P.A.C. No. 546

PUBLIC ACCOUNTS COMMITTEE
(1977-78)

(SIXTH LOK SABHA)

SEVENTH REPORT

VALUATION OF IMMOVABLE PROPERTIES

MINISTRY OF FINANCE
(Department of Revenue)

[Paragraphs relating to Valuation of Immovable Properties included in Chapter I of the Reports of the Comptroller & Auditor General of India for the years 1973-74 and 1974-75, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes]



[Presented in Lok Sabha on 19-4-1978]
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PAGE	PARA	LINE	FOR	READ
(i)	-	17	PART II	PART II*
(iv)	-	3	xxxx22	xxx22
(iv)	-	Footnote	xxCeased	xxxCeased
(v)	3	2	Appendix II	Appendix IV
13	1.36	1	paragraph	paragraphs
15	2.1	1	After 'are', add 'detailed	
26	2.24	19	sutably	suitably
27	2.25(iv)	1-2	resistence	resistance
28	2.26(ii)	3	exceeds	exceed
28	2.26(ii)	4	disclose	disclosed
29	2.28	last	Branch	Board
31	2.36	12	a	I
37	2.49	2	11,684	11,682
38	3.2	8	proceeding	proceedings
52	3.16	8-9	ontinuous	continuous
55	3.21	last	18979	18970
60	3.33	18	he	the
62	3.38	11	1978	1977
62	3.38	12	Appendix II	Appendix III
65	3.45	1	After 'be', add 'not'	
67	3.50	2	Delete 'that'	
68	3.51	3	reviwed	reviewed
72	3.60(ii)	1	were	where
74	3.64	3	less	loss
74	3.64	22	swarches	searches
78	3.70(2)	5	ann	annual
78	3.70(3)	2	understand	under-stated
80	3.73	1	elab rating	elaborating
80	3.73	13	affilliated**	affilliated
81	3.74	14	Delete 'a' appearing after 'wri	
82	3.74	1	Delete 'on'	
82	3.76	8	longe	longer
82	3.78	6	Delete the line	
84	3.81	3	hat	that
85	3.85	10	Branch	Board
88	3.89	10	acquired	acquisition

PAGE	PARA	LINE	FOR	READ
88	3.90	7-9	Delete the sentence "The Committee have been...260 cases."	
88	3.90	10	vasted	vested
88	3.90	11	conformation	confirmation
88	3.90	11	order	orders
91	3.94	4	11	12
91	-	2 (from bottom)	2.95	3.95
93	3.98	23	recalcitrat	recalcitrant
101	App.III (Col.3)	Total	170	179
112	2.49	2	11,634	11,682
120	3.94	3	11	12
121	3.95	4	After 'properties', add 'of the net annual average income from the property. In some cases'	
122	3.96	3	Delete this line and after'3.9 (iii) add'of the Audit Paragraph were noticed, which apparently called for'.	

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PUBLIC ACCOUNTS COMMITTEE

(1977-78)

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17. Shri Sardar Amjad Ali

18. Shri M. Kadershah

19. Shri Piare Lall Kureel *urf* Piare Lall Talib

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*Elected with effect from 23 November 1977 *vice* Sarvashri Sheo Narain and Jagdambi Prasad ceased to be Members of the Committee on their appointment as Ministers of State.

**Ceased to be Members of the Committee consequent on retirement from Rajya Sabha w.e.f. 2-4-1978.

20. Shri S. A. Khaja Mohideen

***21. Shri Bezawada Papireddi

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SECRETARIAT

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

**Ceased to be Members of the Committee consequent on retirement from Rajya Sabha w.e.f. 9-4-1978.

INTRODUCTION

I, the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this Seventh Report of the Public Accounts Committee (Sixth Lok Sabha) on paragraphs relating to Valuation of Immovable Properties included in Chapter I of the Reports of the Comptroller & Auditor General of India for the years 1973-74 and 1974-75, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes.

