in respect of which debentures have been issued. If this interpretation is not accepted, the consequence will be a large scale evasion of the provisions of the Act by resorting to the issue of unsecured debentures. It must be presumed that a fiscal statute does not provide for large scale evasions and so the interpretation, which would avoid this, has to be accepted. The proper view to take, therefore, would be to limit the scope of debentures only to those which correspond to the amount of debt outstanding on the relevant date in relation to which debentures were issued."

1.203. Expressing his views, the Finance Secretary stated, "Under the law the items listed out are paid up share capital, reserves and debentures and loans and money borrowed by the company from the Industrial Finance Corporation etc. provided such monies are borrowed for the creation of capital assets in India. This is laid down. From this it seems to be fairly clear that it is only such debentures and other monies which are intended as long-term loans and for utilisation for capital assets that will qualify for this. Unfortunately, the Act does not, however, make the position very clear because this proviso that it should be for creating capital assets in India is added on to the last section. One can interpret this as meaning, as the company evidently tried to interpret the word 'debenture' that it does not come under that particular proviso,.....This is the point of view, which, I do not think, was ever intended by this law and it would certainly confer a benefit on such a company which I do not think the law intends to confer on it. The other question is whether that part of the loan from the State Bank of India which was covered by debentures should be deemed as being qualified for the concession under this section. I am not so sure about it. As far as I understand even this outstanding loan of Rs. 40 lakhs and odd can be covered by interpretation of this section for qualifying for this concession only if it is a long-term loan intended to create capital assets. As far as I know this was a Government company which was primarily operating an overdraft account intended to advance its working capital requirements. If that is the case—I think this is so in the present case—this is a matter which we propose to prevent in consultation with the Ministry of Law and Audit. However, we have to enquire if such a practice is prevalent because of this section and if there are companies which are taking advantage of the rather loosely worded language of this section. The intention behind it is that such money should be used for creating long-term capital and capital assets. This may mean that we may have to amend the law to some extent so as to bring out the intention very clearly. We propose to examine this."

1.204. The Committee observe that the Companies (Profits) Sur-tax Act, 1964 makes sur-tax payable on the amount by which the profits of a company exceed the amount of statutory deduction. The

statutory deduction is equal to 10 per cent of the capital computed in the manner laid down in the Act. Capital for purpose of computing the statutory deduction includes debentures but it was explained during evidence that the intention of the Act is only to include such of the long-term loans as are intended to create capital assets. In this case the company issued debentures for Rs. 75 lakhs just for the purpose of lodging them with its bankers as security against cash credit obtained from the bank. The debentures did not, therefore, contribute towards creation of capital assets and did not qualify for inclusion in capital. The assessing officer, however, treated the debentures forming part of 'capital', with the result that the statutory deduction was over-stated by Rs. 7.5 lakhs with a corresponding reduction in chargeable profits.

1.205. The Committee observe that the Act, as it at present stands, permits of debentures being reckoned as part of capital under these circumstances, though this is not the intention. The Finance Secretary admitted that the Act in this respect is "loosely worded" and could, therefore confer an unintended concession. As this might result in a substantial amount of profits of companies escaping tax, the Committee would like Government expeditiously to consider the question of amending the relevant provision so as to bring it in conformity with the underlying intention.

(i) *Incorrect computation of Income from 'business'*

Audit Paragraph:

1.206. An oil company incorporated in India in February, 1959 started its operations after taking over a part of the oil business of an existing oil company. At the initial stages the major part of the operations was being carried on conjointly by the two companies and the expenditure incurred by the old company was reimbursed by the new company on a proportionate basis. For the previous year relevant to the assessment year 1960-61 the old company paid a sum of £2,50,000 to its holding company in London as management fee charged by the latter. Out of this expenditure, £82,707 was allocated by the old company to the new company as share of its expenditure and the balance, £1,67,293, was borne by the old company itself. The sum of £82,707 was subsequently reimbursed by the new company to the old company.

In the assessment of the old company for the assessment year 1960-61, the Income-tax Officer did not accept the management charges of £2,50,000 to be reasonable. According to his finding, a sum of £1,00,000 only was reasonable out of which £66,667 was allowed in the assessment of the old company for the assessment year 1960-61 and in consequence the balance

£33,333 was to be allowed in the assessment of the new company. However, it was noticed that the sum of £82,707 which was reimbursed by the new company to the old company calculated on the basis of one-third share of £2,50,000 was allowed by the Income-tax Officer in full in the assessment of the new company for the year 1960-61. This has resulted in under-assessment of income of £49,374 (*i.e.* Rs. 6,58,320) in the assessment of the new company and the tax involved is Rs. 2,96,244. The Ministry have stated that the payment by the new company cannot be construed to be of a collusive nature and hence the allowance is in order. The Income-tax Officer did not limit the admissible expenditure on the ground of collusion but on the ground that the amount paid was excessive and unreasonable. As a logical corollary of this finding, only £33,333 was to be allowed.

[Paragraph 52(a) of Audit Report (Civil) on Revenue Receipts, 1969].

1.207. During evidence, the Finance Secretary stated that the old company showed a payment of £2.5 lakhs to its principals as management fee remitted. One-third of this amount, *i.e.*, £82,707 was debited to the new company as its share of the management. The original assessment of the old company for the assessment year 1960-61 was made in March, 1962. In this, the whole amount of £2.5 lakhs had been allowed. The assessment order in respect of the new company was made in February, 1965. As the amount of £2,50,000 paid by the old company to the principals as management fee stood unaltered then, this assessment order was in conformity with the original assessment order in respect of the old company. The assessment of the old company was re-opened later on in September, 1965 when out of the management fee of £2.5 lakhs paid to the principals, an amount of £1.5 lakhs was disallowed. However, later on, the re-opened order was set aside by the Assistant Appellate Commissioner and fresh examination was ordered. As a result the disallowance was reduced from £1.5 lakh to £1 lakh. In appeal the disallowance was further reduced to £67,000 by the Appellate Assistant Commissioner. Even against this disallowance, the assessee had gone to the Tribunal in appeal. The witness further stated that as the amount of £82,707 paid by the new company had been taxed as a receipt in the hands of the old company, there was no difference from the revenue aspect. In reply to a question, he stated, "When the assessment (of the old company) was re-opened by the Income-tax Officer in September 1965, then if it was the same I.T.O., obviously he should have thought that there was another case also and he should have linked it up. I admit this is logical".

1.208. In reply to a written question, the Ministry have stated that the Income-tax Officer who made the assessment of the new company on 19th February, 1965 was the same who reopened the assessment of the old company on 22nd September, 1965.

1.209. The Committee observe that in the original assessment of the old company for the year 1960-61 made in March, 1962 an amount of £2.5 lakhs representing management fee paid to the holding company in London was allowed as reasonable expenses. On this basis, £82,707 allocated by the old company to the new company as its share of management fee was allowed by the assessing officer in the assessment of the new company for that assessment year made in February, 1965. The assessment of the old company was, however, reopened in September, 1965 when the management fee of £2.5 lakhs originally allowed was reduced to £1 lakhs. The amount of £82,707, however, allowed to the new company as its share of the total management fee remained unaltered. The Committee feel that, after revising the assessment of old company the income-tax officer, who had also made the assessment of the new company, should have reopened it and made a consequential change therein. This unfortunately was not done.

1.210. The Committee note that the question of disallowance is now under appeal to the Tribunal. After a final decision is reached, appropriate adjustments should be made in the assessments relating to the old as well as the new company.

Audit Paragraph:

1.211. Any expenditure which is of a capital nature is not allowable as deduction in computing the total income of an assessee. During the previous year relevant to the assessment year 1964-65 an assessee incurred an expenditure of Rs. 1,12,084 as prospecting expenses on certain cement works. In preparing the Income-tax return for the assessment year 1964-65 the assessee himself did not claim any relief on this account. In spite of this, the Income-tax Officer allowed the expenditure as a deduction against the total income for the assessment year 1964-65 leading to an under-charge of tax of Rs. 56,042. Report regarding rectification and recovery of the tax is awaited.

[Paragraph 52(c) of Audit Report (Civil) on Revenue Receipts, 1969].

1.212. The Committee desired to know the circumstances in which the expenditure of Rs. 1,12,084 was allowed as Revenue expenditure though the assessee himself in his return of income did not make the claim. In a written reply, the Ministry have stated:

> "The assessee had incurred Rs. 1,12,084 as prospecting expenses during the accounting year relevant to the assessment year 1964-65. Though this amount was charged in the accounts, it was added back in the return filed. Overlooking this point, the Income-tax Officer drew up a draft assessment order allowing the amount as expense. The draft order was put up to his Inspecting Assistant Commissioner for approval, but it was

returned unapproved. Meanwhile, the Income-tax Officer who had put up the draft order was transferred. His successor being under the impression that a draft order which had been submitted to the I.A.C. for approval must have been carefully drawn up by his predecessor, finalised the assessment after giving the assessee a formal hearing. While doing so he too missed the point. It was an unfortunate case where the successor could not resist the temptation of working on ready made material. The Board have issued general instructions on 3rd October, 1969, deprecating the practice of blindly adopting the draft assessment orders left by the predecessors."

1.213. During evidence, the representative of the Board stated that the new I.T.O. had failed to exercise care.

1.214. The Committee learnt from Audit that although the assessee company belonged to a high income group the assessment was not subjected to check by Internal Audit for about a year till the file was taken for scrutiny by Revenue Audit.

1.215. The Committee enquired why the assessment could not be checked by the Internal Audit Department. In their written reply, the Ministry have stated:—

"The assessment could not be checked by the Internal Audit Party before the file was taken up for scrutiny by the Revenue Audit. This happened because they were burdened with too much work. The work-load of the Internal Audit Parties has since been lessened and priorities of their work have been fixed by the Director of Inspection (Income-tax and Audit). It is expected that hereafter it will be possible for the IAPs to check up the high income group cases before they are taken up by Revenue Audit".

1.216. The Committee enquired whether the Department had ascertained that there had been no under-assessment on this account in the assessments of the company for other years. In their written reply, the Ministry have stated:—

"Yes. No prospecting expenses were allowed for the assessment year 1963-64 and earlier years. For the subsequent years 1965-66 to 1967-68, the prospecting expenses have been disallowed. Assessment for 1968-69 is pending and there is no claim for such expenses."

1.217. In reply to another question, the Ministry have stated that the assessment was rectified on 18th June 1969 raising an additional demand of Rs. 56,042, which had since been collected.

1.218. The Committee note that the assessing officer allowed a deduction in this case which the assessee himself had not claimed. The consequent undercharge was Rs. 56,402. The mistake was noticed neither by the officer who initially made the assessment nor by his successor who actually finalised the assessment. It is obvious that the scrutiny done by both these officers was far from thorough. It is also regrettable that though the assessee belonged to a high income group, the assessment was not scrutinised by the Internal Audit before statutory Audit took up the case.

1.219. As the short-levy has been recovered, the Committee do not wish to pursue the case further. The Board should, however, take precautions against the recurrence of such cases.

(j) *Issue of irregular Circular by the Board Circular regarding 'Tax Holiday', etc.*

Audit paragraph

1.220. Profits of newly established industrial undertaking to the extent of six percent of the capital employed therein are exempt from tax. To secure this "Tax holiday" benefit, the building, machinery or plant employed in the undertaking should not have been previously used in any other business. Likewise, an assessee introducing new plant and machinery in his business is entitled for development rebate to the prescribed extent. No development rebate was admissible on second hand plant and machinery.

The Income-tax Act, 1961, which takes effect from 1st April, 1962, amended the provisions relating to 'Tax holiday' benefit providing that the benefit can also be given in cases where second hand plant and machinery of the value not exceeding 20 per cent of the value of the total assets, is used in a newly established industrial undertaking; but the value of such second hand plant and machinery should be excluded while computing the capital for purposes of calculating the relief admissible. The conditions in the Act relating to grant of development rebate were also amended prospectively, providing that newly imported second hand plant and machinery are also entitled to development rebate subject to certain conditions.

The erstwhile Central Board of Revenue issued instructions in December, 1962 that second hand machinery and plant which had been imported into India from abroad by an assessee for whom it is a fresh installation might be treated as new for purposes of the grant of development rebate and 'Tax holiday' relief. The value of such second hand imported plant and machinery is also included in the capital employed for calculating the quantum of tax holiday benefit under the said instructions. In the absence

of statutory provisions the tax concession by way of development rebate upto the assessment year 1964-65 and by way of 'Tax holiday' benefit from the date of issue of the executive instructions to date, on second hand imported plant and machinery is extra legal in nature.

[Paragraph 64(a) of Audit Report (Civil) on Revenue Receipts, 1969.]

1.221. Under the provisions of the Income-tax Act [Section 33(1) of the Income Tax Act, 1961] prior to amendment by the Finance Act 1964, the plant and machinery should be new in order to become entitled for development rebate. This condition was, however, relaxed [by the introduction of section 33(1A) in the Act by the Finance Act, 1964] in favour of imported plant and machinery, with effect from 1st April, 1964. Prior to the introduction of the above amendment in the Income Tax Act 1961 by the Finance Act 1964, the erstwhile Central Board of Revenue in their circular No. 40 (XLVII-16) of 1962 dated 3rd December, 1962 issued instructions that second hand machinery newly imported in India from abroad by an assessee might be treated as being new for the purposes of development rebate.

1.222. Further under the provisions of the Income-tax Act, profits of newly established industrial undertaking to the extent of six per cent of the capital employed therein are exempt from tax. To secure this "tax holiday" benefit, the machinery plant etc. employed in the undertaking should not have been used in any other business under the provisions of the old Act. The Income-tax Act 1961, which took effect from 1st April, 1962, however, provided that the "Tax holiday" can be given to those industrial undertakings employing second hand machinery and plant also, provided the total value of such second hand machinery and plant does not exceed 20 per cent of the total value of machinery and plant used in the business. The new Act also provided that such second hand plant and machinery which does not exceed 20 per cent of the total value of the machinery or plant, would not be taken into consideration for the purpose of computing the capital for arriving at the relief admissible for the newly established Industrial Undertaking. (Section 84 of the Income-tax Act, 1961). The erstwhile Central Board of Revenue issued instructions that second-hand plant and machinery newly imported into India from abroad might be treated as new for the purposes of grant of "Tax holiday" relief. The effect of the circular is that even for determining the capital employed for the purpose of arriving at the quantum of tax holiday relief, the value of such second hand imported plant and machinery irrespective of any limit has to be taken into consideration and relief allowed thereon.

1.223. The Committee desired to know the considerations that led to the issue of the circular mentioned in the Audit paragraph. The representative of the Board read out the following extracts from the relevant file:

"One of the conditions to be satisfied by new undertakings which claim 5 year tax holiday is that the machinery and plant of the enterprise to the extent of at least 80 per cent of the assets should not have been used previously for any other purpose. The condition that the machinery should be new is also to be satisfied for the grant of development rebate as in section 33 of the Income-tax Act. It has been represented that the condition that the plant and machinery should be new, should be treated as having been satisfied by using reconditioned plant and machinery newly imported into India from abroad. This request is stated to be justified on the ground that the second hand machinery or plant previously not used in India for any purpose represents a distinct addition to the country's industrial potential and is, therefore, new so far as India is concerned. There is considerable force in this argument. In fact, by considering the difficulties faced by our shipping companies to meet the high cost of new ships and the long time needed for having them built, we agreed to grant initial depreciation and development rebate on second hand ships imported from abroad if such ships had not previously been in Indian waters by an Indian owner. It is, therefore, proposed that second hand machinery and plant not used in India previously for any purposes nor used abroad by any assessee for any purpose may be treated as new machinery for the purpose of the provisions relating to tax holiday and development."

1.224. The Committee desired to know whether the concession mentioned in the Board's circular of December, 1962 was supported by any provisions of the law. In a written reply, the Ministry have stated:

"Under the Board's circular No. 40(XLVII-16) of 1962 dated 3rd December, 1962, instructions were issued to treat second hand machinery and plant which had been imported into India from abroad by an assessee for whom it was a fresh installation as new for the purpose of granting developing rebate and 'tax holiday' relief.

The object behind both the allowances was the development of industrial potential of India through net additions to assets including plant and machinery. One of the conditions to be satisfied by a new undertaking which claims the five year tax holiday is that the assets of the enterprise to the extent of at least 80 per cent thereof should not have been used previously for any other purpose, *i.e.*, they are to be new. Having regard to the object behind the grant of this allowance, the word 'use' could have meant only 'use' in India or use abroad by a person assessed in India. The Supreme Court held in Cochin Company *vs.* CIT (67 ITR 199) that the word 'new' should be read in contradistinction to the word 'used'. It can, therefore, be stated that for purposes of Section 33 and Section 80-J, assets which had not previously been used in India are to be treated as new because that would represent a distinct addition to the country's industrial

potential. This view is also in consonance with dictionary meaning of word 'new'. 'New' means 'not existing before, now first made, brought into existence, invented, *introduced,* known or heard of, experienced or discovered, unfamiliar to'. There should be little doubt on the proposition that second hand reconditioned machinery imported from abroad for the first time in India and not previously belonging to a person assessed in India would certainly be *new* in India. *It would be both unfamiliar to, and introduced for the first time in India* and would satisfy the definition of 'new."

"The Board's circular of 1962 did not do anything except confirming the above view, by way of interpretation of the existing provisions of the law. The amendment of Section 33 by the introduction of sub-section (1A) with effect from 1st April, 1965 was nothing but putting into statute what had been understood and accepted earlier."

"The Board's view finds support in a judgment dated 25th February, 1969 by the Madras High Court in the case of M/s. Fenner Cockil Private Ltd. (73 ITR page 15 short notes). The High Court held that relief under section 15C had been properly allowed on machinery which was as new as a reconditioned machinery could be. The decision is not being contested before the High Court."

1.225. During evidence, the representative of the Board stated that the Board had the powers to issue instructions to its subordinate officers indicating how a particular provision of the law was to be interpreted.

1.226. Asked whether the Board could issue instructions contravening the provisions of the Act, the Finance Secretary stated: "Nobody can issue instructions legally which are contrary to any provision in the Act."

1.227. The Committee enquired whether, as recommended by the Public Accounts Committee in an earlier Report (46th Report—Third Lok Sabha), instructions of the above nature were issued in consultation with the Comptroller and Auditor General. The representative of the Board stated: "Yes, we do. There may be omissions. But we do consult when we issue such sort of relaxations. Before we issue, we get their consent."

1.228. The Committee understand from Audit that section 60 of the Income Tax Act 1952 empowered the Central Government by notification in the official Gazette to make an exemption, reduction in rate or other modification in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons. Provisions corresponding to the above section are absent in the Income tax Act, 1961.

1.229. The Committee feel that the executive instructions issued by the Board in this case were contrary to the provisions of law as it then stood. In December, 1962, when the Board issued instructions making newly-imported second hand plant and machinery eligible for 'Tax Holiday' and Development Rebate benefits, the position in law was that no development rebate was admissible on second hand plant and machinery. 'Tax holiday' was admissible to a newly-established industrial undertaking using second hand plant and machinery, but the law clearly stipulated that the value of such second hand plant and machinery should be excluded while computing capital for purpose of tax and that it should not exceed 20 per cent of the total value of assets. In view of this position, the Board clearly exceeded their authority while issuing the instructions.

1.230. The Committee do not consider the concessions extended by these executive instructions objectionable in principle. But the concessions should have been extended by the due process of law. The Committee note that in regard to development rebate the position has since been legalised by amendment to the Act which came into effect from the assessment year 1965-66. Similar action should also be taken to give due statutory backing to the tax holiday concessions extended by the executive instructions of 1962.

Treatment of rent-free accommodation for the purpose of Income-tax:

Audit Paragraph

1.231. Where as assessee receives a perquisite by way of rent-free accommodation provided to him by his employer, the value of such perquisite is taxable as part of the assessee's income from salary. The value of the rent-free accommodation to be included in the assessment is calculated at prescribed percentage of the salary received by the assessee and the term 'salary' for this purpose includes bonus or commission payable to the assessee monthly or otherwise.

According to the instructions issued in 1956 and 1960 by the Central Board of Revenue, bonus or commission which was variable and which was less than 50 per cent of the salary was required to be excluded for the purpose of computting the value of rent-free accommodation. These instructions being conflict with hte definition of 'salary' for the purpose of calculating the value of rent-free accommodation as given in the Income-tax Rules, the Central Board of Direct Taxes issued in 1965 instructions withdrawing the earlier circulars of 1956 and 1960 with effect from the assessment year 1965-66 but directing that assessments for 1964-65 and ealier years should be completed on the basis of the instructions contained in the circulars of 1956 and 1960. The circular of the Board issued in 1965 thus permitted continuance of the procedure which was otherwise irregular

upto the assessment year 1964-65 without giving the assessing officers any opportunity to follow the correct procedure even where such action was possible after issue of the Board's circular.

A test check in six charges of Commissioners of Income-tax revealed that 116 cases could have been rectified immediately after the issue of the Board's circular of 1965 but these were not rectified and rectification subsequently became time-barred. The under-charge of tax involved in these cases was Rs. 1,60,209. In 19 cases involving under-charge of tax of Rs. 13,481 it has been noticed that rectification is still possible under the law but the same has not been carried out.

[Paragraph 64(b) of Audit Report (Civil) on Revenue Receipts, 1969.]

1.232. During evidence, the representative of the Board read out the following extracts from the circular of 1965:

> "Instructions were issued in both Circular No. 2D of 1956 dated 19th January, 1956 to the effect that variable bonus or commission which is not in excess of 50 per cent of the salary should not be included in the term 'salary' for the purpose of computing the value of perquisites of rent free accommodation provided to an employee.....It was affirmed in Board's Circular No. 15 (LVIII-15) D of 1960 dated 28th June, 1960 that the earlier instructions on this point should continue to be followed. These instructions have, however, been found to be in conflict with the definition of 'salary' in clause (2) of the Explanation to Rule 3 of the Income-tax Rules 1962, according to which salary includes *inter alia* bonus or commission payable monthly or otherwise. It has, however, been decided to withdraw the instructions referred to above with effect from the assessment year 1965-66. Assessments for 1964-65 and earlier years should however be completed on the basis of the instructions of the earlier circulars."

1.233. Asked when the instructions issued in 1956 and 1960 were found to be in conflict with the Income-tax Rules, 1962, why the Board in their Circular of 1965 had directed that all assessments prior to the assessment year 1965-66 should be completed on the basis of these instructions. The representative of the Board stated: "This Circular was issued on 25th January, 1965 when a major portion of the financial year was over and a large number of assessments must have been completed by the.....It would, therefore, be inequitous to make some cases according to this and others according to the old instructions. That is why there was a decision to apply it uniformly from 1965-66." In reply to another question whether the Board had not knowingly allowed an illegality to continue in this case, he stated: ".....From the administrative point of view, it would have

meant a large number of assessments where the revenue may not be large."