2. The Reports of the Comptroller & Auditor General of India for the years 1973-74 and 1974-75, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes were laid on the Table of the House on 9 May, 1975 and 14 May, 1976 respectively. The Public Accounts Committee (1976-77) examined the paragraphs relating to Valuation of Immovable Properties at their sittings held on 15 November, 1976, but could not finalise the Report on account of dissolution of the Lok Sabha on 18 January, 1977. The Public Accounts Committee (1977-78) took further evidence on this subject at their sittings held on 20 and 21 March, 1978 and finalised this Report at their sitting held on 10 April, 1978 based on the evidence taken and the further written information furnished by the Department of Revenue. The Minutes of the sittings form Part II* of the Report.

3. A statement containing conclusions/recommendations of the Committee is appended to this Report (Appendix II). 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 commendable work done by the Chairman and Members of the Public Accounts Committee (1976-77) in taking evidence and obtaining information on this Report.

5. The Committee would like to express their thanks to Shri P. C. Abraham for furnishing a Memorandum on this subject and for giving valuable information to the Committee during evidence.

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

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

7. The Committee would like to express their thanks to the Department of Revenue & Banking (now Department of Revenue), Ministry of Finance for the cooperation extended by them in giving information to the Committee.

NEW DELHI;
April 17, 1978.
Chaitra 27, 1900 (*S*).

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

CHAPTER I

ADMINISTRATION OF SECTION 230A OF INCOME-TAX ACT, 1961

Audit Paragraph

1.1. As a safeguard against tax evasion, the Direct Taxes (Amendment) Act, 1964 introduced section 230A in the Income-tax Act, 1961 providing that no Registering Officer appointed under the Indian Registration Act, 1908, would register any document purporting to transfer, assign, limit or extinguish the right, title or interest of any person to or in any property valued at more than Rs. 50,000 unless the transferor produces a tax clearance certificate from the Income-Tax Officer certifying that the transferor has paid or made satisfactory provision for payment of all existing liabilities under the different direct taxes enactments or that the registration of the documents will not prejudicially affect the recovery of any such liabilities. The section was amended by the Finance (No. 2) Act, 1971 with effect from 1st October, 1971 so as to extend its scope to transfers of agricultural land also.

1.2. The provision is also intended to ensure that the assessees do not alienate their assets before the existing tax liabilities are fully paid and/or satisfactory provision has been made for payment thereof. In the application for the issue of the certificate, the person who applies for such certificate, has to furnish the nature of the property, particulars on how the property was acquired and the full value of the consideration for which it is proposed to be transferred. The Income-Tax Officer can make use of these details to ensure that the income from the asset has already been returned/assessed to Income-tax, its value has been considered for Wealth Tax/Gift Tax, and the capital gains, if any, are duly brought to assessment.

1.3. A test check in some Commissioner's charges for the period 1st October, 1971 to 31st March, 1973 revealed the following deficiencies in the working of this important provision:—

(i) The test check in Andhra Pradesh, Assam, Bihar, Karnataka, Madhya Pradesh, Punjab and Uttar Pradesh revealed 361 cases where transfers of properties of a total value of Rs. 3.31 crores were registered even though the value in each document exceeded Rs. 50,000 and tax clearance certificates were not furnished. The default was particularly widespread in Punjab where the test check conducted in

13 Registering Offices alone revealed as many as 278 cases involving property valued at Rs. 2.21 crores.

(ii) In a number of cases it was noticed that the transactions between the same parties entered into on or about the same dates were, apparently, split up and registered under separate documents with a view to defeating the provisions of Section 230A of the Income-tax Act. Twenty three such cases involving properties of a total value of Rs. 25 lakhs were noticed in Assam, Bihar, Kerala and Punjab. The individual values of properties in these cases varied from Rs. 51,000 to Rs. 2.50 lakhs but these had been split up into 2, 3, 4 or even 5 separate documents executed between the same parties on or about the same dates.

(iii) A tendency to state the value at exactly Rs. 50,000 or a little below that, apparently with the same object of defeating the provisions of the law, was also noticed. The test check in Assam and Punjab revealed 275 cases with values ranging between Rs. 45,000 and Rs. 50,000. In 93 of these, the values ranged between Rs. 49,000 and Rs. 50,000.