1.234. The Committee note that in terms of the Board's instructions of 1956 and 1960, variable bonus or commission not in excess of 50 per cent of salary was required to be excluded from salary for the purpose of computation of value of rent-free accommodation. These instructions, being in conflict with the definition of the term 'salary' in the Income-tax Rules, 1962, were withdrawn by the Board in 1965. While withdrawing these instructions, the Board however, directed that assessment for the year 1964-65 and earlier years should be completed on the basis of earlier instructions. In the opinion of the Committee, it was not correct on the part of the Board to have given such a direction. They feel that after the Board had come to the conclusion that their instructions of 1956 and 1960 violated the stautory provisions, they should have applied the correct provision with immediate effect and taken rectificatory action wherever possible. By not adopting this course, the Board not only lost a sizeable amount of revenue (over Rs. 1.60 lakhs) but also directed an illegality to be continued till the close of the financial year. The Committee trust that the Board will take care to avoid such mistakes in future.

Treatment of assets partly used for business and partly for non-business purposes

Audit Paragraph

1.235. If an asset is used partly for business purposes and partly for non-business purposes, the assessee under the provisions of the Income-tax Act is entitled only to the fair proportion of the full depreciation which would be allowable if the asset was wholly so use. The allowance is to be calculated on the asset as a whole. Further as per the statute, written down value is to be arrived at by deducting from the actual cost of an asset to an assessee, all depreciation actually allowed to him under the Act. It was judicially decided in a number of cases that while arriving at the written down value of an asset, only the depreciation actually allowed to the assessee should be taken into account and not any notional depreciation allowance permissible under the Income-tax Act.

As it was found that the correct procedure of the allowances of depreciation in respect of partly used assets was not being followed by the department, the issue was taken up with the Board in March, 1966. Though the Board's attention to the correct legal position was specifically drawn in March, 1966, the Board issued a circular in October, 1967 for the guidance of the assessing officers that in respect of partly used assets only proportionate cost of the asset should be taken as the actual cost for purposes of allowing depreciation or alternatively the full depreciation allowable (not

depreciation actually allowed) should be taken into account for the purposes of computing the written down value for the next year.

While these circular instructions of the Board to the assessing officers may indicate the true intention, they are not in consonance with the law as worded or judicially interpreted.

[Paragraph 64(c) of Audit Report (Civil) on Revenue Receipts, 1969.]

1.236. At the instance of the Committee, the Ministry have furnished a gist of the following judicial decisions on the subject:—

Name of case	Reference to the volume and page of Income-tax Reports	Gist of the decisions
1	2	3
Venkatam Lakshminarayana *v.* GIT (Andhra Pradesh High Court)	43 ITR 526 (decided on 7-9-1960)	Depreciation on a car used for both business and non-business purposes had been allowed in proportion to the use of the car for business purposes. For computing the terminal benefit on the sale of the car u/s 10(2) (vii), the Income-tax officer took the written down value of the car on the basis of depreciation allowable and not actually allowed. The court held that the calculation should have been based on depreciation actually allowed.
C.I.T. *v.* Dharampur Leather Cloth Company Ltd. (SC)	60 ITR 156 (dt. 7-10-1966)	In this case, no depreciation had been actually allowed in earlier years on business assets used solely for the business. The Supreme Court held that depreciation "actually allowed" only was to be considered for determining the written down value of the assets in question.
Allied Publishers Private Ltd., *v.* C. I. T. (Bombay High Court)	68 ITR 546 (dt. 15-9-1967)	In the case of an asset used partly for business or profession and partly for personal purposes, the proportionate dpreciation should be calculated not by taking proportionate part of the cost of assets, but by deducting from the cost of assets the actual depreciation allowed for past user. The court observed that the expression "depreciation actually allowed" in Section 10 (5)(b) of the Indian Income-tax Act, 1922 means depreciation of which the assessee has received effective advantage or benefit and not merely depreciation which is notionally allowed or which is allowable."

1.237. The Committee enquired whether, at the time of issuing the Circular in October, 1967, the position brought to the notice of the Board by audit was kept in view. In their written reply, the Ministry have stated as folows:

> "When the Board issued the circular in October, 1967, the views of the Audit were before them. They had already considered the implication of the cases in question and felt that the Andhra decision was not acceptable in principle and the Supreme Court decision also was clearly distinguishable. Though no appeal had been filed to the Supreme Court against the Andhra ruling (the revenue yield was very small in that case), a similar matter decided by the Benches of the Income-tax Appellate Tribunal was taken by the Department in reference applications to the Supreme Court. At this stage the Law Ministry also had advised that the references filed might be pursued. The Supreme Court decision was distinguished on the ground that they were concerned with a case where there was no dispute about the asset being a business asset, while the Andhra ruling had been given in a case in which the asset in question was used partly for business and partly for personal purposes.
>
> The Board, however, reconsidered the matter after the Bombay High Court decision in the case of the Allied Publishers Private Ltd. Initially this decision too was not accepted and a reference application was authorised, but the High Court declined to grant leave of appeal to the Supreme Court. Meanwhile, on an identical point in another case the matter was referred to the Ministry of Law, who did not agree with the Department's views. In this changed context, the Board decided to withdraw instructions dated 18th October, 1967 and a circular dated 4th November, 1969 was issued (F. No. 10/72/69-IT-AII) superseding the earlier instructions."

1.238. During evidence, the representative of the Board stated that the Department was firmly of the view that the instructions of October, 1967 and the procedure detailed therein were correct. the Department wanted to appeal to the Supreme Court against the Bombay High Court decision in the Allied Publishers case as it believed that the contrary view was not tenable. But the High Court refused permission. The Department thought it better to be uniform.

1.239. The Committee enquired whether the Department proposed to rectify the assessments based on the old instructions. The representatives of the Board stated that if an assessee felt that the basis of assessment was not in his favour he had the right to go in for appeal.

1.240. The Committee note that, according to the law, as judicially interpreted, the written down value of an asset used partly for business purposes and partly for non-business purposes is to be arrived at, after deducting from the actual cost the depreciation actually allowed to an assessee and not any notional depreciation allowable. The Committee regret to observe that even though Audit drew the attention of the Board to the fact that the practice of deducting the notional allowable depreciation followed by the Department was not compatible with the judicial interpretation of the law, the Board allowed the old practice to continue. Even in October, 1967, when the law on the subject had sufficiently crystallised, the Board issued instructions which were at variance with the law as interpreted by judicial authorities. The Committee note that after the Bombay High Court refused leave to the Department to appeal to the Supreme Court in a case bearing on the point, it withdrew the aforesaid instructions. The Committee desire that before issuing instructions in such matters, the Board should invariably take into account the inerpretation of the law by the judiciary and take adequate legal advice.

1.241. The Committee would also like to stress that if Government feel that a law, as judiciary interpreted, does not properly translate the intention underlying the law, they should come before Parliament with an amending Bill. It is not appropriate to get round difficulties of this nature by issuing instructions which are incompatible with the law as interpreted by the judiciary.

(k) *Delay Omission to levy additional tax on Section 23A/104 companies.*

Audit Paragraph

1.242. (a) In the case of two companies in which the public were not subsequently interested, it was noticed that no additional super tax was levied by the department, even though such additional super-tax was leviable. In the case of one company, a demand for additional super-tax for a total sum of Rs. 1,52,183 has since been created by the department for the assessment years 1956-57 and 1958-59. In the case of the other company, no action can be taken by the department, as action to levy additional super-tax for the assessment year 1962-63 has already become time-barred under the Income-tax Act, 1961, resulting in a loss of revenue of Rs. 61,656.

[Paragraph 57(a)—Audit Report (Civil) on Revenue Receipt, 1969.]

1.243. Under the provisions of Section 23A/104 of Incometax 1922/1961, if a company in which the public are not substantially interested fails to distribute the prescribed percentage of its distributable income as dividends within twelve months following the expiry of the relevant previous year, then such company is liable to pay as additional super-tax/Income-tax at the rate of fifty percent in the case of an "investment company" and

"thirty seven percent" in the case of any other company (25 per cent in the case of a non-trading company as amended by the Finance Act, 1965) on the 'distributable income' as reduced by the amount of dividends actually distributed and other expenses specifically provided.

The prescribed percentage of dividends to be distributed have been provided in the Act as under:

(1)	In the case of an investment company.	90%	Prior to the Finance Act, 1960 this was 100%.
(2)	In the case of a company where business consists wholly in the manufacture or processing of goods or in mining or in the generation or distribution of electricity or power.	45% 50% 45%	upto assessment year 1959-60 for 1960-61 and 1961-62 from 1962-63 to 1964-65.
	(The Finance Act 1965 amended the provisions of the Income-tax Act so as to exempt completely such companies from the provisions of additional Super-tax/Income-tax).		
(3)	Any other Indian company not covered by the above two types and which does not satisfy the conditions referred in item 4 below :	60% 65%	upto 1959-60 from 1960-61 onwards
(4)	In the case of any other company where the accumulated profits and reserves exceed either (1) the aggregate of the paid-up capital exclusive of the capital created out of its profits and gains which have not been the subject of an order under section 104 and any loan capital which is the property of the share holders or (2) the value of the fixed assets shown in the books of the company whichever is greater	90%	

1.244. The Committee were informed by the representative of the Central Board of Direct Taxes that proceedings under Section 23A had been completed in the first case on 3rd January 1968. However, the demand notice could not be served because of a restraint order issued by the Calcutta High Court. In the second case, the Department had not accepted the Audit objection. The Comptroller and Audior General informed the Committee that a letter dated 17th December, 1969 was received in his office on 18th December, 1969/19th December, 1969 just on the eve of the consideration of the matter by the Committee.

1.245. The Committee learnt from Audit that the Board had prescribed a register to watch the action for levy of additional tax under Section 23A/104 of the Income-tax Act, 1922/1961. The Committee enquired whether the prescribed registers had been maintained by the two Income-tax Officers concerned. The representative of the Board stated: "It is an old case which relates to the assessment year 1956-57.....It is not possible to

trace these old registers even though a search was made." Asked whether it was possible that the prescribed registers might not have been maintained by the officers concerned, the witness stated: "It may be possible."

1.246. The Committee enquired whether any record was maintained in the Department to show as to which particular Income-tax Officers had repeatedly failed to levy additional tax under Section 23A/104 of the old/new Act. The representative of the Board stated: "We have taken steps to maintain (such) a register from January, 1966." In reply to another question he stated: "If such mistakes would occur against the name (of an Income-tax Officer) again and again, we are going to take action."

1.247. Under Section 23A/104 of the 1922/1961 Act, if a company in which the public are not substantially interested fails to distribute a prescribed percentage of its distributable income as dividends within a specified period, it is liable to pay additional super-tax. The Committee note that in respect of the first company mentioned in the Audit paragraph, the additional super-tax was not levied for a period of three consecutive years. The tax that was omitted to be levied for these years was calculated as Rs. 1,52,183, but the Department has not been able to recover the money, owing to a restraint order passed by court. The Committee would like to be apprised of the further developments in this regard. The Committee would also like the Board, after the case is finally decided by the court to examine whether there was an omission on the part of the assessing officer and, if so, to take appropriate action.

1.248. The Committee note that the second case, where according to Audit, there was an omission to levy super-tax of Rs. 61,656, is still under correspondence. The Committee would like the case to be settled early and steps taken to recover short-levy, if any. The Committee would also like to be furnished with particulars of cases where action under section 104 had become time-barred during the three years 1966-67 to 1968-69, together with the approximate revenue forgone.

Outstanding cases in which penal Super-tax/Income-tax under Section 23A/104 of Income-Tax Act, 1922/1961 is to be levied for failure to distribute the statutory percentage of dividends.

1.249. Audit Paragraph

(a)	Number of cases pending as on 1-4-1967	3,959
(b)	Number of cases added during 1967-68	4,676
(c)	Number of cases disposed of during 1967-68	5,258
(d)	Number of cases dpending on 31-3-1968	2,477
(e)	Approximate amount of additional tax involved	Rs. 302 lakhs

[Paragraph 69 of Audit Report (Civil) on Revenue Receipts, 1969.]

1.250. Under the Income Tax Act, 1961 if the Income Tax Officer finds the profits and gains distributed as dividends by a Company within twelve months immediately following the previous year are less than the statutory percentage of the distributable income of the Company of the previous year the Income Tax Officer should pass an order levying penal Super-tax/ Income-tax on the undistributed income at the prescribed rates. The additional levy should be made before the expiry of four years from the end of the assessment year relevant to the previous year or before the expiry of one year from the end of the financial year in which the assessment or re-assessment of the profits of the previous year is made, whichever is later (vide Section 106 of the Income Tax Act, 1961). Under the provisions of the old Act (Income Tax Act, 1922) no such time-limit for passing an order levying penal super-tax/income-tax was prescribed. In the absence of any time-limit in the old Act, the Board issued instructions that the time-limit prescribed under the new Act should also be followed in respect of cases under Section 23A.

1.251. An analysis of the year-wise pendency of cases together with the estimated amount of tax involved, as on 31st March, 1969 is given below:—

Assessment Year	No. of cases	Estimated amount of tax involved (In thousands of Rs.)
1954-55	1	205
1955-56	19	416
1956-57	28	1,336
1957-58	26	1,509
1958-59	42	1,668
1959-60	45	1,567
1960-61	46	3,246
1961-62	47	6,192
1962-63	3	1
1963-64	58	2,473
1964-65	251	5,661
1965-66	320	3,009
1966-67	441	3,909
1967-68	637	5,511
1968-69	629	6,399
TOTAL	2,593	43,102

1.252. The Committee desired to know the position of pendency as on 30th September, 1969.

(a) under the Old Act, 1922; and

(b) under the New Act, 1961. In a written reply, the Ministry have stated:

"The information is not readily available and is being collected from the Commissioners of Income-tax. It may, however, be stated that the total number of such cases pending on 1st July, 1969 was 2,990."

1.253. During the course of evidence in January, 1969, the Committee were informed by the representative of the Board that instructions were proposed to be issued impressing upon the Commissioners of Income-tax the need to complete all the cases pending under the Old Act by 30th September, 1969 at the latest. The Committee desired to know whether the above target had been achieved. In their reply, the Ministry have stated:

"Instructions were issued for the completion of cases falling u/s 23A of the Income-tax Act, 1922. It was, however, not possible to finish the cases within the target date of 30th September, 1969. The Ministry expects to get these cases finalised by 30th September, 1970."

1.254. The Committee are concerned to observe that the number of outstanding cases in which penal Super-tax/Income-tax under Section 23A/104 of the Income-tax Act, 1922/1961 is leviable has risen from 2477 as on 31st March 1968 to 2593 as on 31st March 1969. The amount of tax involved which on 31st March 1968 was Rs. 3.02 crores rose to Rs. 4.31 crores on 31st March 1969—an increase of over 50 per cent. The Committee note that the Board had issued instructions to the Commissioners of Income-tax to complete all the cases pending under the old Act by 30th September 1969. This could not be done and the indication now is that it would take another year to clear these cases. The Committee would like all the cases pending under the old Act to be finalised by the new target date (30th September, 1970) and substantial progress also made towards the clearance of cases pending under the 1961 Act.

(1) *Other Topics of interest*

Under-assessment of tax due to incorrect determination of status of assessees.

Audit Paragraph:

1.255. Under the Income-tax, Act, 1961, a company being a manufacturing company would be deemed to be a company in which the public are substantially interested if not less than 40 per cent of its shares are held by the public.

In the case of a manufacturing company it was noticed that the department treated the assessee as one in which the public were substantially interested despite the fact that in the previous year relevant to the assessment year 1964-65 less than 40 per cent of the equity share capital was held by the public. The mistake resulted in an under-charge of tax of Rs. 23,06,458.

[Paragraph 49—Audit Report (Civil) on Revenue Receipts, 1969.]

1.256. Under the provisions of the Income-tax Act, 1961, as they stood prior to amendment by the Finance Act, 1965, a manufacturing company would be treated as a "company in which the public are substantially interested" if, in addition to not being a private company as defined in the Companies Act, [also in section 2(18) of Income-tax Act, 1961] if it fulfilled the following three conditions:

(1) Its shares (not being shares entitled to a fixed rate of dividend) carrying not less than forty per cent of the voting power had been allotted unconditionally and held by:—

(i) the Government or

(ii) a corporation established by the Central-State or provisional Act or

(iii) the public [not being a director or a company to which section 2(18)(b) does not apply].

(2) Its shares during the previous year had been the subject of dealing in any recognised stock exchange or should be freely transferable by the holder to the other members of the public.

(3) The affairs of the company or the shares carrying more than sixty per cent of its total voting power had at no time during the relevant previous year been controlled or held by five or less persons.

1.257. Under the provisions of the Finance Act "companies in which public are substantially interested" are liable for lesser rate of tax than other companies.

In the case reported in the paragraph, the company had issued 28,00,000 ordinary shares. The following entities held the 28,00,000 shares indicated against each:

	No. of shares
(1) Non-resdeint (foreign) company . . .	16,80,000
(2) Directors	274
(3) Resident companies	3,01,576
(4) Others	8,18,150
TOTAL	28,00,000

It would be observed that more than 60 per cent of the shares were held by the non-resident company and the Directors.

1.258. During evidence, the representative of the Board stated that the Ministry had accepted the Audit objection.

1.259. The Committee desired to know the circumstances in which the mistake was made by the Income-tax Officer concerned. The representatives of the Ministry of Finance and the Central Board of Direct Taxes stated that the Income-tax Act was amended in 1965 to make it clear that the companies of the type referred to in the Audit paragraph were eligible for a lower rate. The mistake made by the Income-tax Officer was that he applied the aforesaid amendment with retrospective effect. The Board had agreed with the Audit view that the Finance Act of 1965 which operated from 1st April, 1965 was not retrospective. But the view expressed by an eminent authority on Income-tax Law—was that the said amendment was only clarificatory in nature and did not make any change in the position of the law as it existed prior to the said amendment. The representative of the Board added that this interpretation had also stood the test of appeal in the Calcutta High Court.

1.260. The Committee enquired whether the Board had ascertained that there had not been short-levies on this account in the earlier years' assessments of the assessee. The Finance Secretary stated that the change in the structure of the Corporate Tax, with higher rate for companies in which the public are not substantially interested, was effected only from the year 1964-65. Prior to that, effective rate of Income-tax and Super-tax payable by all types of companies including the ones in which the public were not substantially interested was the same (*viz.* 25 per cent). So, there could not have been any short levy on this account in the earlier years' assessments of the company. In the subsequent years also there could not have been an under-assessment on this account as the company became eligible for the lower rate according to the law.

1.261. The Committee desired to know the policy of Government in regard to treatment of companies of the type referred to in the Audit Paragraph for tax purposes. In a written reply, the Ministry have stated:

"The Government's basic policy regarding the taxation of income of companies has been to divide companies into two broad categories *viz.*, those in which the public are substantially interested and others in which the public are not substantially interested, and impose some additional tax liability on the latter. (For convenience, these two types of companies will be referred to later in this reply as "widely held" and "closely held" companies respectively). Prior to 1964, additional liability attached to the closely held companies in the form of an obligation to distribute a minimum specified percentage of their profits as dividend, failing which they were required to pay an additional amount of tax on its undistributed profits. Since 1964, a closely held company is, in addition to this liability, also required to pay tax at a rate higher than that by a widely held company on its income.

Section 2(18)(b) of the Income-tax Act, 1961 lays down the test of "a company in which the public are substantially interested". One of the tests is whether 51 per cent or more of the equity capital is held by the public. Another test is whether the controlling interest in the company is held by five or less persons. For both these purposes, the shares held by a company were being treated till 31st March, 1965, as those held by one person, irrespective of whether or not it was a widely held company. However, with effect from 1st April, 1965, Section 2(18) was amended so as to treat the shares held by widely held companies as those held by the public. The benefits of this amendment would be available in respect of the shares held by both Indian and foreign widely held companies". "It has been the Government's policy to encourage widely held foreign companies to participate in India's industrial development through their Indian subsidiaries rather than their Indian branches. This policy is in keeping with the intentions of the Legislature which would be evident from the following observations made by the Select Committee while considering some drafting changes relating to Section 2(18)(b) before the Income-tax Act, 1961 was passed:

"The Committee have substituted the words 'not a private company' for the words 'public company' in conformity with Section 23A of the existing Income-tax Act so that foreign companies are also included within the definition of a company in which public are substantially interested."

The tests of "a company in which the public are substantially interested", as laid down in Section 2(18)(b) are capable of application in the case of a foreign company and would have to be so applied for determining whether an Indian subsidiary of a foreign company is a widely held company. In such cases unless the foreign company satisfies the test of a widely held company, the Indian company would have to be taxed as a closely held company".

1.262. During evidence, the representative of the Board added, "It (the policy pursued by the Board in this regard) is uniform. There may be some slips. But in order to avoid such a situation we have concentrated all company cases with one officer so that there may be uniformity in handling these cases. That is how we try to see that the law is applied uniformly".

1.263. The Committee pointed out that a foreign company did not automatically become a company under the Indian Income-tax Act. It became so only when a notification to this effect was issued by the Board. The Committee enquired whether in cases where such a notification was not issued, there was not a possibility of foreign companies escaping assessment under Section 23(A). The representative of the Board stated, "We shall look into that. We appreciate the suggestion".

1.264. In reply to a question, the representative of the Board stated that the assessment had since been rectified and an additional demand of Rs. 23,06,458 representing the short levy raised and recovered.

1.265. In reply to another question, the witness stated that the original assessment was made on 29th March, 1965 and the additional demand raised nearly three and a half years thereafter.

1.266. The Committee desired to know the number of cases where a major portion of the shares issued by an Indian company was held by a foreign company and its status was treated as a company in which the public are substantially interested. In a written reply, the Ministry have stated:—

"The information is not readily available and will have to be collected from the field officers, who too do not maintain any

register of statistics incorporating such information. It would be a prodigious task for them to compile the data by referring to the records of each company for an unspecified number of years. The PAC may perhaps like to indicate whether:—

(a) such information shall be collected in the case of only such Indian companies as have a paid-up capital of Rs. 25 lakhs and over or an assessed income of Rs. 5 lakhs or more; and

(b) the data should be that as obtaining on a particular date, say on 1st April, 1969.

The Ministry are calling for such information from the Commissioners of Income-tax in anticipation of the Committee's approval".

1.267. The Income Tax Act provides for companies in which public are not substantially interested paying more tax than companies in which public are substantially interested. According to the Act, as it stood prior to amendment in 1965, a company in which 51 per cent or more of the shares were held by another company was to be treated as a company in which public are not substantially interested, even if the company holding the shares was itself a public company. The Committee note that in this case the assessing officer treated a company of this type (where more than 51 per cent of shares were held by a foreign company) as a widely-held company, with the result that there was an under-assessment of tax to the extent of Rs. 23.06 lakhs. The mistake arose because the assessing officer gave the benefit of the amendment of the law retrospectively *i.e.* with effect from the year 1964-65, instead of from the year 1965-66 when it took effect. While the Committee note that the amount of short-levy has since been recovered in this case, they cannot help observing that in giving the benefit of the amendment to the company in question with retrospective effect, the assessing officer had gravely erred.

1.268. The Committee observe that a foreign company can be treated as a company for the purpose of Indian Income-tax only when a specific notification to this effect is issued by the Board. In the absence of a notification, such a company can be treated only as an Association of Persons and will not be called upon to pay all the taxes that will devolve on a similarly situated Indian company, including the tax liabilities arising under Section 23A of the Income Tax Act. The representative of the Board accepted during evidence that this situation needs looking into. The Committee would like the matter to be examined and suitable action to be taken immediately.

1.269. The Committee had asked for data about companies where a major portion of the shares are held by a foreign company but their status for purpose of assessment is deemed as companies in which the public are substantially interested. The Committee note that this is being collected. The Committee would like to await this information.

Treatment of surplus loom-Hours

Audit Paragraph:

1.270. Certain companies which ran jute mills were members of the Indian Jute Mills Association. To protect themselves against loss resulting from over-production, the members of the association entered into an agreement imposing restrictions upon the hours of work of the members. The number of hours of working, called loom-hours, allotted to the different mills depended upon the loomage capacity and the agreement provided that where a mill was unable to utilise the loom-hours allotted to it, the surplus loom-hours available could be transferred by it to another mill. The loom-hours being capital assets, any profit or gain arising from their transfer was liable to be taxed as capital gain under the Income-tax Act in the hands of the transferor. As the loom-hours allotted to a mill remained operative for only a year and as surplus loom-hours of one year could not be carried forward to the next year, these were, by their nature, short-term capital assets, held by a mill for not more than twelve months immediately preceding the date of their transfer.

During the previous years relevant to the assessment years 1963-64 and 1964-65 four companies transferred surplus loom-hours allotted to them. The profits arising from the transfer were taxed by the department as long-term capital gain instead of as short-term gain. This incorrect treatment of the capital gain resulted in a total undercharge of tax of Rs. 4,55,272 for the assessment years 1963-64 and 1964-65.

[Paragraph 54(a) of Audit Report (Civil) on Revenue Receipts, 1969.]

1.271. During evidence, the representative of the Board stated that after the receipt of the Audit paragraph, a reference had been made to the Ministry of Law for legal opinion. This was done on 10th October, 1969.

1.272. Audit have since informed the Committee that the Ministry of Law to whom the matter had been referred had opened that the receipts from loom-hours should be treated as revenue receipts and the expenditure incurred thereon as revenue expenditure.

1.273. The Committee note that, according to the opinion of the Ministry of Law, receipts from surplus loom-hours should be treated as revenue receipts and expenditure incurred thereon as revenue expenditure. The Committee desire that necessary action should be taken in the light of this opinion.

Inter-Corporate Dividends

Audit Paragraph:

1.274. Out of the total dividend of Rs. 13,56,764 received by a company in the year relevant to the assessment year 1965-66, an expenditure of Rs. 1,70,929 incurred in earning the dividend was allowed as deduction and the income by way of dividend was taken at the net figure of Rs. 11,85,835. This intercorporate dividend income was entitled to rebate under the Income-tax Act, 1961. It was noticed that the rebate was calculated with reference to the gross amount of Rs. 13,56,764 instead of the net amount of Rs. 11,85,835. This led to an excess allowance of rebate of Rs. 59,825 with consequent under-charge of tax by an equivalent sum for the assessment year 1965-66. An additional demand of tax of Rs. 59,825 has since been created by the department. Report regarding recovery is awaited.

[Paragraph 55(b) of Audit Report (Civil) on Revenue Receipts, 1969].

1.275. Under the provisions of Section 99(1) (iv) of Income-tax Act, 1961 as it existed prior to the amendment by the Finance Act, 1965, intercorporate dividends *i.e.* dividends received by a Company from another company are exempt from Super-tax. With the merger of Super-tax with the Income-tax, the Finance Act, 1965 introduced a new Section 85A with effect from 1st April, 1965 providing that the income-tax on the intercorporate dividends would be chargeable at the rate of 25%. This is achieved by granting to the company receiving the dividends a reduction from the income-tax which is chargeable on its total income of so much of the amount of Income-tax calculated at the average rate of Income-tax on the income so included as exceeds an amount of 25% thereof. The dividend income included in the total income for this purpose is the net dividend arrived at after deducting from the gross dividend the expenses incurred in earning it.

1.276. In a note, the Ministry have stated that the mistake arose because both the gross and net dividend were shown in the body of the assessment order. The case had not been checked by the Internal Audit Party.

1.277. During evidence, the representative of the Board stated that the additional demand for Rs. 59,825 raised by the Department had since been recovered.

1.278. In reply to a question, the witness stated that the case had been dealt with by the Company Circle.

1.279. The Committee desired to know whether a special review of assessments of inter-corporate dividends had been made, and, if so, with what results. In a written reply, the Ministry have stated:

> "Such mistakes will not arise in the assessment years prior to 1965-66 as Section 85A was inserted by the Finance Act of 1965. No special review has been undertaken so far. The mistake may not be of common occurrence".

1.280. The Committee observe that under the Income-tax Act, dividend income received by a company from another company is entitled to rebate. The rebate is to be calculated with reference to the net dividend income, after deducting the expenses incurred in earning the dividend income. In the case under report, however, the rebate was calculated with reference to the gross amount of inter-corporate dividend, without deducting the expenditure incurred in earning it. This resulted in excess rebate of Rs. 59,825 being granted. While the Committee note that the amount of tax short-levied has since been recovered, they feel that, with a little care on the part of the assessing officer, the mistake could have been avoided. The Committee also note that though the case belonged to a company circle, it had not been checked in Internal Audit. The Committee trust that the Board will ensure that such omissions do not recur.

Government securities held by Ex-Rulers

Audit Paragraph:

1.281. The income from interest on Government securities held by or on behalf of erstwhile ruling Chiefs and Princes of India as their private proprety was exempted from income-tax and super-tax by a Government notification issued on 21st December, 1930. The above exemption was subsequently withdrawn by the Government by a notification dated 25th June, 1963 with effect from 1st April, 1963. It was specifically mentioned in the explanatory note below the notification that the concession has been withdrawn with effect from the assessment year 1963-64.

In the case of an ex-ruler it was noticed that a sum of Rs. 1,84,793 derived as income from interest on Government securities during the previous year relevant to the assessment year 1963-64 was erroneously excluded from the total income for that assessment year resulting in under-assessment of tax of Rs. 1,63,179 (approximately). Report regarding rectification and recovery of the tax is awaited (March, 1969).

[Paragraph 55 (d) of Audit Report (Civil) on Revenue Receipts, 1969].

1.282. The Committee desired to know whether the assessment had been revised and the additional demand raised and recovered. In a written reply, the Ministry have stated :

> "The Commissioner of Income-tax had set aside the wrong assessment made under Section 263. Fresh assessment has since been made, resulting in an additional demand of Rs. 1,57,130/-. Rs. 72,964/- has already been collected, and the balance has been kept pending, as to whether the entire interest income of Rs. 1,84,795/- is assessable for the assessment year 1963-64 or a part of it is assessable for 1962-63."

1.283. The Committee enquired whether the Board has issued any specific instructions regarding income of Ex-Rulers from interest on Government securities. In their written reply, the Ministry have stated :

> "The tax exemption enjoyed by the erstwhile chiefs and princes of Indian States in respect of interest on Government securities was withdrawn by the Government by a Notification dated 25th June, 1963 with effect from the assessment year 1963-64. There was a failure to notice the change in a very few cases in the year of transition. No similar case for later years has come to the notice of the Department or the Audit. Hence, the Board have not issued any specific instructions on the matter."

1.284. The Committee observe that erstwhile ruling chiefs and princes of Indian States ceased to enjoy with effect from 1st April, 1963 exemption in respect of income derived by them as interest on Government securities. In this case, however, the assessing officer gave the benefit of exemption to such income of an ex-ruler amounting to Rs. 1,84,793 in the assessment year 1963-64, as a result of which there was a short-levy of tax of Rs. 1,63,179. The Committee consider this failure on the part of the assessing officer regrettable.

1.285. The Committee note that, after a fresh assessment, an additional demand of Rs. 1,57,130 was raised on this account of which a sum of Rs. 72,964 has since been recovered. The recovery of the balance has been kept pending, as a question has arisen whether the entire interest of Rs. 1,84,793 pertains to the assessment year 1963-64 or a part of it is assessable in 1962-63. The Committee would like to be apprised of the decision in this regard.

CHAPTER II

WEALTH TAX, GIFT TAX AND ESTATE DUTY

(a) *Wealth Tax, Gift Tax and Estate Duty receipts*:

Audit Paragraph

2.1. The total receipts from Wealth-Tax, Gift-Tax and Estate Duty for the year 1967-68 and the four preceding years are as follows:

(Figures in crores of rupees)

	1963-64	1964-65	1965-66	1966-67	1967-68
Wealth-tax	10·50	10·52	12·06	10·73	10·70
Gift-tax	1·13	2·22	2·27	1·75	1·30
Estate Duty	4·65	5·43	6·66	6·26	6·37
TOTAL	16·28	18·17	20·99	18·74	18·37

[Paragraph 72 of Audit Report (Civil) on Revenue Receipts, 1969].

2.2. The Committee desired to know the reasons for the fall in the total receipts under the three direct taxes from 1966-67 onwards (except in the case of Estate Duty where the receipts for 1967-68 were silghtly more than those in 1966-67. In a written reply, the Ministry have stated as follows:

"The Collections of Wealth-tax during the last six years were as under :—

(Figures in crores of rupees)

Year	Amount
1963-64	10·50
1964-65	10·52
1965-66	12·06
1966-67	10·73
1967-68	10·73
1968-69	11·34**

"It is seen that the collections are almost stationary except for 1965-66 when there was a spurt in collection by about Rs. 2 crores. The collections during 1965-66 were substantially higher because the provisions for making self-assessments and also provisional assessments were introduced for the first time in the Wealth Tax Act in that year with the result that the collections which would have been made in the subsequent years after completing the assessments were effected in that year itself. The rates of wealth tax have remained almost constant during these years. It was only with effect from the current financial year that the rates above Rs. 10 lakhs have been raised by ½ per cent.

The main reasons for wealth tax collections not showing any appreciable increase over the years are as under:—

(a) Exemption was given for self-occupied property upto Rs. 1 lakh with effect from 1964-65.

(b) Exemption in respect of transferred assets to minor children, wife etc. was given with effect from 1965-66 in cases where the transfer is either exempt from gift tax or gift tax has been charged thereon.

(c) Rule ID of the Wealth Tax Rules was introduced prescribing a uniform method for valuing unquoted equity shares. The valuation is to be done on the basis of book value as shown in the balance-sheet of the company with a further provision for discount of 15 per cent from the break-up value.

(d) There are several Supreme Court decisions which have enlarged the concept of "debt" deductible from the net wealth, to such items as income-tax liability on the income of the current year, the outstanding advance tax instalments and even the welth-tax payable for the current year itself (59 ITR 767, 59 ITR 56, 69 ITR 864).

(e) High Courts have held that the value of immovable property governed by Rent Control Act should be computed only by capitalising the income (60 ITR 103).

"The Department has taken several steps to assess Wealth-tax more effectively. The minimum penalty leviable for concealment of wealth has been increased to 100% o the concealed amount by the Finance Act, 1968. The penalty leviable for late submission of return has also been stepped up by the Finance Act, 1969 to ½ per cent of the assessed wealth for each month's delay. The department has set up its own valuation cell consisting of officers taken on deputation from the C.P.W.D. These officers check

up the valuations of immovable property in cases where the assessing officers are not satisfied with the valuation made either by the assessee or his valuer. The department hopes to expand the activities of the Cell, to valuation of jewellary also, shortly. As a result of these and several other measures taken by the department, the number of wealth tax assessees, which was 67057 in 1964-65 has gone up to 1,05,934 during 1968-69. The number of assessees as on 30th November, 1969 has further gone up to 125203."

Estate Duty and Gift Tax:

2.3. "The collections from gift tax and estate duty during last five years were as under:—

(Figures in Crores of Rupees)

Year	Gift Tax	Estate Duty
1964-65	2·22	5·43
1965-66	2·27	6·66
1966-67	1·75	6·26
1967-68	1·30	6·37
1968-69	1·51	6·74

"The collections of gift tax have fallen from Rs. 2.27 crores in 1965-66 to Rs. 1.51 crores in 1968-69 mainly because of the increase in the exemption limit from Rs. 5000/- to Rs. 10,000/- with effect from 1966-67. Simultaneously, the provision for aggregating of "gifts to same donees" was withdrawn. The collections of estate duty have remained at around Rs. 6-7 crores, in spite of the fact that exemption for self-occupied properties upto a value of Rs. 1 lakh was given with effect from 1st April, 1965. The collections from gift tax and estate duty moreover are largely dependent upon the number of gifts made by the assessees and the number of deaths during a year."

2.4. During evidence, the Committee desired to know what arrangements obtained in the Department for varifying the values of the properties returned by the assessee. The representative of the Board stated that a valuation cell consisting of 8 Executive engineers with an Superintending engineer at the head had been set up in the Board in 1968. Besides the Department had certain registered valuers. In reply to a question, the witness added, "This is a new institution which has come up, and we are

trying to bring in measures to check their valuation and prescribe rules and regulations for their conduct. This will be done now because the work has increased and we want them to have some systematic line." Asked whether the valuation reports of the registered valuers were accepted by the Department, the representative of the Board stated, "Generally, in a majority of cases, we accept them. But where we have any doubt, we would refer the case to our own set-up". Further asked how far the valuation reports of the registered valuers were found to be correct by the valuation cell on verification, the representative of the Board stated, "It is too early to generalise on that because it is hardly a year or so that it has been set up. But we are finding the institution very helpful."

2.5. The Committee enquired whether the Board had laid down any guidelines in regard to valuation of property. The representative of the Board replied in the negative.

2.6. The Committee observe that in reply to Unstarred Question No. 4855, the Minister in the Ministry of Finance gave the following reply on 22-12-1969:

> "Government have advised the Central Board of Direct Taxes to conduct a census of house properties in the different cities and towns to check up whether there has been any evasion of wealth Tax. The Central Board of Direct Taxes have recently asked the Commissioners of Income-tax to conduct such census in the major cities and towns, to begin with, during the current financial year and to report the progress made by the end of 1970."

2.7. The Committee would like to point out that since 1963-64 the proceeds from wealth tax have been almost stationary at Rs. 10 crores—11 crores, in spite of a rise in the number of assessees—from 67,057 in 1964-65 to 1,05,934 in 1968-69. This suggests that there is a large scope for improving the administration of the tax. In the Committee's opinion, this would call for efforts in two directions. In the first place, it would be necessary to make concerted efforts to bring down the arrears in assessments. Later in this Report, the Committee have drawn attention to the fact that there are pending assessments dating back to 1963-64 and even earlier years. A programme for their expeditious clearance would have to be drawn up. Secondly, the procedures for valuation will have to be streamlined. The Committee note that in regard to real estate, the Board have recently asked the Commissioners of Income-tax to conduct a census of house properties in major cities and towns to check up whether there had been any evasion of Wealth-Tax and to report the progress made by the end of 1970. The Committee would like to be informed of the

results of the census. For the purpose of valuation, the Board maintains a valuation cell, apart from a panel of registered valuers who assess the value of properties for purpose of tax. It would be necessary to devise adequate checks over the work of valuers to ensure that the valuation is correctly and fairly done. Another measure that the Department should adopt, to have a check on valuation, is a system of integrated return for wealth and income tax (from assessees who are liable to pay both), as suggested by the Committee elsewhere in this Report.

(b) *Arrears of Tax Demands, Assessments and Appeals*

Arrears of Demands of Wealth-tax, Gift Tax and Estate Duty*

Audit Paragraph

2.8. The following table shows the yearwise arrears of demands pending without recovery under the three direct taxes, Wealth-tax, Gift-tax and Estate Duty as on 31st March, 1968.

(In lakhs of rupees)

	Wealth-tax	Gift-tax	Estate duty
Arrears of 1964-65 and earlier years	209	14	225
Arrears of 1965-66	68	22	62
Arrears of 1966-67	115	32	223
Arrears of 1967-68	366	58	463
Total	758	126	973

[Paragraph 82 of Audit Report (Civil) on Revenue Receipts, 1969].

2.9. The arrears of demands under the Wealth-tax, Gift-tax and Estate Duty as on 31-3-1966 and 31-3-1968 were as follows:

(Rupees in crores)

Year to which the arrears relate	Wealth-tax as on		Gift-tax as on		Estate Duty as on	
	31-3-66	31-3-68	31-3-66	31-3-68	31-3-66	31-3-68
1964-65 and earlier years	3·94	2·09	0·73	0·14	3·93	2·95
1965-66	2·27	0·68	0·64	0·22	3·40	0·62
1966-67	..	1·15	..	0·32	..	2·23
1967-68	..	3·68	..	0·58	..	4·63
	6·21	7·58	1·37	1·26	7·33	9·73

*Figures are furnished as by the Ministry.

2.10. The following table compares the total receipts under the three heads Wealth-tax, Gift-tax and Estate Duty during 1967-68 and the arrears outstanding as on 31-3-1968.

(Rs. in crores)

Nature of Tax	Receipts during 1967-68	Arrears as on 31-3-1968
Wealth Tax	10·70	7·58
Gift Tax	1·30	1·2[illegible]
Estate Duty	6·37	9·73

2.11. In a statement furnished to the Committee, the Ministry have indicated the following position of arrears as on 30-11-1969:—

Note on Point 114(i)

	Wealth Tax	Gift Tax	Estate Duty
Current demand	41513	7355	30917
Arrear demand	58254	5439	72506
	99767	12794	103423

2.12. As to the steps taken by the Board to reduce arrears of demands under the above taxes, the Ministry have stated as follows:

Note on Point 114(ii) *NC*

"The Board have issued instructions to the Commissioners of Income-tax to ensure that the arrears of estate duty, wealth-tax and gift tax demands are reduced by the end of the current financial year to at least 50 per cent of the arrears as on 1-4-1969. A copy of the circular issued by the Board is enclosed".

2.13. The Committee are concerned over a steep rise in the arrears of demands under the Wealth Tax, Gift Tax and Estate Duty. The aggregate of the arrears under these taxes which amounted to Rs. 15.29 crores as on 31st March 1966 rose to Rs. 21.60 crores on 30th November 1969—a rise of over 40 per cent. The Committee further observe that while in case of Gift Tax, the arrears as on 31st March 1968 were equal to the entire receipts during 1967-68, in case of Estate Duty, the arrears as on 31st March 1968 were 1½ times the entire receipts during 1967-68. The Committee note that instructions have been issued by the Board to the Commissioners of Income-tax to ensure that arrears under these taxes are reduced by at least 50 per cent by the end of the current financial year. The Committee consider this to be a modest target. They would like all-out efforts to be made for the clearance of arrears before the close of the financial year.

Arrears of assessments of Wealth-tax, Gift Tax and Estate Duty*

Audit Paragraph

2.14. The table below shows the year-wise details of assessments pending and the approximate amount of tax involved in those assessments as on 31st March, 1968.

Year	No. of assessments pending			Approximate amount of tax involved (in thousands of rupees)		
	Wealth tax	Gift tax@	Estate duty@	Wealth tax	Gift tax@	Estate duty@
1963-64 and earlier years	6,299	—	—	6,250	—	—
1964-65 . .	6,249	—	—	6,834	—	—
1965-66 . .	11,866	—	—	10,989	—	—
1966-67 . .	22,927	—	—	16,904	—	—
1967-68 . .	44,141	—	—	32,976		
TOTAL .	91,482	—	—	73,953	—	—

[Paragraph 83 of Audit Report (Civil) on Revenue Receipts, 1969].

2.15. The Committee desired to know the latest position regarding arrears of Gift Tax and Estate Duty assessments as on 31-3-1968. The Ministry have furnished the following information:

The position of arrears of Gift Tax and Estate Duty assessments as on 31-3-1968 and the approximate tax involved in the pending assessments is as under:

Year	Gift tax	Estate Duty	Gift tax	Estate Duty
	(No. of assessments pending)		(Amount of tax involved in thousands of rupees)	
1963-64 and earlier years .	477	802	383	..
1964-65 . .	486	535	343	..
1965-66 . .	879	1289	358	..
1966-67 . .	2033	2169	931	..
1967-68 . .	3887	4504	1743	..
	7762	8299	3758	74,764

*Figures are as furnished by the Ministry.

@Particulars are awaited from the Ministry (March, 1969).

2.16. The following figures of assessments completed under each of the three direct taxes—Wealth Tax, Gift Tax and Estate Duty during the years 1965-66, 1966-67 and 1967-68 were furnished by the representative of the Board during evidence:

Number of assessments completed

Wealth Tax	1965-66	80,733
	1966-67	87,695
	1967-68	92,764
Gift Tax	1965-66	19,521
	1966-67	15,570
	1967-68	16,793
Estate Duty	1965-66	18,101
	1966-67	18,919
	1967-68	19,236

2.17. Taking note of the fact that the number of pending wealth-tax assessments had gone up from 54,240 as at the end of March, 1966 to 91,482 as at the end of March, 1968, the Committee desired to know whether Government were contemplating any special steps to arrest the rising trend of arrears of assessments. In a written reply, the Ministry have stated:

The Board have issued instructions *vide* their F. No. 17|19|69|WT, dated 17-6-1969 to the following effect:—

(1) All the Wealth tax assessments which are pending for the assessment years 1964-65 and earlier years should be completed before 30-9-69. Similarly, the pending wealth-tax assessments for 1966-67 should be completed before 31-12-69. For watching the progress of such cases the IACs should obtain monthly report regarding these cases.

(2) No Wealth tax assessment for 1967-68 and earlier years should be allowed to be carried forward to the next financial year *i.e.*, 1970-71 without prior approval of the IAC in the individual cases. The Central Board of Direct Taxes are watching the progress of disposal by getting quarterly reports. It is hoped that as a result of these instructions there would be considerable reduction in the number of pending wealth tax assessments.