(iv) Cases were also noticed where the information available in the applications for obtaining the Income-Tax Clearance Certificates, was not used in Direct Taxes assessments. Thus in Calcutta, Income-tax clearance certificates were given in 9 cases for transfer of properties valuing from Rs. 50,000 to Rs. 1,93,750 but the persons concerned were not called upon to file their Income-tax or Wealth-tax returns. In 8 other cases, the particulars furnished by the applicants were indicative of the fact that the applicants were assessable to Wealth-tax; the property values in these cases varied from Rs. 50,000 to Rs. 2,16,666. The applicants were not, however, assessed to Wealth-tax. Similarly in Bombay, Wealth-Tax return was not called for from an applicant who had asked for a certificate for transfer of property valued at Rs. 2,90,000. In some cases, the values given in the transfer documents varied from those declared in the relevant Direct Taxes assessments but no action was taken to rectify the latter. Thus in 9 Wealth-tax cases in Bombay, a comparison of the values of certain properties with the values deemed for the same properties in connection with their transfer revealed an

under-statement of wealth to the extent of Rs. 8,60,836. In another case, the tax clearance certificate was issued but the resultant capital gain was not charged to tax. In Andhra Pradesh, in 2 cases the value in the transfer documents differed from the value on which Gift-tax was levied. The total under-assessment of tax in these 13 cases amounted to Rs. 22,840.

1.4. There is no provision in the rules made under section 230A or in the form of the application for tax clearance certificates to make the assessee furnish a valuation certificate given by an approved valuer to support the value indicated by him. The departmental officers are, therefore, guided solely by the particulars of value as furnished by the applicants.

1.5. The para was sent to the Ministry in November, 1974. Their comments are awaited (March, 1975).

[Paragraph 12 of the Report of the Comptroller and Auditor General of India for the year 1973-74, Revenue Receipts, Vol. II, Direct Taxes].

1.6. The registration of deeds of transfer of immovable properties is governed by the provisions of Transfer of Property Act, 1882, General Clauses Act, 1908 and the Indian Registration Act, 1908.

1.7. Section 230A(1) which was introduced in the Income Tax Act, 1961 w.e.f. 6 October, 1964 by the Direct Taxes (Amendment) Act, 1964 (31 of 1961) as a safeguard against tax evasion stipulates that:

"Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under the provisions of clause (a) to clause (e) of sub-section (1) of section 17 of the Indian Registration Act, 1908, purports to transfer, assign, limit or extinguish the right, title or interest of any person to or in any property valued at more than fifty thousand rupees, no registering officer appointed under that Act shall register any such document, unless the Income Tax Officer certifies that—

(a) such person has either paid or made satisfactory provision for payment of all existing liabilities under this Act, the Excess Profits Act, 1940, the Business Profits

Tax Act, 1947, the Indian Income-tax Act, 1922, the Wealth Tax Act, 1957, the Expenditure-tax Act, 1957, the Gift Tax Act, 1958, the Super Profits Tax Act, 1963 and the Companies (Profits) Sur-Tax Act, 1941, or

(b) the registration of the document will not prejudicially affect the recovery of any existing liability under any of the aforesaid Acts."

1.8. It may be mentioned that originally "agricultural land" was outside the scope of this section but by an amendment made w.e.f., 1 October, 1971 its scope was extended to transfers of agricultural land also.

1.9. Explaining the objectives underlying the enactment of Section 230A, the Department have stated:

"One of the common outlets for concealed wealth was investment in the immovable property and that, with a view to enabling the Department to deal with such investments in their proper perspective and at the proper time, the provisions under Section 230A were introduced in the Income Tax Act."