It may, however, be stated that the arrears of assessments are increasing mainly on account of the increase in the workload. The cases for disposal and actual number of assessments completed during the last five years are as under:—

	1964-65	1965-66	1966-67	1967-68	1968-69
Wealth tax :					
(a) cases for disposal . .	95,196	1,34,800	1,61,927	1,85,148	2,26,540
(b) disposal	63,068	80,733	87,695	92,764	1,05,874

The number of wealth tax assessments completed has shown a considerable improvement during the current year being 96301 assessments upto 30-11-1969.

2.18. During evidence, the representative of the Board stated, "Our officers were concentrating their attention more to income-tax work; I must admit this very frankly. That was why they were not disposing of these cases more. The assessments went on piling up and new assessments were also being added. This aspect which was being neglected in the earlier years has received attention now".

2.19. The Committee are unhappy over the rise in pendency of Wealth-tax assessments. The number of pending assessments which as on 31st March, 1966 was 54,240 rose to 1,20,666 as on 31st March, 1969—an increase of over 120 per cent in three years. The amount of tax blocked up in pending assessments as on 31st March, 1968 was Rs. 7.4 crores compared to Rs. 5.26 crores as on 31st March, 1967. During evidence, the representative of the Board conceded that this item of work had been neglected till recently. The Committee note that instructions have now been issued by the Board for the expeditious clearance of these cases. The Committee would like a definite deadline to be set for this purpose.

2.20. The Committee note that the number of pending Gift-tax assessments as on 31st March, 1968 was 7762, involving an amount of Rs. 37.58 lakhs. The number of pending Estate Duty assessments on that date was 8,299, involving a duty of Rs. 7.48 crores. The Committee would like concerted efforts for the clearance of these cases to be made by the Board.

Appeals pending on 31-3-1969 (*Gift Tax*)*

Audit Paragraph

	Appeals with Appellate Assistant Commissioners	Revision petitions with Commissioners
2.21 Number of appeals pending with Appellate Assistant Commissioners/revision petitions	5402	950
(i) Out of appeals/revision petitions instituted during 1967-68	3788	500
(ii) Out of appeals/revision petitions instituted in earlier years	1614	450

Year-wise break-up of the pending appeals and revision petitions is shown below:

Year of Institution	Appeals with Appellate Assistant Commissioners	Revision petitions with Commissioners
1959-60	1	5
1960-61	3	1
1961-62	21	6
1962-63	31	13
1963-64	74	56
1964-65	185	69
1965-66	311	95
1966-67	988	205
1967-68	3788	500
TOTAL	5402	950

*Figures are as furnished by the Ministry.

Appeals pending on 31-3-1969 *(Gift Tax)**

Audit Paragraph:

	Appeals with Appellate Assistant Commissioners	Revision petitions with Commissioners
222. Number of pending appeals/revision petitions	934	62
(i) Out of appeals/revision petitions instituted during 1967-68	664	26
(ii) Out of appeals/revision petitions instituted in earlier years	270	36

Year-wise break-up of the pending appeals and revision petitions is shown below:

Year of Institutions	Appeals with Appellate Assistant Commissioners	Revision petitions with Commissioners
1962-63 and earlier years	7	6
1963-64	9	1
1964-65	25	6
1965-66	56	18
1966-67	173	5
1967-68	664	26
TOTAL	934	62

(Paragraphs 84(a) and (b) of Audit Report (Civil) on Revenue Receipts, 1969)

*Figures are as furnished by the Ministry.

2.23. The comparative position of arrears of revision petition in respect of Wealth Tax as on 31-3-1966 and 31-3-1968 is as follows:

Year of Institution	As on 31-3-1966	As on 31-3-1968
1958-59	4	..
1959-60	13	5
1960-61	13	1
1961-62	2	6
1962-63	20	13
1963-64	74	56
1964-65	147	69
1965-66	139	95
1966-67	..	205
1967-68	..	500
	412	950

2.24. The year-wise break-up of the pendency of appeals in respect of Gift-tax as on 31-3-1966 and 30-6-1968 was as follows:

Year of Institution	As on 31-3-1966	As on 30-6-1968
1962-63 and earlier years	26	7
1963-64	45	9
1964-65	209	25
1965-66	697	56
1966-67	..	173
1967-68	..	664
	977	934

2.25. The year-wise break-up of the pendency of revision petitions as on 31-3-1966 and 30-6-1968 was as follows:—

Year of Institution	As on 31-3-1966	As on 31-6-1968
1962-63 and earlier years	..	6
1963-64	..	1
1964-65	4	6
1965-66	10	18
1966-67	..	5
1967-68	..	26
	14	62

2.26. The Committee are concerned over the heavy pendency of appeals in respect of Wealth Tax and Gift Tax. They observe that the appeals pending for more than one year under both these categories accounted for nearly 30 per cent of the aggregate pendency on that date. The position in respect of revision petitions is more disquietening. The number of pending Wealth Tax revision petitions on 31-3-1968 was more than 2¼ times of that on 31-3-1966. The rise is steeper in case of Gift Tax. The number of revision petitions in respect of this tax pending on 31-3-1968 was more than four times that on 31-3-1966. The Committee would like Government to take steps to bring down the pendency of appeals/revision petitions in respect of these taxes.

Appeals pending on 31-3-1968 *(Estate Duty)**

Audit Paragraph

2.27. Number of appeals pending with Appellate Controller of Estate Duty	1595
(i) Out of appeals instituted during 1967-68	1195
(ii) Out of appeals instituted in earlier year	400

*Figures are as furnished by the Ministry.

Year-wise break up of the pending appeals is shown below :—

Year of Institution	*Number of appeals*
1962-63	3
1963-64	17
1964-65	26
1965-66	72
1966-67	282
1967-68	1195
TOTAL	1595

[Paragraph 84(c) of Audit Report (Civil) on Revenue Receipts, 1969].

2.28. The pendency of appeals as on 31-3-1966 and 31-3-1968 was as follows :

Year of Institution	As on 31-3-1966	As on 31-3-1968
1960-61	3	..
1961-62	12	..
1962-63	26	3
1963-64	85	17
1964-65	187	26
1965-66	684	72
1966-67	..	282
1967-68	..	1195
	997	1595

2.29. The Committee regret to note the steep rise in the pendency of Estate Duty appeals. The number of appeals pending with the Appellate Controller of Estate Duty which was 997 on 31st March, 1966 rose to 1595 on 31st March, 1968—a rise of about 60 per cent in two years. The Committee would like Government to take concrete measures to bring down the pendency of Estate Duty appeals to the barest minimum.

(c) *Under assessment of duty due to incorrect valuation of property*

Audit Paragraph

2.30. Under the Estate Duty Act the valuation of a property chargeable to duty is to be determined with reference to the price which it would fetch, if sold in the open market at the time of death of the deceased. As per the Rules framed under the Act, if the property has actually been sold out within a short time after the death of the deceased under open market conditions, the gross sum realised shall be taken as the principal value of the property.

In an assessment completed in September, 1964, the value of Rs. 24.48 lakhs returned by the accountable person in respect of one of the properties included in the estate, was accepted by the Controller. According to an agreement of sale entered by the accountable person on 4th September, 1963, the value of the property was Rs. 50.74 lakhs at which price it was actually sold. When the accountable person submitted his return of income for purposes of assessment of capital gain on the sale of this property, availing himself of the option to substitute the value of property as on 1st January, 1954, he declared the value as Rs. 28.31 lakhs.

The Ministry have stated in reply that when the property was sold in September, 1963, the property was in vacant possession and therefore commanded an appreciably higher value. For working out capital gains, the value as on 1st January, 1954, was calculated at Rs. 28.31 lakhs assuming that it would have been in vacant possession.

[Paragraph 80 of Audit Report (Civil) on Revenue Receipts, 1969]

2.31. During evidence, the representative of the Board stated that the date of death of the deceased was 19.12.1962. The accountable persons, that is, the heirs of the assessee, declared the value of this property at Rs. 24,48,000 on the basis of a certificate given by the valuer. The valuer had mentioned in the Report that the building was falling practically right into the sea and was in a neglected condition. The rateable value of the building was fixed by the municipality at about Rs. 12,000 and the municipal tax amounted to about Rs. 4,000. Since the property was underdeveloped the valuer felt that capitalising the income from property would yield a very low valuation. He, therefore, proceeded to value the property by following the land-and-building method. He noted that the municipality had paid compensation for acquiring lands in that neighbourhood for widening the roads etc., at Rs. 120 per square yard. The valuer adopted a value of Rs. 250 per square yard for 7,920 square yards of land.

2.32. The Committee drew attention to Rule 14(3) of the Estate Duty Rules which provides that if a property is actually sold out within a short time after the death of the deceased under open market conditions, the gross sum realised should be taken as the principal value of the property. The Committee desired to know why this Rule was not applied in the case under reference and the value of the property taken as 50.74 lakhs, i.e., the value shown in the agreement for sale of property executed in September, 1963. The representative of the Board stated that, according to records, in September, 1964 when the Estate Duty Officer completed the assessments he was not aware that the accountable persons of the deceased had entered into an agreement for the sale of the same property in September, 1963 for a sum of Rs. 50.74 lakhs. The agreement was filed subsequently (1965) with the Income-tax Officer concerned in connection with capital gains tax. The Committee enquired whether it was not incumbent upon the assessee to have informed the concerned authorities that he had entered into an agreement for the sale of the property. The representative of the Board stated, "for a clearance certificate for the purpose of sale, he has to inform that a sale is intended. It is not laid down in the particular form in which clearance certificate is required that the sale price must be intimated." Asked whether in such a case the officer concerned should not have found out the sale price, the representative of the Board stated that he should have but he did not.

2.33. In reply to another question, the witness stated that on the completion of the Estate Duty assessment the Estate Duty Officer informed the Wealth Tax Officer that the valuation of the property was Rs. 24 lakhs odd.

2.34. The Committee enquired whether the Income-tax Officer with whom the sale agreement was filed in 1965 in connection with the capital gains tax informed the Estate Duty Officer that the accountable persons of the deceased had entered into an agreement for the sale of the property in September, 1963. The representative of the Board stated: "He should have done that. Normally they do." The witness added that the Estate Duty Officer and the Income-tax Officer were in different circles. In reply to a further question, he stated that both the circles are in the same city.

2.35. The Committee enquired on what basis the value of the property was fixed at Rs. 28.31 lakhs on 1.1.1954 for purpose of computing capital gains and whether the same basis could not be followed for finding out the market value on the date of death of the assessee. In a written reply, the Ministry have stated:

> "The valuer appointed by the assessee has worked out the value of the property as on 1.1.1954 at Rs. 28.31 lakhs. This valua-

tion was made for the purpose of working out the capital gains on the sale of property. The value was estimated on the presumption that the property could have been given in 'vacant possession' as on that date. Since the actual sale was on the condition that 'vacant possession' would be given, the assessee worked out the value of the property as on 1.1.1954 by assuming that the property was in 'vacant possession' as on that date also. The same basis cannot be followed for finding out the market value on the date of death because the property was not actually in 'vacant possession' on that date. It may be pointed out that the valuation of Rs. 28.31 lakhs has not been accepted by the Income-tax Officer. The Income-tax Officer is ascertaining the correct value of the property as on 1.1.1954 by referring the matter to the department's Valuation Cell."

2.36. The Committee enquired whether the Estate Duty Officer was justified in adopting the value of the property as Rs. 24.48 lakhs in September, 1964 when the sale agreement entered into in September, 1963 showed that the property was worth more than Rs. 50 lakhs. The representative of the Board stated, "on the date of death the property was not vacant and so the Estate Duty Officer had to take the value on that day taking into consideration the circumstances prevailing at that time for the purpose of Estate Duty." The Committee enquired whether in determining market value for purpose of assessment of estate duty, the question whether a building is vacant or not is material. The witness replied that this "is a very material factor because the intending purchaser would always look at that point." Asked when the sale deed as such was executed, the witness stated that the deed was executed on 30th March, 1965. In reply to a further question, he informed the Committee that it must be presumed that vacant possession of the property was given when it was sold. Audit have in this connection brought the following position to the notice of the Committee:

"Under Section 36 of Estate Duty Act, 1953 the principal value of any property should be estimated to be the price which in the opinion of the Controller it would fetch if sold in the open market at the time of deceased's death. While determining the market value, which is a notional figure whether the building was vacant or not would not come into picture at all. The estimate should be made on the presumption that possession would be given when a sale is effected. As a matter of fact Section 36(2) provides when a reduction can be made. Even while determining the air market value as on 1.1.1954 at Rs. 28.31 lakhs the valuer had proceeded on the

assumption that the property would have been in vacant possession. There is nothing in the Act preventing the Estate Duty Officer making the same presumption for finding out the market value as on the date of death." Section 36 of the Estate Duty Act referred to in the foregoing comments of Audit reads as follows:

"36 (1) The principal value of any property shall be estimated to be the prince which, in the opinion of the Controller it would fetch if sold in the open market at the time of deceased's death."

"(2) In estimating the principal value under this section the Controller shall fix the price of the property according to the market price at the time of the deceased's death and shall not make any reduction in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time:

"Provided that where it is proved to the satisfaction of the Controller that the value of the property has depreciated by reason of the death of the deceased, the depreciation shall be taken into account in fixing the price."

2.37. Asked whether it was a fact that by the date of the assessment, the purchaser had paid Rs. 35 lakhs as part consideration, the representative of the Board stated that it was so. In reply to a further question whether the purchaser was aware of the condition of the property when he made the part payment, the witness replied in the affirmative.

2.38. Para 13 of the Sale Agreement *inter alia* reads as follows:

"On completion of the sale, the vendors shall put the purchasers in vacant possession of the said premises, the said premises are occupied by some members of the family of the deceased and some licensees and tenants and they shall be entitled to remove all the furniture and other articles and things belonging to them, including the fixtures belong to them....."

2.39. The Committee desired to know the proportion of the property in the possession of (a) the assessee and (b) other tenants in September, 1963 when the sale agreement was signed and further whether the property was in vacant possession when the sale deed was signed. In their written reply, the Ministry have stated:

"The legal representatives of the deceased are reluctant to supply any additional information at this stage. Efforts, are, however,

being made to obtain these details and as soon as the information is obtained a further report would be submitted."

(*The report is awaited*).

2.40. The Committee desired to know the value of the property for the purpose of Wealth-tax assessments. The representative of the Board stated: "For the assessment years 1957-58 to 1959-60, the Wealth Tax was made on an assessment of Rs. 3,18,500; for 1960-61 to 1961-62 Rs. 3,20,000; for 1962-63 the assessment is still pending." In reply to a question he stated that the above assessments were made on the basis of municipal valuation—16/20 times the municipal valuation.

2.41. The Committee desired to know whether the Department proposed to take any steps to ensure that the omission of the type noticed in the Audit paragraph did not recur. The Finance Secretary stated: "The point is, there was some lack of co-ordination between officers dealing with capital gains and officers dealing with Wealth-tax. We would like to have integrated form of returns regarding income tax and wealth tax. In this case, the party did apply and say he was going to sell the property. There was no mention as to what the sale value was. If we could have integrated forms by which these can be ascertained that is one way by which this could be made effective. Wherever there are transactions of this nature, there should be much closer co-ordination between income-tax, wealth-tax and estate duty officers to see that this sort of thing is avoided in future. It is a matter for executive instructions." The Chairman, Central Board of Direct Taxes added, "one remedial measures that we are thinking of is this. There is a prescribed form which requires the officer to make a mention of it when a sale is to be effected. But there is no mention about the amount. I think it would be useful to have in E.D. 53 form a column to show the sale price of the property for a certificate under Section 7403."

2.42. The Committee desired to know whether there was any procedure to ensure co-ordination between Income-tax officers and Estate Duty officers in regard to tax assessments and valuation of property. In their written reply, the Ministry have stated:

"The Ministry have not laid down any special procedure to ensure co-ordination between the Income-tax officers and the Assistant Controllers of Estate Duty, in regard to the tax assessments and valuation of properties. When the estate duty assessments are completed the income-tax record is made available to the Assistant Controller of Estate Duty who are expected to scrutinise the income-tax record very carefully. Similarly the value adopted in the estate duty assessment is usually communicated to the Wealth-tax

Officer in case a higher valuation is adopted for estate duty purposes as compared to the value adopted in the wealth-tax assessments. The Assistant Controller of Estate Duty had actually intimated the Wealth-tax Officer the value adopted for estate duty purposes immediately on completion of estate duty assessments in the case referred to in para 80 of the Audit Report, 1969. In that case the difference between the value adopted in the estate duty assessment and the value shown by the assessee for capital gains purposes is attributable to the fact that in the former case the value was worked out on the basis that the property was not in 'vacant possession' whereas in the latter case the value was arrived at on the presumption that it was in 'vacant possession' on that date. Moreover, the income-tax return disclosing the value of property on 1st January, 1954 at Rs. 28.31 lakhs was filed after the estate duty assessment was completed. The Ministry, therefore, feel that there was no lack of co-ordination in the case under consideration.

However, the Central Board of Direct Taxes are examining issue of instructions to ensure co-ordination between ITOs and ACEDs."

2.43. The Committee desired to know the feasibility of having cells for Estate Duty and Gift Tax under the Commissioner of Income-tax. The representative of the Board stated: "We shall try to integrate the Department on the lines suggested."

2.44. The Committee pointed out that under Rule 14(3) of the Estate Duty Rules, 1953, if the property has actually been sold within a short time after the death of the deceased, the gross sum realised has to be taken as the principal value of the property for the purpose of assessment of duty. The Committee enquired what the term 'short time' implied. The witness replied: "It should be almost immediate. The term 'short time' has not been defined anywhere. It should be immediate—as immediate as possible." When the Committee enquired whether 'short time' could be considered as "immediate" and it was not desirable to be specific, the Chairman of the Board of Direct Taxes said: "We shall examine this."

2.45. The Committee cannot help feeling that there was systematic undervaluation of the property in this case at every stage.

2.46. In the first place, the value of the property was assessed for the purpose of wealth tax for the years 1957-58 to 1961-62 at Rs. 3.20 lakhs.

This represented a gross under-valuation as a return filed subsequently, in connection with the assessment of capital gains tax, showed the value of the property in January, 1954 to be as much as Rs. 28.31 lakhs.

2.47. Secondly, the property was valued by the Income Tax Department in September, 1964, at Rs. 24.48 lakhs for purpose of levy of estate duty (which became payable with the assessee's death in December, 1962). This again did not represent the correct value, as a year prior to the assessment, i.e., in September, 1963, an agreement had been executed for the sale of the property at Rs. 50.74 lakhs. Of this, a sum of Rs. 35 lakhs had also been paid to the accountable person before the assessment took place. The officer who assessed the estate duty was apparently not aware of this transaction when he made the assessment, nor was he apprised of it thereafter by the officer who assessed the capital gains tax, when he received the copy of the sale agreement.

2.48. Government have argued that the valuation shown in the sale agreement for the property may not be relevant for purpose of assessment of estate duty, as that valuation assumed vacant possession of the property which did not exist at the time of the death of the assessee. The Committee are not convinced by this argument for the following reasons:

(i) The Committee had specifically asked for information about the proportion of the property in possession of the assessee and other tenants in September, 1963, when the sale agreement was executed. The Committee had also asked whether vacant possession of the property was available when the sale deed was signed. The Board have not so far been able to furnish information on these points. The Committee are not, therefore, able to understand on what basis the view has been taken that vacant possession of the property was not available when the sale took place.

(ii) Even assuming that vacant possession was not available, the Committee are not able to see why that should make a difference to the valuation for purpose of assessment of estate duty. Section 36 of Estate Duty Act, 1953 provides that the value of any property should be estimated at "the price which it would fetch if sold in the open market at the time of deceased's death." The assessing officer has, therefore, to make an estimate and the only consideration for which a reduction in the estimate can be made is that set out in the proviso to section 36(2) which stipulates that "if the value of the property has depreciated by reason of the death of the deceased" it should be taken into account.

(iii) It seems to be necessary to have uniform principles for valuing a property, be it for the purpose of wealth tax, capital gains tax or estate duty. The valuation adopted by the Department for the purpose of capital gains tax did not discount the value on the consideration that vacant possession was not available: in point of fact, the valuation as on 1st January, 1954 assumed vacant possession which obviously did not then exist. There is, therefore, no reason why vacant possession should not be similarly assumed when valuing the property for purpose of estate duty.

2.49. In the Committee's view, the whole case calls for a comprehensive review, with a view to determining what should be the value for purpose of estate duty. In the course of the review, it should also be examined why such a grossly depressed value as Rs. 3.20 lakhs was accepted for purposes of wealth tax assessments during the period 1957-58 to 1961-62. It would also be necessary to investigate to what extent the assessee failed to declare the correct value, both for purpose of wealth tax and estate duty and to what extent the assessing officers were lax and why different values declared at different points of time were not linked up. Appropriate action should be taken to recover the taxes the assessee escaped by under-valuing the property at different stages.

2.50. The case also highlights the need for coordination between officers who assess estate duty and those who assess wealth tax and capital gains tax.

2.51. There are two other points arising out of the evidence given in this case which the Committee would like Government to take note of:

(i) Rule 14(3) of the Estate Duty Rules provides for the sale value of the property being taken on the basis of assessment, if the property has actually been sold "within a short-time after ..... death." Since the term "short time" has not been defined, the way is left open for different assessing officers adopting different periods in this regard. As this would lead to discriminatory treatment, the Committee would like Government to consider how best consistency could be brought in its determination.

(ii) For obtaining a tax clearance certificate for the proposed sale of a property, an assessee has only to apprise the tax authority of his intention to sell. In the form prescribed for this purpose for submission to the tax authority, he is not required to indicate the price at which the property is proposed to be sold.

As information about the actual sale price is necessary for the proper determination of taxes, it is necessary that the relevant form (E.D.-53) be amplified to indicate the sale price.

(d) *Incorrect allowance in computing the value of the estate*

2.52. A deduction of Rs. 2,64,618 claimed as debt owed by a deceased was allowed under section 44 of the Estate Duty Act from her estate. The debt represented the debit balance in the name of her late husband with a firm in which he was a partner till 10th April, 1944, when he expired. No interest was charged on the debit balance by the surviving partner who took over the business of the firm, for the reason, that the deceased partner's share of goodwill as also the assets and liabilities of the firm were not distributed to his wife as his legal heir. Under the circumstances it was pointed out that the debt in question could not be considered as incurred by the wife of the deceased partner for consideration of money or money's worth and would not therefore qualify for deduction in her estate duty assessment. The allowance of the debit in computing the value of her estate chargeable to duty resulted in short-levy of duty amounting to Rs. 2,19,200.

The Ministry have justified the allowance of the debt on the basis of:

(a) certain observations occurring in Dymond's Death Duties; and

(b) the legal disability in claiming the share of goodwill owing to limitation of time.

The observations in Dymond's Death Duties referred to by the Ministry relate to an incumbrance created not by the deceased but by a predecessor in title. In this case, neither the deceased was predecessor in title; nor was any incumbrance created. As regards the legal disability to claim the share of goodwill, the same legal disability protected the deceased against any claim arising from any settlement of accounts of her husband.

[Paragraph 79 of Audit Report (Civil) on Revenue Receipts, 1969.]

2.53. The Committee understand from Audit that the assessee referred to in this paragraph died on 27th June, 1964. In the Estate Duty assessment of this lady, completed on 29th August, 1966 a debt of Rs. 2,64,618 was allowed as a deduction from the total estate under Section 44 of the Estate Duty Act, 1953. According to Audit, to constitute a valid debt the money must have been advanced with reasonable belief at the time that it would paid. For the purpose of taxation, a debt is

"legally enforceable obligation for payment of money" (C.I.T. *Vs.* Basumal Jagatnarain, 38 ITR 447). In Shanti Prasad Jain *Vs.* Director of Enforcement (33 Company case 231—Supreme Court) it was observed:—

> 2.54. "In its ordinary as well as its legal sense a debt is a sum of money payable under an existing obligation. It may be payable forthwith, *solvendam in praesenti*, then it is a debt due or it may be payable at a future date, *solvendam in future*, then it is a debt accruing. But in either case it is a debt."

The deceased's husband was a partner in the firm and died on 10th April, 1944. The surviving partner took over the business of the firm. On the date of his death (10th April, 1944) there was a debit balance of Rs. 2,55,277 in the name of the deceased's husband in the books of the firm.

2.55. During evidence, the representative of the Board stated that originally the debit was in the name of the deceased's husband partner. After his death on 10th April, 1944, it was transferred in the name of the deceased.

2.56. The Committee enquired whether the surviving partner, who took over the business of the firm, considered at any time the outstanding balance as a debt due by the deceased's husband partner and his legal heirs. In a note, the Ministry of Finance have stated:

> "From the records it appears that the surviving partner considered the outstanding balance in the account of the deceased partner as a debt due not only from the deceased but also from the legal heir namely Mrs..... The account of the deceased was transferred in the name of the lady after the death and all the debits and credits in respect of transactions with her were made through this account. It has been ascertained that the debt has now been duly paid of in full."

2.57. The Committee observe that, on an enquiry from the Income-tax Officer as to why interest was not being charged on the debit balance in the account of the late partner's widow, In their reply, dated 14th December, 1962, the firm, *inter alia*, stated as follows:

> "We have hardly anything to add to what has already been stated on the subject of debit balance of late partner's widow in our books. One point may be made clear, that the amount shown on the debit is not by way of a loan made to the late partner's widow. It is only a continuity of the account of the late partner for circumstances already explained, and we would repeat that we feel that in view of the fact that no goodwill

has been paid to the late partner's widow, this little service rendered by us cannot be considered to be extraordinary or beyond what we should do in the circumstances already explained.

As regards your contention that interest has been paid on the loan taken from the late partner's widow, we have to state that this loan was taken by us from the late partner's widow as we required finances badly, for business purposes. This money was paid by the late partner's widow from her own personal accounts."

2.58. The Ministry have offered the following comments on the above reply of the firm:—

"The Ministry feel that the reply (dated 14th December, 1962) sent by the firm would not in any way affect the question as to whether the outstanding balance in the account of the deceased lady was a debit due by her or not."

2.59. In reply to a question, the representative of the Board clarified during evidence that there were both debits and credits involved in this case.

2.60. The Committee enquired whether on the death of husband partner in 1944, the surviving partner dissolved the firm and credited the accounts of the husband partner with all the assets and liabilities and goodwill. In their reply, the Ministry have stated as follows:—

"The Accountable Person's representative has stated that the firm was not dissolved in 1944 on the death of the husband partner but it was continued by the surviving partner after admitting two new partners into the Partnership business. The assets and liabilities including goodwill were not credited to the account of the husband partner. It has been ascertained that the goodwill was not valued in 1944 and therefore, the question of its being credited to the old partners account does not arise. The incoming partners were also not charged anything for goodwill by the surviving partner."

2.61. During evidence, the Committee desired to know whether any steps were taken by the surviving partner to recover the debit balance. The representative of the Board stated that no such steps were taken. Asked whether having regard to the provisions in the Act limiting the periods of recovery of debt, etc., the surviving partner could legally enforce the recovery of the debit balance from the late partner's widow. The representative of the Board stated: "Yes. Since it was a running

account and was actually operated during the three years before the deceased, the presumption would be correct."

2.62. The Committee referred to the Ministry's reply to Audit in which a reference to Dymond's Death Duties had been made. The representative of the Board stated that the relevant observation in Dymond's Death Duties was like this. Where an encumbrance was created not by the deceased but by a predecessor-in-title, the amount or value is *prima facie* deductible without reference to the question whether the predecessor received the consideration or not. As to its application to the present case, he stated that since the debit balance originally standing in the deceased's husband partner was later on transferred in the name of the deceased, he felt that the requisite condition was satisfied.

On this, Audit have made the following observation:

> "The observations in the Dymond's Death Duties relate to an incumbrance created not by the deceased but by a predecessor-in-title. In the case reported neither the deceased was predecessor-in-title nor was any incumbrance created. An incumbrance is a burden or charge upon property or a lien or a liability resting on an Estate such that the estate cannot be disposed of without being subjected to the charge or without the liability being discharged. In this case what is involved is a 'debt' and not an incumbrance."

2.63. The Committee enquired whether legal opinion had been taken on the question whether the surviving partner could legally enforce the recovery of the debit balance. In their reply, the Ministry have stated:—

> "No legal opinion and been taken by the Ministry in so far as the allowability of the debt from the Principal Value. It has now been ascertained that the amount of Rs. 2,64,618 has actually been paid in full by the heirs of the late partner's widow to be firm. This would clearly show that the amount represented a debt due by the deceased to the firm. In view of this development, there appears to be no doubt regarding the admissibility of the deduction."

2.64. The Committee desired to know whether the assessment could be re-opened in this case. In their reply, the Ministry have stated:—

> "The assessment was completed on 29th August, 1966 and therefore, the assessment cannot now be reopened now u/s 73(A)."

2.65. In reply to a question, the representative of the Board clarified that the limitation period for re-opening of assessments under the Estate Duty Act was three years from the date of completion of the assessment.

2.66. This Case is of more than ordinary interest because of some peculiar features. On the death of a partner in a partnership firm (in April, 1944) his widow inherited all his assets and liabilities in the firm. While assessing duty on her estate after her demise (June, 1964), a deduction was allowed by the assessing officer on account of a debit balance of Rs. 2.64 lakhs in the books of the firm which appeared in her husband's name, on the ground that it represented a debt owed by the deceased lady. However, account was not taken of her husband's share of goodwill in the firm, which had not been paid to her by the firm, on the ground that the deceased could not legally have enforced the claim because of the operation of time-bar. If the time-bar precluded a claim for share of goodwill by the deceased, it also protected the deceased lady against any claim on account of the loan which stood in the name of her husband in the firm's books. It is not clear why the assessing officer chose to disregard this aspect of the case while assessing duty. The Committee also note in this connection that in their letter of 14th December, 1962 the firm itself had clearly indicated that the debit balance was not considered by them as "a loan made" to the deceased lady. In the circumstances, the deduction on this account made in the estate duty assessment clearly lacked justification.

2.67. The Committee note that the amount of Rs. 2.64 lakhs has since been paid to the firm by the heirs of the deceased lady. It is significant that this settlement has taken place after Audit became seized of the matter. While this no doubt validates the assessment made in this case, the Committee would like the Board to investigate fully the circumstances in which the settlement took place as they appear *prima facie* suspect.

(c) *Mistakes in computation of net wealth*

Audit Paragraph

2.68. Even though an assessee returned a value of Rs. 58,000 for his immovable properties excluding the value of 9½ grounds of vacant plot, the Wealth-tax Officer valued them at Rs. 1,01,080 in both the assessment years 1964-65 and 1965-66. For the assessment year 1966-67, however, the value of the same properties was adopted as Rs. 58,000 as returned by the assessee, resulting in under-assessment of wealth by Rs. 43,080. The mistake has been accepted by the Ministry and the assessment has also been revised. Report regarding recovery of the additional tax is awaited.

[Paragraph 74(a) of Audit Report (Civil) on Revenue Receipts, 1969.]

2.69. The Committee desired to know why the Wealth Tax Officer, before finalising the assessment for the year 1966-67, did not ascertain the

valuation adopted in earlier years' assessments. In their reply, the Ministry have stated: "The Wealth Tax Officer who was responsible for the mistake has since retired from service. It has, therefore, not been possible to obtain his explanation."

2.70. As to the recovery of the tax short-levied, the Ministry have stated:—

> "The assessment was revised on 30th December, 1968 raising an additional demand of Rs. 215. The demand was collected on 3rd September, 1969."

2.71. The Committee observe that, while finalising the Wealth Tax assessment in this case, the assessing officer failed to look into earlier years' assessments. Consequently, he accepted the value of a property as Rs. 58,000 as indicated by the assessee, though for the earlier assessment years (1964-65 and 1965-66) the Wealth Tax Officer had valued the properties in question at Rs. 1,01,080 as against the 'returned' value of Rs. 58,000. While the Committee note that the amount of short-levy has since been recovered, they cannot help observing that the Wealth Tax Officer concerned had failed to properly discharge his functions. As the officer is reported to have retired, the Committee do not wish to pursue this case further. The Committee desire that the Board should take strict action in cases of such lapses.

Audit Paragraph

2.72. An assessee owned 11 ground and 1,074 sq. ft. of land on 1st April, 1965 out of which he sold 4 grounds and 701 sq. ft. on 31st March, 1966. In computing the net wealth of the assessee as on 31st March, 1966, the value of 4 grounds and 701 sq. ft. sold was taken instead of the value of the residual land 7 grounds and 373 sq. ft. resulting in under-assessment of net wealth by Rs. 28,364 for the assessment year 1966-67. The mistake has been accepted by the Ministry. Report regarding rectification and recovery of the tax is awaited.

[Paragraph 74(b) of Audit Report (Civil) on Revenue Receipts, 1969.]

2.73. In a note furnished to the Committee, the Ministry have stated that the additional demand for the tax short-levied has been raised and recovered.

2.74. The Ministry have also stated in their note that the assessment was not checked by either the Internal Audit Party or the Inspecting Assistant Commissioner.

2.75. The Committee observe that while computing the net wealth of the assessee for the purpose of Wealth Tax, the assessing officer took into account the value of the land sold by the assessee, instead of the value of the residual land owned by him on the date of valuation (31st March, 1966). This resulted in an under-assessment of net wealth by Rs. 28,364. While the Committee note that the tax short-levied has since been recovered, they feel that the assessing officer was very lax. The Committee trust that the Board will impress upon the assessing officers to exercise greater care in future.

(f) *Incorrect exemption from Wealth-tax*

Audit Paragraph

2.76. The Unit Trust of India Act, 1963 provides for exemption from the payment of income-tax to the extent provided therein but does not permit any exemption from wealth-tax. In the case of two assessees the value of unit certificates of Rs. 20,000 was incorrectly exempted from wealth-tax for the assessment year 1965-66. The mistake has been accepted by the Ministry. Report regarding rectification and recovery of the additional tax is awaited.

[Paragraph 75(a) of Audit Report (Civil) on Revenue Receipts, 1969].

2.77. Under Section 5(i) (xvi) of the Wealth Tax Act, 1957 certain kinds of investments in Government securities are to be excluded from wealth. Investment in Unit certificates under the Unit Trust of India Act, 1963 are not listed in the said section of the Wealth Tax Act. The Unit Trust of India Act also specifically provides in section 32 thereof for exemptions of income from Unit Trust from Income Tax subject to certain limits but not from Wealth Tax.

2.78. The Committee also understand from Audit that under circular letter No. F. 17/15/65(WT), dated 2nd September, 1965, the Board had clarified that the market value of the Unit certificates should be included in the net wealth of the assessee for purpose of Wealth Tax.

2.79. During evidence, the representative of the Board stated that income from units upto a limit of Rs. 1,000 was exempt from income-tax but no exemption from Wealth-Tax was available to investments in units. Instructions clarifying the position had been issued by the Board in 1965 but somehow the officer did not see the Circular. Assessments in both the cases had been rectified and the additional demand of Rs. 228 recovered.

2.80. In reply to a question, the Ministry have stated that the incorrect exemption for the value of unit trust certificates was allowed by the same Wealth-Tax Officer.

2.81. The Committee enquired whether the Ministry had ascertained that a similar mistake had not been committed by other Wealth-Tax Officers. The representative of the Board stated that they were proposing to conduct a general survey to find this out.

2.82. The Committee observe that neither the Wealth Tax Act, 1957 nor the Unit Trust of India Act, 1963 exempts investments in units from Wealth Tax. In their circular letter of 2nd September, 1965, the Board had also clarified that, for the purpose of wealth tax, the market value of Unit Certificates should be included in the net wealth of assessees. In this case, however, the assessing officer granted exemption to Unit Certificates of the value of Rs. 20,000 while assessing Wealth Tax in two cases. While the Committee note that the tax short-levied has since been recovered in both the cases, the Committee cannot help observing that the assessing officer showed utter lack of familiarity with the provisions of the law bearing on his work. The Committee hope that these cases will not recur.

2.83. The Committee note that the Board propose to conduct a general survey to find out whether a similar mistake had been committed by any other officer. The Committee would like to be informed of the results of the survey, as also of rectificatory action, if any, taken pursuant thereto.

Audit Paragraph

2.84. Under the Wealth-tax Act, prior to the amendment by the Finance Act, 1963 jewellery upto a value of Rs. 25,000 was exempt from wealth-tax. From the assessment year 1963-64, the exemption was withdrawn and jewellery irrespective of value is chargeable to wealth-tax. In three assessments relating to the assessment years 1963-64 and 1965-66 value of jewellery of Rs. 38,000 remained to be added to the net wealth and charged to tax. The omission has been accepted by the Ministry. Report regarding rectification and recovery of the additional tax involved is awaited.

[Paragraph 75(6) of Audit Report (Civil) on Revenue Receipts, 1969.]

2.85. The Committee desired to know whether the three assessments mentioned in the Audit paragraph had since been rectified and the additional demand raised and recovered. In a note, the Ministry have stated:—

> "In the first case, the mistake was rectified on 22nd March, 1968 raising an additional demand of Rs. 210/-. This has been adjusted against the refund due to the assessee. In the second case, the mistake was rectified on 26th February, 1969 raising an additional demand of Rs. 45/-. Here too the demand was adjusted against the refund due to the assessee.

In the third case, the assessment has been reopened and the reassessment proceedings are pending While completing the reassessment proceedings the mistake would be rectified."

2.86. In reply to another written question, the Ministry have stated that the first two cases were not scrutinised by the Internal Audit Parties. In the third case, the Internal Audit Party scrutinised the assessment and detected the mistake.

2.87. In reply to a further question, the Ministry have stated that the assessments mentioned in the Audit paragraph were completed by three different Wealth Tax Officers. The Ministry have also stated that after the amendment of the relevant provisions of the Wealth Tax Act, 1957 by the Finance Act, 1963, the Board had issued detailed instructions for the guidance of Wealth Tax Officers.

2.88. The Committee observe that although exemption for jewellery for purposes of wealth tax was completely withdrawn with effect from the assessment year 1963-64, the exemption was incorrectly given in three assessments for the years 1963-64 and 1965-66. A regrettable feature of the case is that the omission took place, in spite of the detailed instructions issued by the Board after the amendment of the relevant provisions of the Wealth Tax Act. It is apparent that the assessing officers had not taken note of either the change in the relevant provisions of the law or the instructions issued by the Board.

2.89. The Committee note that while in the first two cases the tax short-levied has been recovered by adjustment against the refunds due to the assessees, in the third case, the assessment has been re-opened. Government have indicated that at the time of completing the re-assessment proceedings, they would rectify the mistake. The Committee would like to have a further report in the matter.

(g) *Wealth escaping assessment*

Audit Paragraph

2.90. A person making an annuity deposit under the Income-Tax Act is entitled to receive annuities in respect of the deposit over a period of 10 years commencing after the expiry of 12 months from the date on which the deposit was made. As the annuity receivable is an 'asset' the same is to be included in the net wealth of the individual for levy of wealth-tax. It was noticed in six wealth-tax assessments for the assessment years 1965-66 and 1966-67, annuity deposit of Rs. 76,971 was incorrectly omitted to be added to the net wealth charged to tax. The mistake has been accepted by the Ministry in all the cases. Report regarding rectification and recovery of the tax involved is awaited.

[Paragraph 76(a) of Audit Report (Civil) on Revenue Receipts, 1969.]

2.91. The Committee learnt from Audit that under Circular No. 5-D(WT) of 1965 dated 7th September, 1965 (issued after consulting the Ministry of Law), the Central Board of Direct Taxes had clarified that the annuities receivable in respect of Annuity deposit should be treated as "assets" in the computation of net wealth and the commuted value of such annuities receivable on the relevant valuation date is therefore includible in the net wealth of an individual for the purpose of Wealth Tax.

2.92. In a note furnished to the Committee, the Ministry have stated that out of six assessments mentioned in the Audit paragraph three assessments had been completed by one Wealth Tax Officer, two by another and one by a third one.

2.93. The Committee enquired whether the Board had issued any instructions regarding inclusion of commuted value of annuity deposits in net wealth for the guidance of Wealth Tax Officers. In their note, the Ministry have stated:—

> "The Board had issued instructions in their Circular No. 1 42 64-WT, dated 27th July, 1968 clarifying that the commuted value of annuity deposits was taxable under the Wealth Tax Act. However, these instructions were reviewed and a public Circular No. 17 dated 10th June, 1969 was issued stating that the annuity deposits receivable under the Annuity Deposit Scheme are exempt u/s 2(a) (iv) of the Wealth Tax Act."

2.94. The Committee desired to know whether the assessments referred to in the Audit paragraph had been rectified. In their note, the Ministry have stated:

> "Since the Audit raised the objection, the Board have taken a view that the commuted value of annuity deposits are exempt from wealth tax. The Ministry have proposed to make a clarificatory amendment in the Wealth Tax Act with retrospective effect. The necessary amendment has been sponsored in the Taxation Laws (Amendment) Bill, 1969. The Board have issued instructions to the Wealth Tax Officers not to include the commuted value of annuity deposits in the net wealth. The Wealth Tax Officers have been further instructed that the assessments which have already been completed should be as far as possible rectified, *suo motu*, so that the commuted value of annuity deposits is deleted from the net wealth. In view of these instructions the question of rectifying the assessments in the six cases does not arise."

2.95. The Committee note that the Board have now taken the view that commuted value of annuity deposits should be exempt from Wealth Tax and that to give their view a statutory backing, Government propose to amend the relevant provisions of the Wealth Tax Act with retrospective effect. However, at the time the assessments in question were made the instructions from the Board were that the commuted value of annuities receivable on the relevant valuation date should be included in the net wealth of an individual for the purpose of wealth tax. It is regrettable that in spite of these instructions, three assessing officers omitted to include the commuted value of annuity deposits in net wealth in six assessments which they finalised. This is not the only case of its kind in which instructions regarding computation of net wealth issued by the Board were over-looked by its officers in the course of their work. The Committee have mentioned other such instances in this Report. The Committee would like the Board to devise ways to ensure that its instructions are strictly complied with by its officers in the course of their work. Persistent disregard of such instructions should be visited with appropriate punishment.

Audit Paragraph

2.96. An assessee's share of wealth from a firm in which he was a partner was not taken into account pending ascertainment for the assessment year 1962-63. On a scrutiny of the assessment records, it was found that the share of wealth was ascertained in April 1964 as Rs. 67,059. But no action was taken to assess the wealth of Rs. 67,059 to tax till the omission was pointed out in January, 1968.

In another case the share of wealth from a firm provisionally taken as Rs. 21,154 for the assessment year 1962-63 was not revised till January 1968 though the final share of wealth was ascertained in April, 1964 as Rs. 27,028.

The omission in the two cases has been accepted by the Ministry and the assessments have also been revised. Report regarding recovery of the tax involved is awaited.

[Paragraph 76(b) of Audit Report (Civil) on Revenue Receipts, 1969.]

2.97. The Committee desired to know why the Wealth Tax Officer did not take any action for over three years for the rectification of the two assessments after he became aware of the final share of wealth. In a written reply, the Ministry have stated:

> "The intimation of the share of wealth of the assessee in the firm of M/s. ..... was received and placed on the file by the office. But this fact was not noticed by the Wealth Tax Officer who completed the assessment because there was no mention of the share intimation in the order-sheet of the file. The fact that the assessee had a share in a firm escaped the attention of the Wealth Tax Officer mainly because the

intimation in respect thereof was not properly indexed and brought to his notice by the officer. It was due to this that there was considerable delay in the rectification."

2.98. In their written reply, the Ministry have further stated:

"Both the assessments were rectified on 20th December, 1969 raising an additional demand of Rs. 975 and Rs. 58 respectively. The demands have been collected on 17th April, 1969."

2.99. The Committee understand from Audit that in regard to Income Tax assessment the Central Board of Direct Taxes have prescribed a register called "Register for rectification of provisional share incomes." This register is intended to enable the Income Tax Officer to keep a watch over the rectification of assessments wherein share incomes were provisionally taken as nil or at a certain figure as returned by the assessees. No such register appears to have been prescribed on the Wealth Tax side.

2.100. The Committee note that in the Wealth Tax assessment for the year 1962-63, the assessee's share of wealth from a firm was provisionally taken as nil in the first case and Rs. 21,124 in the second case, pending ascertainment of their actual shares. Although intimation was received in the Wealth Tax Office that the actual share of the assessee in the first case was Rs. 67,059 and Rs. 27,028 in the second case, no action to rectify the assessment was taken by the assessing officer till January, 1968 when the omission was pointed out by Audit. The explanation of the Ministry for the omission is that there was no mention of the share intimation in the order-sheet of the file. Nor had the intimation been properly indexed. The Committee regret that the assessment records were not properly maintained in this case. They feel that the Board should issue instructions to the Commissioners to streamline the procedures for maintenance of assessment records so that they clearly indicate whether any action in the case still remains to be taken and whether any information has been received after the file was last seen by the assessing officer. The Committee note in this connection that, on the Income-tax side, the Board have prescribed a register called "Register for rectification of Provisional share income". The purpose of this Register is to enable the Income-tax Officer to keep a watch over the rectification of assessments in cases where share incomes were provisionally taken as nil or at a certain figure as returned by assessees. The Committee would like the Board to consider the feasibility of maintaining such a register on the Wealth-Tax side also.

Audit Paragraph

2.101. An assessee advanced a sum of Rs. 5,33,200 to an industrialist in Burma in 1953. From the assessment records it was found that the loan was to be repaid to the assessee in India and was to be added to the

assessee's wealth in India. The assessee did not disclose this asset in his wealth-tax returns in any of the years. The omission was detected by the assessing officer in 1965-66. The assessing officer added back the sum of Rs. 5,33,200 to the net wealth of the assessee in the assessment year 1965-66 completed on 31st March, 1967. But no action was taken to reopen the assessments 1957-58 to 1964-65 to assess the escaped wealth of Rs. 5,33,200 in each of these eight years. The Ministry while accepting the omission have stated that remedial action has been taken for the assessment years 1960-61 onwards and for the years 1957-58 to 1959-60, action has become time-barred. Report regarding rectification and recovery of the additional tax for the assessment year 1960-61 onwards is awaited.

[Paragraph 76(c) of Audit Report (Civil) on Revenue Receipts, 1969.]

2.102. The Committee desired to know the circumstances in which the Wealth-tax Officer overlooked to revise the previous assessments when he detected the escapement of wealth for the assessment year 1965-66. In a written reply, the Ministry stated:

> "The assessment for assessment year 1965-66 was completed on 31st March, 1967. On that date the assessment for assessment year 1957-58 was getting barred by time. Since, however, the loan was given only on 5th April, 1957, there was no question of including the loan in the net wealth of the valuation date corresponding to assessment year 1957-58. As far as assessment year 1958-59 is concerned, the assessee had explained in the course of assessment proceedings that the loan given to Shri..... of Arrah, Bihar (who had business connections in Burma also), was advanced by taking an overdraft from the State Bank of India and the explanation given was accepted by the Wealth-Tax Officer. For the assessment year 1959-60 the amount of loan given to Shri..... was included in the net wealth but the amount of overdraft taken to advance the loan was not deducted for arriving at the net wealth. In view of these facts the question of reopening the assessment for assessment years 1958-59 and 1959-60 does not arise. The Wealth-tax Officer who completed the assessment for assessment year 1965-66 has been asked to explain why he did not consider it necessary to reopen the assessments for assessment years 1960-61 to 1965-66, as soon as the assessment for the assessment year 1965-66 was completed. His explanation is awaited. The assessments have since been reopened and the reassessment proceedings are pending."

2.103. During evidence, the representative of the Board stated that the date of the loan was 5th April, 1957. The Wealth-Tax Officer first detected the concealment on 31st March, 1967. If prompt action had been taken,

re-assessments for the years 1958-59 and 1959-60 could have been re-opened. The audit paragraph was received on 6th January, 1968 and if prompt action had been taken even then, assessment for the year 1959-60 could have been reopened. In reply to a question, the witness stated that the tax effect of the concealed wealth would be Rs. 5,332 per annum provided it were not counter-balanced by the new claim for deduction of bank overdrafts.

In reply to another question, the representative of the Board stated that the explanation of the Wealth Tax Officer for not reopening earlier assessments had been called for "this month only (January, 1970)."

2.104. The Committee desired to know the latest position regarding revision of assessments for the years 1960-61 to 1964-65. In their written reply, the Ministry have stated:

> "Action has already been taken under section 7 of the Wealth tax Act to assess the wealth that might have escaped assessment for assessment years 1960-61 to 1964-65. The assessee has pointed out to the Wealth-tax Officer that the loan given to Shri.....was fully covered by the overdraft taken and therefore, there was no question of any escapement of wealth for these assessment years. This representation of the assessee is being enquired into. The Wealth-tax Officer has been asked to expedite the finalisation of the reopened proceedings."

2.105 In reply to another question, the Ministry have clarified that the loan mentioned in the Audit paragraph was utilised only in India.

2.106. The Committee note that the Wealth Tax Officer who had detected the omission of the assessee to return the particulars of a loan of Rs. 5,33,200 in the Wealth Tax return for the assessment year 1965-66 did not re-open assessments for the earlier years in which the same omission had taken place. The Committee note that the Department had called for the explanation of Wealth Tax Officer for his failure to do so. The Committee would like to be informed of the outcome of the examination of the matter by the Department.

2.107. The Committee note that the assessment for the assessment years 1960-61 to 1964-65 have since been re-opened. But the assessee has represented that the loan of Rs. 5,33,200 mentioned in the Audit paragraph was fully covered by an overdraft and there was, therefore, no escapement of wealth. The assessee's representation is stated to be under the consideration of the Department. The Committee would like to be informed of the outcome of the re-assessment proceedings.

2.108. Another aspect to which the Committee would like to draw attention is that the Board became aware of the omission on the part of the Wealth Tax Officer sometime in January, 1968. The explanation of the assessing officer was, however, called for only a few days before the consideration of the matter by the Public Accounts Committee (January, 1970) i.e. after a period of two years. The Committee desire that the Board should act promptly in such matters.

(h) *Incorrect Valuation of unquoted shares*

Audit Paragraph

2.109. An assessee owned 459 shares of a company and these shares were not quoted in the market. The assessee therefore valued these shares on the basis of the Balance-sheet figures of the company as on 31st October, 1965 relevant to the assessment year 1966-67 and the value of each share worked out at Rs. 2,069.34 by the assessee was accepted by the Wealth-tax Officer. From the Balance-sheet of the company it was noticed that the company had some investments in other limited companies and the value of such investments was shown at cost price in the Balance-sheet of the company. But a note was appended to the Balance-sheet that the market value of these investment would be Rs. 5,19,274 as against the cost price of Rs. 2,46,320 shown in the Balance-sheet. The market-value of the investments is to be taken into account for arriving at the value of each share as was done in the earlier assessments. The market value of each share worked out to Rs. 2,387.70 against Rs. 2,069.34 adopted in the wealth-tax assessment. This has resulted in under-valuation of shares and consequent under-assessment of wealth of Rs. 1,46,127 for the assessment year 1966-67. The mistake has been accepted by the Ministry and the assessment has since been revised. Report of recovery is awaited.

[Paragraph 77 of Audit Report (Civil) on Revenue Receipts, 1969]

2.110. The Committee desired to know what procedure was followed by the Wealth Tax Officer in valuing the equity shares for the assessments prior to the assessment year 1966-67. In a written reply, the Ministry have stated:

> "For assessment years 1958-59 to 1960-61, the Wealth Tax Officer adopted the book value of the various assets of the company in arriving at the break-up value of the shares. For these years however there was no note in the respective balance sheets, regarding the appreciation in the value of the investments as compared to their book value. For the assessment years 1961-62 to 1965-66 (except for assessment year 1962-63), the Wealth Tax Officer, while arriving at the break up value, took into account the appreciation in the value of

investments. For assessment year 1962-63, however, the Wealth Tax Officer did not take into account the appreciation in the value of investments."

2.111. The Committee understand from Audit that the Wealth Tax Officer in all assessments earlier to 1966-67 followed the market value of the equity shares.

2.112. In reply to a written question, the Ministry have stated that the additional demand of Rs. 2,922 was recovered on 30th September, 1968.

2.113. In reply to another written question, the Ministry have stated that the assessments for assessment years 1965-66 and 1966-67 were completed by different officers.

2.114. The Committee note that for three consecutive years 1963-64, 1964-65 and 1965-66, the value of equity shares held by the assessee in this case was determined on the basis of market value. However, for the assessment year 1966-67, the value returned by the assessee at cost price as shown in the Balance Sheet figures of the company was accepted. It is regrettable that the Wealth Tax Officer was so remiss that he overlooked the note appended to the Balance Sheet that the market value of equity shares was much more than the cost price mentioned in the Balance Sheet. The officer also failed to cross-check the assessment in this respect with reference to previous assessments. The Committee would like the Ministry to impress upon the assessing officers the need to exercise greater care in making assessments.

(i) *Over-assessments*

Audit Paragraph

2.115. Under the Wealth-tax Act, debts owed by an assessee other than the prescribed categories, on the valuation date, are to be deducted from total wealth to arrive at the net wealth. In computing the net wealth of an assessee as on 24th October, 1965 debts owed by him to the extent of Rs. 1,68,964 has not been allowed with the result that the net wealth of the assessee was determined as Rs. 18,79,195 as against the correct amount of Rs. 17,10,231. This has resulted in over-assessment of net wealth by Rs. 1,68,964. The Ministry have accepted the mistake and rectified the assessment. Report regarding refund of the tax excess-assessed is awaited.

[Paragraph 78 of Audit Report (Civil) on Revenue Receipts, 1969]

2.116. In a note furnished to the Committee, the Ministry have stated that excess collection of Rs. 3378 had been refunded on 4th January, 1969.

2.117. The Committee desired to know what counter-checks had been prescribed for Wealth Tax assessments before demands were issued to the assessees. In their note, the Ministry have stated:

> "The Wealth Tax Officer is fully responsible for the computation of net wealth made by him in the wealth tax assessments. The computation is not generally checked by another officer. In the matter of tax calculations, the responsibility lies with the Wealth Tax Officer's office. In big case of tax demand, the calculations made by the U.D.C. are checked by his supervisor."

2.118. While the Committee note that the tax excess collected has since been refunded to the assessee, they cannot help observing that there was an omission on the part of the Wealth Tax Officer in not having deducted from the total wealth of the assessee the debt owed by him on the date of valuation. Suitable instructions should be issued to prevent recurrence of a case of this kind.

Excess demand of interest for late filing of estate duty returns

Audit Paragraph

2.119. Under the Estate duty Act, an account of the Estate of a deceased person is required to be filed by the accountable person within six months of the death of the deceased. The Controller may, however, allow extension of the time limit, subject to levy of interest, for the period of extension on the amount of duty finally determined as chargeable on the estate, as reduced by duty if any already paid on the basis of the provisional estimate of duty, made by him.

It was noticed that in a case where extension of time was allowed for filing the estate duty accounts, interest was incorrectly levied for the period from the date of death to the date of filing return instead of the same being restricted to the period of extension allowed.

In another case duty already paid on the basis of the provisional estimate of the Controller was not deducted from that as finally determined before calculating the amount of interest leviable for the delay in filing the accounts of the estate.

The mistake resulted in excess levy of interest aggregating Rs. 32,209. The Ministry have accepted the mistake in both the cases.

[Paragraph 81 of Audit Report (Civil) on Revenue Receipts, 1969]

2.120. Under Section 53(3) of the Estate Duty Act, 1953, Estate Duty accounts of a deceased person are to be filed by the Accountable person within six months of the death of the deceased. Under Rule 42 of Estate Duty Rules, the Controller may allow extension of time to the Accountable person for delivering the accounts subject to leavy of interest for the period by which the original limit of six months has been extended. Interest is chargeable on the difference between the duty determined in assessment and the amount deposited within the period of six months of the death of the deceased. If any further amount is deposited after the expiry of the said period of six months and during the period of extension then in computing the interest credit for the amount so paid should be given with effect from the date of payment.

2.121. The Committee understand from Audit that Instructions explaining the provision of Rule 42 were issued by the Central Board of Direct Taxes in May, 1963.

2.122. The Committee enquired whether the two cases were noticed in the same Estate Duty Office or in different offices. In a written reply, the Ministry have stated:

> "The two mistakes occurred in two different Estate Duty Circles in Bombay. The Board are instructing the Collector of Estate Duty, Bombay to review all cases where interest has been levied for the late filing of estate duty returns".

2.123. As regards rectification and refund of over-assessments, the Ministry have stated:—

> "The assessments in the first and second cases were rectified on 15th April, 1968 and 3rd October, 1968 respectively. The overcharge of interest has been adjusted and revised demand notices have been issued in these cases. The Board have issued instructions clarifying submission of estate duty returns. A copy of the Board's Circular F. No. 12/1/62-E.D. dated 6th May, 1963 is enclosed. The instructions contained therein were not followed in these two cases by the UDCs due to inadvertence."

2.124. The Committee note that there was over-levy of interest in both the cases mentioned in the Audit paragraph. Although the Estate Duty Rules lay down that interest for belated filing of returns is to be levied for the period after the expiry of first six months from the date of death, in the first case the Estate Duty Officer charged interest for the entire period from the date of death. In the second case, although the accountable person had

paid provisional duty to the extent of Rs. 3,25,000, the Estate Duty Officer did not take it into account while determining the total amount of interest due. The cumulative effect of the two mistakes was an over-assessment of Rs. 32,209. While the Committee note that the assessments have since been rectified in both the cases, they cannot help expressing a sense of uneasiness because these mistakes have occurred in spite of detailed instructions on the subject having been issued by the Board. The Committee feel that the Board should take a serious notice of such lapses.

CHAPTER III

GENERAL

3.1. The Committee have not made recommendations/observations in respect of some of the paragraphs of the Audit Report (Civil) on Revenue Receipts, 1969. They expect that the Department will nonetheless take note of the discussions in the Committee and take such action as is found necessary.

NEW DELHI;
April 27, 1970.
Vaisakha 7, 1892 (*Saka*).

ATAL BIHARI VAJPAYEE,
Chairman,
Public Accounts Committee.

APPENDIX

Summary of main conclusions/recommendations

No.	Para No.	Ministry/Deptt. concerned	Conclusions/Recommendations
1	2	3	4
1	1·10	Finance	The Committee observe that while the drive to locate new assessees has produced very impressive results in terms of numbers, the addition to the assessees has been mainly of salaried and small income cases. The addition of these cases might not substantially augment the tax revenue, particularly in respect of small income groups, where it is even possible that the cost of collection might outweigh the revenue realised. The Committee have already drawn attention to this point in paragraph 1.10 of their Hundredth Report (Fourth Lok Sabha) and would like pilot studies to be conducted in selected ranges to determine the cost of collection in respect of various income brackets vis-a-vis revenue realised.
2	1·11	do.	The Committee feel that the emphasis in the drive to enroll new assessees should be on cases with revenue potential. There are special Investigation Branches in Commissioners' charges which are responsible for collecting information from Government agencies, municipalities and other organisations like banks, financing companies, etc., so as to discover new assessees or sources of income not disclosed by existing ones. The Administrative Reforms Commission reported that the working of these Special

			Investigation Branches is "unsatisfactory" due, amongst other things, to lack of adequate supervision and their being saddled with items of work not relevant to their main functions. These defects in the working of these branches should be removed. The Committee feel that if all the available information is collected from these sources and systematically analysed and promptly processed in each Commissioner's charge it would lead to the discovery of most of the persons liable to assessment. Apart from this, external surveys should also be conducted in selected areas in accordance with a time-bound programme as suggested by the Committee in paragraph 1.31 of their Hundredth Report.
3	1·30	do.	Over the years Audit has been reporting a large number of cases of under-assessment. During the year under report (1st September, 1967 to 31st August, 1968), the number of such cases detected by Audit was 10,980, involving an under-assessment of Rs. 10.63 crores. The Committee note that Government have so far accepted the under-assessment to the extent of Rs. 2.09 crores in 374 cases. 64 cases of under-assessment are stated to be under examination, including 2 cases, involving a reported under-assessment of Rs. 4.03 crores, where the legality of issues is under examination by the Attorney-General. The Committee would like to be apprised of the outcome of this examination and of the rectificatory action taken pursuant to the acceptance of under-assessment in all the foregoing cases. The cases under examination should also be speedily finalised.
4	1·31	do.	In the opinion of the Committee, the large number of cases of under-assessment brought to notice year after year is indicative of a deep seated malaise in the Income Tax Department. It is significant that these cases

1	2	3	4
			were thrown up in the course of a test-audit which covered only a percentage of assessments done in the Department. The Finance Secretary himself admitted during evidence that the number of cases of under-assessment "has been going up in the last three or four years" and that this tendency has been causing Government "grave concern."
5	1.32	Finance	(i) While the under-assessments have been caused by a multiplicity of reasons, an important contributory factor, in the opinion of the Committee, has been the tendency on the part of many Income-tax Officers to delay and rush through assessments at the close of the financial year. During the course of discussions on individual Audit paragraphs, the Committee noticed that quite a number of cases in which mistakes or irregularities occurred had been rushed through in the months of February-March. The representative of the Board also conceded that the Income-tax Department tended to work at a "snail's pace" in the initial months of the financial year. The Committee have already drawn attention to this matter in their previous reports and would like Government to take effective steps to curb this tendency so that work is evenly spaced out over the year.
6	1.33	do.	(ii) In re-ordering the assessment work, it is important to ensure that high income cases are taken up for assessment sufficiently in time during the course of the year. The efforts should be to finalise all such cases by the end of December. The Committee would like the Board to issue suitable instructions to this effect, so that range officers who are responsible for fixing the priorities for assessment take suitable action in the matter.

6	1·34	do.	The Committee would like the following steps to be taken to minimise the possibility of under-assessments: (i) The time-lag between the final hearing in a case and the decision by an assessing officer should be the minimum. The Board should consider whether as a working rule the time-limit for issuing an assessment order should be fixed as fourteen days after the date of last hearing. The representative of the Board agreed during evidence that this would constitute a reasonable period. (ii) Internal Audit has not so far played an effective role in checking faulty assessments. A number of assessments were in fact checked by it only after they had been scrutinised by statutory audit. Now that Internal Audit Organisation has been strengthened and the scope of its functions also enlarged, the Committee hope it would be possible for this organisation to detect all cases of under-assessments well in time. Based on the experience of its performance, Government should also consider the question of extending its scrutiny to cases below Rs. 50,000. (iii) Under the Board's instructions, in cases of incomes over Rs. 10,000, tax calculations are required to be checked by the Head Clerk/Supervisor and in cases of incomes over Rs. 1 lakh, calculations are required to be counter-checked by the Income-tax Officer himself. The Committee observed during their examination of cases that in a number of high income

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			cases (over Rs. 1 lakh), the prescribed counter-check had not been exercised by Income-tax Officers. The Committee desire that the Board should take a serious view of such lapses. To speed up arithmetical computation, the Board should arrange to have ready reckoners supplied to the staff in charge of the work.
			(iv) It was stated during evidence that there had been a deterioration in the quality of work done by assessing officers. The Committee note that the Department is now maintaining a record of the Income-tax Officers making mistakes.
			The Inspecting Assistant Commissioners have also taken action to watch the work of assessing officers. Apart from this, Government should examine what positive measures should be adopted to improve quality through 'in-service' training, rationalisation of assessment procedures, relief from routine work etc. This is a matter on which the Committee have made suggestions from time to time and should engage the constant attention of Government.
7	1·42	Finance	The data furnished by Government indicates that the number of pending Income-tax assessments has come down from 23,29,650 as on 31st March, 1968 to 15,84,657 as on 31st March, 1969. From the category-wise analysis of the pending assessments, the Committee, how-

			ever, observe that the reduction has been only in lower income categories (categories III, IV and V). As regards Category I—business incomes exceeding Rs. 25,000, the pendency has been continuously going up. The number of pending cases in this category which was 1,64,810 as on 31st March, 1968 rose to 1,94,454 as on 31st March, 1969—an increase of 18 per cent in one year alone. Compared to the pendency on 31st March, 1966, the increase was as high as 62 per cent. The Committee are unhappy at the increase in pending assessments of bigger cases. The Committee have already drawn attention to this matter in paragraph 1.12 of their Hundredth Report (Fourth Lok Sabha). They would like the Board to draw up a suitable programme of priorities for disposal of assessments so that these cases, which have high revenue potentiality, receive greater attention at the hands of assessing officers.
8	1·43	do.	The Committee note that the Board expected to reduce the pendency to ten lakh assessments by the end of the financial year 1969-70 and to "an insignificant figure" by 1972. The Committee trust that vigorous efforts will be made by the Board to fulfil the undertaking given by it.
9	1·54	do.	The Committee are perturbed over the progressive increase of (net effective) arrears of Income-tax. The net effective arrears which amounted to Rs. 161.41 crores as on 31st March, 1964 rose to Rs. 435.49 crores as on 31st March, 1969. The percentage of realisations to outstandings has been continuously going down and has fallen from 141 on 31st March, 1965 to 74 on 31st March, 1968. Year after year, Government have been enumerating the steps taken by them, besides addition to the numerative

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			strength of the staff, to arrest the growth in arrears but it is obvious that they have not had the desired effect. The Committee feel that the Deparment would have to launch an all-out drive if a substantial reduction in tax arrears is to be brought about.
10	1·55	Finance	From the data regarding gross arrears, the Committee observe that cases involving tax arrears of over Rs. 1 lakh numbered 5,825, as on 31st March, 1968. These account for arrears of Rs. 284.38 crores out of total (gross) arrears of Rs. 662.61 crores. The Committee desire that special attention should be paid to these cases. The Committee would in this connection also like Government to consider whether a sort of system of tax insurance, on the lines of that prevalent in the United States, could be introduced in case of high incomes in this country.
11	1·56	do.	One of the suggestions made by the Working Group of the Administrative Reforms Commission was that the Act should be amended "to provide that where an appeal is preferred against an assessment, such an appeal will not be admitted unless the tax is paid on the undisputed amount involved in the assessment." While expressing difficulty in implementing the above suggestion, Government have stated that Income-tax officers have, even now, adequate powers under the Income-tax Act to enforce the collection of tax even where assessments are under appeal. To ensure that by filing appeals, assessees are not able to retain undisputed tax dues, the Committee desire that Government should issue instructions to assessing

			officers to make maximum use of their powers for timely recovery of tax dues. This would also reduce the number of frivolous appeals.
12	1·57	do.	In their 73rd Report (Fourth Lok Sabha), the Public Accounts Committee (1968-69) had also referred to a tendency on the part of assessees to "go underground till the period of limitation of 8 years was over" to evade demands made against them. The Committee had desired Government to consider whether an amendment of the law to make it permissible to re-open assessments in such cases without any time-limit would help to meet this situation. In their reply, Government had indicated that the suggestion is under their consideration. The Committee desire that an early decision should be taken on the suggestion.
13	1·68	do.	In successive Reports on Direct Taxes, the Committee have been expressing concern over the heavy pendency of appeals with Appellate Assistant Commissioners. The number of such cases, which, at the end of June, 1965, was 1,20,736 increased to 2,30,789 at the end of June, 1969—an increase of over 90 per cent. It is not only the large number of pending appeals that is disturbing but also the time taken for disposal. Of the appeals pending with the Appellate Assistant Commissioners on 30th June, 1969, nearly 8,000 had been pending for more than three years.
14	1·69	do.	The Committee have made certain suggestions in regard to the measures necessary to cope with this situation in paras 1.67 and 1.68 of their Hundredth Report (Fourth Lok Sabha). They would like them to be acted upon.

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15	1·85	Finance	The Committee take a very serious view of the omission that occurred in this case.
16	1·86	-do-	The assessee made substantial capital gains amounting to Rs. 33.60 lakhs in 1960-61 which he did not report in his assessments. The assessing officer, who finalised the assessment on the 31st March, 1962, also failed to detect this concealment. It was left to Audit to point out, after a cross check of the income-tax return with the relevant wealth-tax return, that an omission had occurred, after which the Department raised the demand.
17	1·87	-do-	The Committee were informed during evidence that the explanation of the Income-tax Officer for his failure to take the capital gains into account was that as the properties had been acquired by Government, it was not a case of capital gains. The Committee see little force in this explanation. Considering the magnitude of the case, the assessing officer should have, even if he had entertained such doubts, sought instructions from his superiors. The Committee note that the officer concerned has been warned.
18	1·88	-do-	An important issue which emerges from this case is the magnitude of the problem of under-declaration of value of properties for tax purposes. The value of one of the properties acquired by the State at Rs. 26.40 lakhs had been declared by the assessee in the Wealth Tax return as Rs. 1,80,000. The declared value in this case was thus about 1/15th of the market value. In the case of the other property, the declared value

was about 1/10th of the market value determined by the Land Acquisition Officer. These are not stray isolated cases. In another case mentioned in the later part of this Report, the declared value of the property for the purpose of Wealth Tax which was based on municipal valuation was found to be just a fraction of the market value. The Committee have also in para 1.30 of their Hundredth Report (Fourth Lok Sabha) drawn attention to the results of a sample survey recently conducted by the newly created Valuation Cell which disclosed that the value of 71 properties in Delhi was 73% more than what was shown in the returns filed by assessees. These cases illustrate the extent to which property values are depressed in tax returns. The Committee note that for proper evaluation of properties, a Valuation Cell has been created by Government. The Committee have already emphasised the need to undertake a survey of all metropolitan properties in accordance with a time-bound programme (*vide* para 1.31 of their Hundredth Report). They would like immediate action to be taken in this regard.

19 1·89 -do- Another useful safeguard would be to have an integrated tax return covering both wealth and income tax. The experience in the instant case itself suggests that it would be a useful tool for checking concealment of income. The Committee have already suggested the institution of an integrated return in para 1.50 of their Seventy-Third Report. The Committee have further suggested in para 1.23 of their Hundredth Report that it would not be necessary to burden all the assessees with the obligation of having to submit an integrated return. Only assessees liable to both income tax and wealth tax need be called upon to do so. This purpose

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			could be achieved by having a different form of return for such assessees. The Committee would like Government to consider these suggestions and come to an early decision. It seems to the Committee imperative that if the quality of tax administration is to be improved, it is essential to co-ordinate properly the administration of income-tax and wealth-tax.
20	I · 100	Finance	The Committee are surprised to note that the Income-tax Officer in this case who had himself detected in the course of assessment concealed income of Rs. 1,25,000, representing bogus hundi loans and discussed it at length in his assessment order should have omitted to add it back to the total income of the assessee. There was also a mistake in totalling. The cumulative effect of the two mistakes was short-levy to the extent of Rs. 1,15,034. The Committee note that although this was a high income case it was not scrutinised in Internal Audit. The Committee consider the omissions regrettable.
21	I · 101	do.	The Committee were given to understand that the assessment in this case is being reframed after the assessee went up in appeal. The Committee would like to be apprised of the further developments in this case.
22	I · 102	do.	The Committee note that the Board have circulated lists of bogus hundi dealers to the assessing officers. They desire that the Board should keep the position under constant watch with a view to finding out whether any new devices are being used for concealment of income. It was stated

			during evidence that in a recent case some assessees had resorted to the expedient of crossword puzzles to conceal incomes. The Committee trust that the Department will maintain constant vigilance and keep the assessing officers fully posted with the results of their findings in various types of cases involving concealment. Government should take such other measures as may be found necessary for making concealment of income unrewarding.
23	1·113	do.	The Committee feel that the assessing officer in this case failed to take cognisance of very important instructions issued by the Board while finalising the assessment. The Board had issued a detailed circular in May, 1964 bringing to the notice of all assessing officers the prevalance of bogus Hundi transactions and cautioning them particularly against transactions involving certain Hundi bankers. In the present case, though the assessees' books showed certain cash credits stated to have been obtained from Hundi bankers who figured in the suspect list circulated by the Board, the assessing officer held these Hundi loans amounting to Rs. 2,75,000 as genuine. Subsequent investigations conducted at the instance of Audit revealed that credit worth Rs. 3,36,000 introduced by the assessees in question during the assessment years 1961-62 to 1964-65 represented secreted income which was required to be taxed. In the opinion of the Committee, this is a fit case for investigation for fixing responsibility.
24	1·114	do.	The Committee note that the relevant assessments of the assessees have been re-opened. The Committee would like to have a report regarding recovery of the tax short-levied, and the action taken as a result of investigations.

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25	I·115	Finance	The Committee note the Board have issued instructions for a special review of all high income group assessments. The Committee trust that as a result of the review, other cases of bogus hundi loans, if any, will be unearthed and incomes escaping assessments by way of such loans brought within the tax net. The Committee also hope that Government would maintain constant vigilance lest new rackets emerge in place of old rackets detected by the Department.
26	I·116	-do-	The Committee would also commend to Government the suggestion made by the Administrative Reforms Commission that indigenous bankers or hundi brokers or persons engaged in money lending, other than banking companies, should be required to indicate in the accounts of the business the money available for business and keep in banks all amounts in excess of a maximum to be prescribed by law.
27	I·123	-do-	The Committee note that in respect of both the cases mentioned in the Audit paragraph which were handled by the same Income-tax Officer, the tax on an income of Rs. 3 lakhs to be worked out on a slab basis was calculated by computing the tax on Rs. 1 lakh in the first instance and then multiplying it by 3. It is surprising that such an elementary mistake was made by an assessing officer. There have been other instances in the past of similar mistakes. As action has been taken against the officer, the Committee do not wish to pursue this case further. The Board should, however, take steps to ensure that these mistakes do not recur.

28	1·129	-do-	The Committee note that the various items of expenses disallowed by the assessing officer in this case aggregated Rs. 2,93,975. Due, however, to a mistake in totalling, the amount of disallowed expenses was taken as Rs. 1,93,975, resulting in an under-assessment of Rs. 55,024. While the Committee note that tax short-levied has since been adjusted, they cannot help pointing out that the mistake occurred in a Central Circle where the number of assessments dealt with is comparatively less. The Committee further observe that though this was a big income case, it had not been subjected to a counter-check at the original assessment or the revised assessment stage. Nor had the assessment been scrutinised in Internal Audit. The Committee note that according to the instructions now issued by the Board, cases of the present type would come in priority category for the purpose of scrutiny by Internal Audit. The Committee trust that the Board will ensure that their instructions in regard to counter-check of tax calculations as also scrutiny by Internal Audit are strictly complied with.
29	1·135	-do-	The Committee note that the normal policy followed by the Board is to allow benefit to an assessee arising from his recognition as a company for assessments pending on the date on which the assessee applies for such recognition. In this case, however, recognition as a company was given with retrospective effect covering those assessment years for which assessments had already been completed on the crucial date. The Committee do not in principle approve of deviations from general policies laid down by Government. They feel that if, in any case, an exception has to be made, it should be in accordance with well-defined criteria within the four corners of law. It is also essential that the benefits of such exceptions should be available to anyone who satisfies the criteria.

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30	1·136	Finance	The Committee note that there is no provision in the Income Tax Act, 1961 enabling or barring the Board from issuing an order according the status of a company to an assessee with retrospective effect. After the matter was raised by the Committee, it has been referred to the Ministry of Law for opinion. The Committee would like to be informed of the opinion of the Ministry of Law in the matter.
31	1·149	-do-	The Committee observe that the company in question, not being a priority industry, was assessable to super-tax at the effective rate of 35 per cent. However, just on the basis of the company's name which included the word 'metal' (a priority industry), the Income Tax Department treated it as one engaged in a priority industry and assessed it to a lower effective rate of super-tax (29 per cent) applicable to priority industries. Another mistake made by the Department was that non-business income of the company which was chargeable to supertax at 35 per cent was charged at the rate of 25 per cent. The cumulative effect of the two mistakes was an under-charge of tax to the tune of Rs. 8,83,738.
32	1·150	-do-	While the Committee note that the whole amount of short-levy has since been recovered, they consider that the officials concerned were extremely lax. Another lapse that occurred in this case was that though the assessment was to have been counter-checked by the Income Tax Officer, as the assessee's income exceeded Rs. 1 lakh, this was not done, with the result that the mistake made at the lower level remained undetected. It was stated that this officer was found to have made mistakes in as

			many as 49 cases assessed by him that a character roll warning had been given to him. The Committee are not satisfied with this. They desire that Government should review the matter and see whether deterrent punishment is not called for in this case.
33	1·151	-do-	A further omission revealed was that although the case belonged to a company circle, the assessment was not checked in Internal Audit. The Committee would like such omissions to be seriously viewed in future.
34	1·161	-do-	The Committee observe that in computing the allowance to be made for depreciation, the assessing officers failed to apply correctly the relevant provisions in the Income Tax Act. This mistake occurred not in one but 16 other Commissioners' offices. None of the assessing officers was apparently aware that the Income Tax Act, 1961 had made a substantial departure from the provisions of the 1922 Act in that the actual cost of an asset (for purpose of depreciation) was to be reckoned after excluding the portion of the cost met not only by Government or a local or public authority alone (as in 1922 Act), but by "any person or authority" other than the assessee. It was stated that the mistake that occurred could not be detected by Internal Audit as at that time its scope did not extend to checking correctness of depreciation allowances made in assessments.
55	1·162	-do-	The Committee would like the Board as a working rule to ensure that whenever important changes are made in the Income Tax law, the implications thereof are fully explained to all the assessing officers, so that correct assessments are facilitated. The implications of such changes in law should also be brought to the notice of the public through notices or hand outs which incorporate suitable working illustrations.

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36	II · 72	Finance	The Committee observe that the assessing officer allowed depreciation in this case at a higher rate than admissible under the rules. The rules allow varying rates of depreciation ranging from 9 per cent to 40 per cent to specified industries and a general rate of 7 per cent which would apply to industries not so specified. Accordingly, the assessee, a blade manufacturing concern, which was not covered by the special rates specified in the rules, was entitled to depreciation at 7 per cent. However, the assessing officer allowed depreciation to the assessee at the special rate (10 per cent) in two successive assessments, with the result that there was a short-levy of tax to the tune of Rs. 1.26 lakhs. A similar mistake occurred in the subsequent year also.
37	1 173	-do-	The Committee note that rectification has not been possible so far as proceedings initiated in this regard for one of the assessment years were questioned in court. The Department is stated to be contemplating action under Section 154 of the Act. The Committee would like to be apprised of further developments in this regard.
38	1 · 174	-do-	Government have also informed the Committee that they propose to undertake a review early in the next financial year to ascertain whether a similar mistake had occurred in assessments of other blade manufacturing concerns. The Committee would like to be informed of the results of the review and the rectificatory action taken pursuant thereto.

39	1·175	-do	Pursuant to suggestions made by the Committee in paragraphs 3.65 and 3.66 of their Seventy-Third Report, Government have published draft rules for rationalisation of the provisions regarding depreciation on an industry-wise basis. The Committee, however, note that for important industries like scooters and automobiles, electronics, etc., industry-wise rates of depreciation have not been prescribed. The Committee desire that Government should consider the question of laying down suitable rates of depreciation in respect of these industries also at an early date.
40	1·183	do	In the opinion of the Committee, this is a bad case in which a number of lapses occurred. These were mainly:— (i) Under the Income-tax law, no depreciation is admissible on the cost of land. Yet initial, additional and normal depreciation was allowed on such cost for nine consecutive assessment years (1954-55 to 1962-63). The total (inadmissible) depreciation so allowed was Rs. 5,78,772. (ii) For the purpose of depreciation allowance, the cost of the new cinema house was taken as Rs. 22,65,653, instead of Rs. 17,23,653 shown in the certified accounts of the company. The excess depreciation on this account amounted to Rs. 2,32,663. (iii) The income from house property was computed on the basis of municipal valuation even though valuation on the basis of the rent receivable far exceeded the former. This resulted in an under-assessment of income of Rs. 68,895.

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			(iv) Certain inadmissible expenses relating to the property let out were not disallowed and added back in the computation of income resulting in under-assessment of business income to the extent of Rs. 1,42,987. The aggregate under-assessment of tax as a result of all the above mistakes as also some other discrepancies amounted to Rs. 5,25,419.
41	1·184	Finance	A regrettable aspect of the case is that although the assessments were completed by different assessing officers, all made the same mistakes. Another significant feature of the case is that the assessee had certain suspect hundi transactions on account of which assessments for certain years were re-opened. The Committee note that Government have accepted audit objections in respect of all the mistakes except (i) above. Investigations into the mistakes are stated to be in progress. The Committee would like to await the results of the investigations and of the action taken against the officers pursuant to the findings. As regards (i), Government have stated that certain facts are being ascertained. The Committee would like to be informed of Government's decision in regard to admissibility of depreciation in lands in the light of the facts collected. As regards revision of assessments for the year 1954-55 onwards, the Board have expressed the view that detailed investigations will have to be

			carried out for making out a case under section 147(a) of the Act. read with Section 151(1) thereof. The Committee trust that, after the completion of investigations. the Department will take necessary steps for retrieving the revenue lost.
42	1·185	-do-	The Committee note that the Board have asked the Income-tax Officers to furnish data regarding cases in which depreciation had been allowed on the cost of land together with the revenue involved. The Committee trust that efforts will be made by the Department to recover tax in all such cases where depreciation has been wrongly allowed on the cost of land.
43	1·194	-do-	An essential condition for admissibility of development rebate under the Income-tax law is that the plant and machinery in respect of which such rebate is claimed should have been in use in the previous year relevant to the assessment year. In this case, however, the assessing officer allowed development rebate without verifying whether this requirement had been fulfilled. Subsequently when Audit pointed out the omission, the Department reviewed the case and found that rebate to the tune of Rs. 26,80,877 had been allowed in excess. After a further review the excess development rebate has been computed at Rs. 7,24,677, as against Rs. 26,80,877 initially reported. It was urged by Government that the assessing officer had relied on the figures of cost of plant and machinery, duly certified by the Accountant-General, Madhya Pradesh. The Committee are unable to accept this explanation, for they find a wide variation between the figures of cost mentioned in the Development Rebate chart furnished by the assessee and figures contained in the audited statement of capital expenditure. Besides, the assessing officer failed to notice

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			that the assessee had not given particulars regarding date of installation of assets in respect of which the rebate was claimed. In the absence of this data it is not clear how the assessing officer came to the conclusion that the assets were in use. In the opinion of the Committee, the assessing officer failed to verify whether the essential conditions of admissibility of development rebate laid down under the law had been fulfilled. The Committee desire that Government should take a serious notice of such omissions.
44	1.95	Finance	In their successive Reports on Direct Taxes, the Committee have been expressing concern over mistakes in working out depreciation and development rebate. There has been no perceptible improvement in the position. The amount of under-assessment on this account reported to this Committee last year was Rs. 41.94 lakhs and it has risen now to Rs. 93.80 lakhs. In paragraph 3.66 of their 73rd Report (Fourth Lok Sabha), the Committee had stressed the need for the rationalisation of the provisions of the Act bearing on depreciation and development rebate. Pursuant to this recommedation, Government have framed and published draft Rules to replace the existing rates of depreciation by consolidated rates on industry-wise basis and invited public opinion thereon. The Committee trust that, in the light of suggestions received from the trade and industry, Government will be able to work out a simple and rational depreciation rate schedule.
45	1.196	-do-	Another aspect to which the Committee would like to draw attention is that Internal Audit had not been going into questions relating to depre-

			ciation and development rebate while checking assessments. Till recently, the scope of internal audit was limited to scrutiny of arithmetical calculations. Although Internal Audit Parties are now required to check whether depreciation on a particular asset has been calculated with reference to the period of use and also whether the total depreciation allowed exceeds the original cost, there are still no specific instructions authorising them to check the admissibility of depreciation on intangible assets. The Committee feel that this should be specifically brought within the purview of Internal Audit. The Committee would in this connection draw attention to their observations in para 1.41 of their Hundredth Report (Fourth Lok Sabha).
46	I. 197	-do-	The Committee also feel that in the course of check of assessments by Inspecting Assistant Commissioners, the allowances made in assessments on account of depreciation and development rebate should receive their special attention.
47	I. 204	-do-	The Committee observe that the Companies (Profits) Sur-tax Act, 1964 makes sur-tax payable on the amount by which the profits of a company exceed the amount of statutory deduction. The statutory deduction is equal to 10 per cent of the capital computed in the manner laid down in the Act. Capital for purpose of computing the statutory deduction includes debentures but it was explained during evidence that the intention of the Act is only to include such of the long-term loans as are intended to create capital assets. In this case, the company issued debentures for Rs. 75 lakhs just for the purpose of lodging them with its bankers as security against cash credit obtained from the bank. The

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			debentures did not, therefore, contribute towards creation of capital assets and did not qualify for inclusion in capital. The assessing officer, however, treated the debentures forming part of 'capital', with the result that the statutory deduction was over-stated by Rs. 7.5 lakhs with a corresponding reduction in chargeable profits.
48	1.205	Finance	The Committee observe that the Act, as it at present stands, permits of debentures being reckoned as part of capital under these circumstances, though this is not the intention. The Finance Secretary admitted that the Act in this respect is "loosely worded" and could, therefore, confer an unintended concession. As this might result in a substantial amount of profits of companies escaping tax, the Committee would like Government expeditiously to consider the question of amending the relevant provision so as to bring it in conformity with the underlying intention.
49	1.209	-do-	The Committee observe that in the original assessment of the old company for the year 1960-61 made in March, 1962, an amount of £ 2.5 lakhs representing management fee paid to the holding company in London was allowed as reasonable expenses. On this basis, £ 62,707 allocated by the old company to the new company as its share of management fee was allowed by the assessing officer in the assessment of the new company for that assessment year made in February, 1965. The assessment of the old company was, however, re-opened in September, 1965 when the management fee of £ 2·5 lakhs originally allowed was reduced to £ 1 lakh. The amount of £ 82,707, however, allowed to the new com-

			pany as its share of the total management fee remained unaltered. The Committee feel that, after revising the assessment of old company the income-tax officer, who had also made the assessment of the new company, should have re-opened it and made a consequential change therein. This unfortunately was not done.
50	1.210	do-	The Committee note that the question of disallowance is now under appeal to the Tribunal. After a final decision is reached, appropriate adjustments should be made in the assessments relating to the old as well as the new company.
51	1.218	-do-	The Committee note that the assessing officer allowed a deduction in this case which the assessee himself had not claimed. The consequent undercharge was Rs. 56,402. The mistake was noticed neither by the officer who initially made the assessment nor by his successor who actually finalised the assessment. It is obvious that the scrutiny done by both these officers was far from thorough. It is also regrettable that though the assessee belonged to a high income group, the assessment was not scrutinised by the Internal Audit before statutory Audit took up the case.
52	1.219	-do-	As the short-levy has been recovered, the Committee do not wish to pursue the case further. The Board should, however, take precautions against the recurrence of such cases.
53	1.229	-do-	The Committee feel that the executive instructions issued by the Board in this case were contrary to the provisions of law as it then stood. In December, 1962, when the Board issued instructions making newly-imported second-hand plant and machinery eligible for 'Tax Holiday' and

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			Development Rebate benefits, the position in law was that no development rebate was admissible on second-hand plant and machinery. 'Tax holiday' was admissible to a newly-established industrial undertaking using second-hand plant and machinery, but the law clearly stipulated that the value of such second-hand plant and machinery should be excluded while computing capital for purpose of tax and that it should not exceed 20 per cent of the total value of assets. In view of this position, the Board clearly exceeded their authority while issuing the instructions.
54	1.230	Finance	The Committee do not consider the concessions extended by these executive instructions objectionable in principle. But the concessions should have been extended by the due process of law. The Committee note that in regard to development rebate the position has since been legalised by amendment to the Act which came into effect from the assessment year 1965-66. Similar action should also be taken to give due statutory backing to the tax holiday concessions extended by the executive instructions of 1962.
55	1.234	-do-	The Committee note that in terms of the Board's instructions of 1956 and 1960, variable bonus or commission not in excess of 50 per cent of salary was required to be excluded from salary for the purpose of computation of value of rent-free accommodation. These instructions, being in conflict with the definition of the term 'salary' in the Income-tax Rules, 1962, were withdrawn by the Board in 1965. While withdrawing these

			instructions, the Board, however, directed that assessments for the year 1964-65 and earlier years should be completed on the basis of earlier instructions. In the opinion of the Committee, it was not correct on the part of the Board to have given such a direction. They feel that after the Board had come to the conclusion that their instructions of 1956 and 1960 violated the statutory provisions, they should have applied the correct provision with immediate effect and taken rectificatory action wherever possible. By not adopting this course, the Board not only lost a sizeable amount of revenue (over Rs. 1.60 lakhs) but also directed an illegality to be continued till the close of the financial year. The Committee trust that the Board will take care to avoid such mistakes in future.
56	I·240	-do-	The Committee note that, according to the law, as judicially interpreted, the written down value of an asset used partly for business purposes and partly for non-business purposes is to be arrived at, after deducting from the actual cost the depreciation actually allowed to an assessee and not any notional depreciation allowable. The Committee regret to observe that even though Audit drew the attention of the Board to the fact that the practice of deducting the notional allowable depreciation followed by the Department was not compatible with the judicial interpretation of the law, the Board allowed the old practice to continue. Even in October, 1967, when the law on the subject had sufficiently crystallised, the Board issued instructions which were at variance with the law as interpreted by judicial authorities. The Committee note that after the Bombay High Court refused leave to the Department to appeal to the Supreme Court in a case bearing on the point, it withdrew the aforesaid instructions. The Committee desire that before issuing instructions in such matters, the

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			Board should invariably take into account the interpretation of the law by the judiciary and take adequate legal advice.
57	1.241	Finance	The Committee would also like to stress that if Government feel that a law, as judicially interpreted, does not properly translate the intention underlying the law, they should come before Parliament with an amending Bill. It is not appropriate to get round difficulties of this nature by issuing instructions which are incompatible with the law as interpreted by the judiciary.
58	.247	-do-	Under Section 23A/104 of the 1922/1961 Act, if a company in which the public are not substantially interested fail to distributee a prescribed percentage of its distributable income as dividends within a specified period, it is liable to pay additional super-tax. The Committee note that in respect of the first company mentioned in the Audit paragraph the additional super-tax was not levied for a period of three consecutive years. The tax that was omitted to be levied for these years was calculated as Rs. 1,52,183, but the Department has not been able to recover the money, owing to a restraint order passed by court. The Committee would like to be apprised of the further developments in this regard. The Committee would also like the Board, after the case is finally decided by the court to examine, whether there was an omission on the part of the assessing officer and, if so, to take appropriate action.

59	I·248	Finance	The Committee note that the second case, where according to Audit, there was an omission to levy super-tax of Rs. 61,656, is still under correspondence. The Committee would like the case to be settled early and steps taken to recover short-levy, if any. The Committee would also like to be furnished with particulars of cases where action under Section 104 had become time-barred during the three years 1966-67 to 1968-69, together with the approximate revenue forgone.
60	I·254	-do-	The Committee are concerned to observe that the number of outstanding cases in which penal Super-tax/Income-tax under Section 23A/104 of the Income-tax Act, 1922/1961 is leviable has risen from 2477 as on 31st March, 1968 to 2593 as on 31st March, 1969. The amount of tax involved which on 31st March, 1968 was Rs. 3.02 crores rose to Rs. 4.31 crores on 31st March, 1969—an increase of over 50 per cent. The Committee note that the Board had issued instructions to the Commissioners of Income-tax to complete all the cases pending under the old Act by 30th September, 1969. This could not be done and the indication now is that it would take another year to clear these cases. The Committee would like all the cases pending under the old Act to be finalised by the new target date (30th September, 1970) and substantial progress also made towards the clearance of cases pending under the 1961 Act.
61	I·267	-do-	The Income Tax Act provides for companies in which public are not substantially interested paying more tax than companies in which public are substantially interested. According to the Act, as it stood prior to amendment in 1965, a company in which 51 per cent or more of the

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			shares were held by another company was to be treated as a company in which public are not substantially interested, even if the company holding the shares was itself a public company. The Committee note that in this case the assessing officer treated a company of this type (where more than 51 per cent of shares were held by a foreign company) as a widely-held company, with the result that there was an under-assessment of tax to the extent of Rs. 23.06 lakhs. The mistake arose because the assessing officer gave the benefit of the amendment of retrospectively the law *i.e.*, with effect from the year 1964-65, instead of from the year 1965-66 when it took effect. While the Committee note that the amount of short-levy has since been recovered in this case, they cannot help observing that in giving the benefit of the amendment to the company in question with retrospective effect, the assessing officer had gravely erred.
62	1.268	Finance	The Committee observe that a foreign company can be treated as a company for the purpose of Indian Income-tax only when a specific notification to this effect is issued by the Board. In the absence of a notification, such a company can be treated only as an Association of Persons and will not be called upon to pay all the taxes that will devolve on a similarly situated Indian company, including the tax liabilities arising under Section 23A of the Income Tax Act. The representative of the Board accepted during evidence that this situation needs looking into. The Committee would like the matter to be examined and suitable action to be taken immediately.

63	I.269	-do-	The Committee had asked for data about companies where a major portion of the shares are held by a foreign company but their status for purpose of assessment is deemed as companies in which the public are substantially interested. The Committee note that this is being collected. The Committee would like to await this information.
64	I.273	-do-	The Committee note that, according to the opinion of the Ministry of Law, receipts from surplus loom-hours should be treated as revenue receipts and expenditure incurred thereon as revenue expenditure. The Committee desire that necessary action should be taken in the light of this opinion.
65	I.280	-do-	The Committee observe that under the Income-tax Act, dividend income received by a company from another company is entitled to rebate. The rebate is to be calculated with reference to the net dividend income, after deducting the expenses incurred in earning the dividend income. In the case under report, however, the rebate was calculated with reference to the gross amount of inter-corporate dividend, without deducting the expenditure incurred in earning it. This resulted in excess rebate of Rs. 59,825 being granted. While the Committee note that the amount of tax short-levied has since been recovered, they feel that, with a little care on the part of the assessing officer, the mistake could have been avoided. The Committee also note that though the case belonged to a company circle, it had not been checked in Internal Audit. The Committee trust that the Board will ensure that such omissions do not recur.
66	I.284	-do-	The Committee observe that erstwhile ruling chiefs and princes of Indian States ceased to enjoy with effect from 1st April, 1963 exemption

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			in respect of income derived by them as interest on Government securities. In this case, however, the assessing officer gave the benefit of exemption to such income of an ex-ruler amounting to Rs. 1,84,793 in the assessment year 1963-64, as a result of which there was a short-levy of tax of Rs. 1,63,179. The Committee consider this failure on the part of the assessing officer regrettable.
67	1.285	Finance	The Committee note that, after a fresh assessment, an additional demand of Rs. 1,57,130 was raised on this account, of which a sum of Rs. 72,964 has since been recovered. The recovery of the balance has been kept pending, as a question has arisen whether the entire interest of Rs. 1,84,793 pertains to the assessment year 1963-64 or a part of it is assessable in 1962-63. The Committee would like to be apprised of the decision in this regard.
68	2·7	-do-	The Committee would like to point out that since 1963-64 the proceeds from wealth tax have been almost stationary at Rs. 10 crores—11 crores, in spite of a rise in the number of assessees—from 67,057 in 1964-65 to 1,05,934 in 1968-69. This suggests that there is a large scope for improving the administration of the tax. In the Committee's opinion, this would call for efforts in two directions. In the first place, it would be necessary to make concerted efforts to bring down the arrears in assessments. Later in this Report, the Committee have drawn attention to the fact that there are pending assessments dating back to 1963-64 and even earlier years. A programme for their expeditious clearance would

have to be drawn up. Secondly, the procedures for valuation will have to be streamlined. The Committee note that in regard to real estate, the Board have recently asked the Commissioners of Income-tax to conduct a census of house properties in major cities and towns to check up whether there had been any evasion of Wealth-Tax and to report the progress made by the end of 1970. The Committee would like to be informed of the results of the census. For the purpose of valuation, the Board maintains a valuation cell, apart from a panel of registered valuers who assess the value of properties for purpose of tax. It would be necessary to devise adequate checks over the work of valuers to ensure that the valuation is correctly and fairly done. Another measure that the Department should adopt, to have a check on valuation, is a system of integrated return for wealth and income tax (from assessees who are liable to pay both), as suggested by the Committee elsewhere in this Report.

69	2.13	-do-	The Committee are concerned over a steep rise in the arrears of demands under the Wealth Tax, Gift Tax and Estate Duty. The aggregate of the arrears under these taxes which amounted to Rs. 15.29 crores as on 31st March, 1966 rose to Rs. 21.60 crores on 30th November, 1969—a rise of over 40 per cent. The Committee further observe that while in case of Gift Tax, the arrears as on 31st March, 1968 were equal to the entire receipts during 1967-68, in case of Estate Duty, the arrears as on 31st March, 1968 were 1½ times the entire receipts during 1967-68. The Committee note that instructions have been issued by the Board to the Commissioners of Income-tax to ensure that arrears under these taxes are reduced by at least 50 per cent by the end of the current financial year. The Committee consider this to be a modest target. They would

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			like all-out efforts to be made for the clearance of arrears before the close of the financial year.
70	2·19	Finance	The Committee are unhappy over the rise in pendency of Wealth-tax assessments. The number of pending assessments which as on 31st March, 1966 was 54,240 rose to 1,20,666 as on 31st March, 1969—an increase of over 120 per cent in three years. The amount of tax blocked up in pending assessments as on 31st March, 1968 was Rs. 7.4 crores compared to Rs. 5.26 crores as on 31st March, 1967. During evidence, the representative of the Board conceded that this item of work had been neglected till recently. The Committee note that instructions have now been issued by the Board for the expeditious clearance of these cases. The Committee would like a definite deadline to be set for this purpose.
71	2·20	-do-	The Committee note that the number of pending Gift-tax assessments as on 31st March, 1968 was 7762, involving an amount of Rs. 37.58 lakhs. The number of pending Estate Duty assessments on that date was 8,299, involving a duty of Rs. 7.48 crores. The Committee would like concerted efforts for the clearance of these cases to be made by the Board.
72	2·26	-do-	The Committee are concerned over the heavy pendency of appeals in respect of Wealth Tax and Gift Tax. They observe that the appeals pending for more than one year under both these categories accounted for nearly 30 per cent of the aggregate pendency on that date. The position in respect of revision petitions is more disquietening. The number of

73	2.29	-do-
74	2.45	-do-
75	2.46	-do-
76	2.47	-do-

pending Wealth Tax revision petitions on 31st March, 1968 was more than 2¼ times of that on 31st March, 1966. The rise is steeper in case of Gift Tax. The number of revision petitions in respect of this tax pending on 31st March, 1968 was more than four times that on 31st March, 1966. The Committee would like Government to take steps to bring down the pendency of appeals/revision petitions in respect of these taxes.

The Committee regret to note the steep rise in the pendency of Estate Duty appeals. The number of appeals pending with the Appellate Controller of Estate Duty which was 997 on 31st March, 1966 rose to 1595 on 31st March, 1968—a rise of about 60 per cent in two years. The Committee would like Government to take concrete measures to bring down the pendency of Estate Duty appeals to the barest minimum.

The Committee cannot help feeling that there was systematic under-valuation of the property in this case at every stage.

In the first place, the value of the property was assessed for the purpose of wealth tax for the years 1957-58 to 1961-62 at Rs. 3.20 lakhs. This represented a gross under-valuation as a return filed subsequently, in connection with the assessment of capital gains tax, showed the value of the property in January, 1954 to be as much as Rs. 28.31 lakhs.

Secondly, the property was valued by the Income Tax Department in September, 1964, at Rs. 24.48 lakhs for purpose of levy of estate duty (which became payable with the assessee's death in December, 1962). This again did not represent the correct value, as a year prior to the assessment, *i.e.* in September, 1963, an agreement had been executed for the

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			sale of the property at Rs. 50.74 lakhs. Of this, a sum of Rs. 35 lakhs had also been paid to the accountable person before the assessment took place. The officer who assessed the estate duty was apparently not aware of this transaction when he made the assessment, nor was he apprised of it thereafter by the officer who assessed the capital gains tax, when he received the copy of the sale agreement.
77	2.48	Finance	Government have argued that the valuation shown in the sale agreement for the property may not be relevant for purpose of assessment of estate duty, as that valuation assumed vacant possession of the property which did not exsist at the time of the death of the assessee. The Committee are not convinced by this argument for the following reasons: (i) The Committee had specifically asked for information about the proportion of the property in possession of the assessee and other tenants in September, 1963, when the sale agreement was executed. The Committee had also asked whether vacant possession of the property was available when the sale deed was signed. The Board have not so far been able to furnish information on these points. The Committee are not, therefore, able to understand on what basis the view has been taken that vacant possession of the property was not available when the sale took place. (ii) Even assuming that vacant possession was not available, the Committee are not able to see why that should make a difference

			to the valuation for purpose of assessment of estate duty. Section 36 of Estate Duty Act, 1953 provides that the value of any property should be estimated at "the price which it would fetch if sold in the open market at the time of deceased's death." The assessing officer has, therefore, to make an estimate and the only consideration for which a reduction in the estimate can be made is that set out in the proviso in section 36(2) which stipulates that "if the value of the property has depreciated by reason of the death of the deceased" it should be taken into account. (iii) It seems to be necessary to have uniform principles for valuing a property, be it for the purpose of wealth tax, capital gains tax or estate duty. The valuation adopted by the Department for the purpose of capital gains tax did not discount the value on the consideration that vacant possession was not available: in point of fact, the valuation as on 1st January, 1954 assumed vacant possession which obviously did not then exist. There is, therefore, no reason why vacant possession should not be similarly assumed when valuing the property for purpose of estate duty.
78	2.49	-do-	In the Committee's view, the whole case calls for a comprehensive review, with a view to determining what should be the value for purpose of estate duty. In the course of the review, it should also be examined why such a grossly depressed value as Rs. 3.20 lakhs was accepted for purpose of wealth tax assessments during the period 1957-58 to 1961-62.

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			It would also be necessary to investigate to what extent the assessee failed to declare the correct value, both for purpose of wealth tax and estate duty and to what extent the assessing officers were lax and why different values declared at different points of time were not linked up. Appropriate action should also be taken to recover the taxes the assessee escaped by under-valuing the property at different stages.
79	2.50	Finance	The case also highlights the need for co-ordination between officers who assess estate duty and those who assess wealth tax and capital gains tax.
80	2.51	-do-	There are two other points arising out of the evidence given in this case which the Committee would like Government to take note of: (i) Rule 14(3) of the Estate Duty Rules provides for the sale value of the property being taken on the basis of assessment, if the property has actually been sold "within a short time after.....death." Since the term "short time" has not been defined, the way is left open for different assessing officers adopting different periods in this regard. As this would lead to discriminatory treatment, the Committee would like Government to consider how best consistency could be brought in its determination. (ii) For obtaining a tax clearance certificate for the proposed sale of a property, an assessee has only to apprise the tax authority of his intention to sell. In the form prescribed for this pur-

			pose for submission to the tax authority, he is not required to indicate the price at which the property is proposed to be sold. As information about the actual sale price is necessary for the proper determination of taxes, it is necessary that the relevant form (E.D.—53) be amplified to indicate the sale price.
81	2.66	-do-	This case is of more than ordinary interest because of some peculiar features. On the death of a partner in a partnership firm (in April, 1944) his widow inherited all his assets and liabilities in the firm. While assessing duty on her estate after her demise (June, 1964), a deduction was allowed by the assessing officer on account of a debit balance of Rs. 2.64 lakhs in the books of the firm which appeared in her husband's name, on the ground that it represented a debt owed by the deceased lady. However, account was not taken of her husband's share of goodwill in the firm, which had not been paid to her by the firm, on the ground that the deceased could not legally have enforced the claim because of the operation of time-bar. If the time-bar precluded a claim for share of goodwill by the deceased, it also protected the deceased lady against any claim on account of the loan which stood in the name of her husband in the firm's books. It is not clear why the assessing officer chose to disregard this aspect of the case while assessing duty. The Committee also note in this connection that in their letter of 14th December, 1962 the firm itself had clearly indicated that the debit balance was not considered by them as "a loan made" to the deceased lady. In the circumstances, the deduction on this account made in the estate duty assessment clearly lacked justification.

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82	2.67	Finance	The Committee note that the amount of Rs. 2.64 lakhs has since been paid to the firm by the heirs of the deceased lady. It is significant that this settlement has taken place after Audit became seized of the matter. While this no doubt validates the assessment made in this case, the Committee would like the Board to investigate fully the circumstances in which the settlement took place as they appear *prima facie* suspect.
83	2.71	-do-	The Committee observe that, while finalising the Wealth Tax assessment in this case, the assessing officer failed to look into earlier years' assessments. Consequently, he accepted the value of a property as Rs. 58,000 as indicated by the assessee, though for the earlier assessment years (1964-65 and 1965-66) the Wealth Tax Officer had valued the properties in question at Rs. 1,01,080 as against the 'returned' value of Rs. 58,000. While the Committee note that the amount of short-levy has since been recovered, they cannot help observing that the Wealth Tax Officer concerned had failed to properly discharge his functions. As the officer is reported to have retired, the Committee do not wish to pursue this case further. The Committee desire that the Board should take strict action in cases of such lapses.
84	2.75	-do-	The Committee observe that while computing the net wealth of the assessee for the purpose of Wealth Tax, the assessing officer took into account the value of the land sold by the assessee, instead of the value of the residual land owned by him on the date of valuation (31st March, 1966). This resulted in an under-assessment of net wealth by Rs. 28,364.

			While the Committee note that the tax short-levied has since been recoverd, they feel that the assessing officer was very lax. The Committee trust that the Board will impress upon the assessing officers to exercise greater care in future.
85	2.82	-do-	The Committee observe that neither the Wealth Tax Act, 1957, nor the Unit Trust of India Act, 1963 exempts investments in units from Wealth Tax. In their circular letter of 2nd September, 1965, the Board had also clarified that, for the purpose of wealth tax, the market value of Unit Certificates should be included in the net wealth of assessees. In this case, however, the assessing officer granted exemption to Unit Certificates of the value of Rs. 20,000 while assessing Wealth Tax in two cases. While the Committee note that the tax short-levied has since been recovered in both the cases, the Committee cannot help observing that the assessing officer showed utter lack of familiarity with the provisions of the law bearing on his work. The Committee hope that these cases will not recur.
86	2.83	-do-	The Committee note that the Board propose to conduct a general survey to find out whether a similar mistake had been committed by any other officer. The Committee would like to be informed of the results of the survey, as also of rectificatory action, if any, taken pursuant thereto.
87	2.88	-do-	The Committee observe that although exemption for jewellery for purposes of wealth tax was completely withdrawn with effect from the assessment year 1963-64, the exemption was incorrectly given in three assessments for the years 1963-64 and 1965-66. A regrettable feature of the case is that the omission took place, in spite of the detailed instructions

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			issued by the Board after the amendment of the relevant provisions of the Wealth Tax Act. It is apparent that the assessing officers had not taken note of either the change in the relevant provisions of the law or the instructions issued by the Board.
88	2.89	Finance	The Committee note that while in the first two cases the tax short-levied has been recovered by adjustment against the refunds due to the assessees, in the third case, the assessment has been re-opened. Government have indicated that at the time of completing the re-assessment proceedings, they would rectify the mistake. The Committee would like to have a further report in the matter.
89	2.95	-do-	The Committee note that the Board have now taken the view that commuted value of annuity deposits should be exempt from Wealth Tax and that, to give their view a statutory backing, Government propose to amend the relevant provisions of the Wealth Tax Act with retrospective effect. However, at the time the assessments in question were made, the instructions from the Board were that the commuted value of annuities receivable on the relevant valuation date should be included in the net wealth of an individual for the purpose of wealth tax. It is regrettable that in spite of these instructions, three assessing officers omitted to include the commuted value of annuity deposits in net wealth in six assessments which they finalised. This is not the only case of its kind in which instructions regarding computation of net wealth issued by the Board were

			over-looked by its officers in the course of their work. The Committee have mentioned other such instances in this Report. The Committee would like the Board to devise ways to ensure that its instructions are strictly complied with by its officers in the course of their work. Persistent disregard of such instructions should be visited with appropriate punishment.
90	2.100	-do-	The Committee note that in the Wealth Tax assessment for the year 1962-63, the assessee's share of wealth from a firm was provisionally taken as nil in the first case and Rs. 21,124 in the second case, pending ascertainment of their actual shares. Although intimation was received in the Wealth Tax Office that the actual share of the assessee in the first case was Rs. 67,059 and Rs. 27,028 in the second case, no action to rectify the assessment was taken by the assessing officer till January, 1968 when the omission was pointed out by Audit. The explanation of the Ministry for the omission is that there was no mention of the share intimation in the order-sheet of the file. Nor had the intimation been properly indexed. The Committee regret that the assessment records were not properly maintained in this case. They feel that the Board should issue instructions to the Commissioners to streamline the procedures for maintenance of assessment records so that they clearly indicate whether any action in the case still remains to be taken and whether any information has been received after the file was last seen by the assessing officer. The Committee note in this connection that, on the Income-tax side, the Board have prescribed a register called "Register for rectification of Provisional share incomes". The purpose of this Register is to enable the Income-tax Officer to keep a watch over the rectification of assessments in cases where share incomes were provisionally taken as nil or at a certain figure as returned by assessees.

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			The Committee would like the Board to consider the feasibility of maintaining such a register on the Wealth-Tax side also.
91	2.106	Finance	The Committee note that the Wealth Tax Officer who had detected the omission of the assessee to return the particulars of a loan of Rs. 5,33,200 in the Wealth Tax return for the assessment year 1965-66 did not reopen assessments for the earlier years in which the same omission had taken place. The Committee note that the Department had called for the explanation of Wealth Tax Officer for his failure to do so. The Committee would like to be informed of the outcome of the examination of the matter by the Department.
92	2.107	-do-	The Committee note that the assessments for the assessment years 1960-61 to 1964-65 have since been re-opened. But the assessee has represented that the loan of Rs. 5,33,200 mentioned in the Audit paragraph was fully covered by an overdraft and there was, therefore, no escapement of wealth. The assessee's representation is stated to be under the consideration of the Department. The Committee would like to be informed of the outcome of the re-assessment proceedings.
93	2.108	-do-	Another aspect to which the Committee would like to draw attention is that the Board became aware of the omission on the part of the Wealth Tax Officer sometime in January, 1968. The explanation of the assessing officer was, however, called for only a few days before the consideration of the matter by the Public Accounts Committee (January, 1970) *i.e.*,

			after a period of two years. The Committee desire that the Board should act promptly in such matters.
94	2 114	-do-	The Committee note that for three consecutive years 1963-64, 1964-65 and 1965-66, the value of equity shares held by the assessee in this case was determined on the basis of market value. However, for the assessment years 1966-67, the value returned by the assessee at cost price as shown in the Balance Sheet figures of the company was accepted. It is regrettable that the Wealth Tax Officer was so remiss that he overlooked the note appended to the Balance Sheet that the market value of equity shares was much more than the cost price mentioned in the Balance Sheet. The officer also failed to cross-check the assessment in this respect with reference to previous assessments. The Committee would like the Ministry to impress upon the assessing officers the need to exercise greater care in making assessments.
95	2 118	-do-	While the Committee note that the tax excess collected has since been refunded to the assessee, they cannot help observing that there was an omission on the part of the Wealth Tax Officer in not having deducted from the total wealth of the assessee the debt owed by him on the date of valuation. Suitable instructions should be issued to prevent recurrence of a case of this kind.
96	2 124	-do-	The Committee note that there was over-levy of interest in both the cases mentioned in the Audit paragraph. Although the Estate Duty Rules lay down that interest for belated filing of returns is to be levied for the period after the expiry of first six months from the date of death, in the first case the Estate Duty Officer charged interest for the entire period

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			from the date of death. In the second case, although the accountable person had paid provisional duty to the extent of Rs. 3,25,000, the Estate Duty Officer did not take it into account while determining the total amount of interest due. The cumulative effect of the two mistakes was an over-assessment of Rs. 32,209. While the Committee note that the assessments have since been rectified in both the cases, they cannot help expressing a sense of uneasiness because these mistakes have occurred in spite of detailed instructions on the subject having been issued by the Board. The Committee feel that the Board should take a serious notice of such lapses.
97	3.1	Finance	The Committee have not made recommendations/observations in respect of some of the paragraphs of the Audit Report (Civil) on Revenue Receipts, 1969. They expect that the Department will nonetheless take note of the discussions in the Committee and take such action as is found necessary.

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

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