1.10. The Committee have been informed by the Department of Revenue and Banking that apart from introducing Section 230A in the Income Tax Act, 1961, Government have introduced other measures in the various Direct Taxes enactments for the surveys, investigation, valuation and assessment of immovable property. The Taxation Laws (Amendment) Act, 1972, amended several provisions of the Income Tax Act, 1961, Wealth-tax Act, 1957 and the Gift-tax Act, 1958 with the following objects, namely:—

(i) to counter evasion of tax through understatement of the value of immovable properties in transfer deeds and also to check the circulation of black money, by empowering the Central Government to acquire immovable properties, including agricultural lands, at prices which correspond to those recorded in the transfer deeds;

(ii) to curb the wide-spread practice of benami holding of property with a view to tax evasion by debarring the real owner from enforcing his claim to such property in a court of law unless he has declared the income from that property or the property itself for purpose of income-tax

and wealth-tax or has given notice of his claim to the property to the income-tax authorities; and

(iii) to improve the present arrangements for the valuation, for the purposes of income-tax, wealth-tax and gift-tax laws, of buildings, lands and other assets, by augmenting the set-up of the official valuation machinery and enhancing its powers on the one hand, and by bringing about better regulation and discipline over the non-official valuers, on the other.

1.11. Audit paragraph states that a test check in some Commissioners charges for the period 1 October, 1971 to 31 March 1973 had revealed that there were as many as 361 cases in the States of Andhra Pradesh, Punjab and U.P. where transfers of properties of a total value of Rs. 3.31 crores were registered without production of tax clearance certificates. Of these 278 cases involving properties valued at Rs. 2.21 crores were in Punjab. Since this indicated tardy implementation of Section 230A, the Committee desired to know how many cases of such default in all had come to notice of the Department of Revenue and Banking and what was the tax effect involved. In reply, the Department have intimated that they had received reports from only 8 Commissioners and these indicated that there were 146 such cases in Meerut, 22 cases in Orissa, 20 in Jullundur and 12 in Bhopal. The tax effect in these cases (except cases of Bhopal) was stated to be NIL.

1.12. Results of test checks made and referred to in the Audit Paragraph also indicate that unscrupulous persons are employing various devices to evade the provisions of Section 230A and thereby render it ineffective. These devices are:

(a) to split up transactions between the same parties entered into on or about the same dates and have the same registered under separate decuments, with a view to defeating the provisions of Sec. 230A;

(b) to state the value of the property at exactly Rs. 50,000 or a little below that apparently with the same object.

1.13. As regards the problem of splitting up of transactions, Audit Paragraph states that 23 such cases involving properties of total value of Rs. 25 lakhs were noticed in Assam, Bihar, Kerala and Punjab. Though the individual value of properties in these cases varied from Rs. 51,000 to Rs. 2.50 lakhs, these were split up into 2, 3, 4 or even 5

separate documents between the same parties on or about the same dates. Asked what steps were proposed to be taken to check this malpractice, the Chairman, Central Board of Direct Taxes has informed the Committee during evidence that they had consulted the Ministry of Law about it and on the basis of their advice they had brought to the notice of the State Governments, Commissioners of Income Tax and the Inspectors General of Registration the prevalence of this malpractice and also clarified that for the purposes of registration it was the value of the property which was relevant and not the value which was being paid for a particular portion of property as such.

1.14. The Committee pointed out that though the form of application prescribed for grant of a certificate under Section 230A (Form 34A) appeared to have been comprehensively designed to detect even new cases of escapement from various direct taxes, it did not require the transferor to furnish details of all the transfer deeds registered by him in a year, as a result of which it was not unlikely that instances of splitting up of transfers to circumvent the provisions of Section 230A escaped notice. The Committee, therefore, wanted to know whether to prevent such abuses, it was not desirable to include in the Application Form a clause where details of all other transfers made by the transferor in a year could be indicated. The Department of Revenue and Banking assured in a note that the suggestion was "being examined".

1.15. With reference to the tendency to under-state the value of property so as to defeat the provisions of Section 230A, Audit Paragraph states that a test check in Assam and Punjab had revealed as many as 275 cases with values ranging between Rs. 45,000 and Rs. 50,000. In 93 of these, the values, it was stated, ranged between Rs. 49,000 and 50,000. The Committee enquired whether the cases which had come to notice as a result of this test check were looked into and what measures had been, or were proposed to be, taken to check such a large scale evasion of tax. In reply, the Chairman, CBDT, has stated in evidence:

> "They are looking into these cases, for future also they have been warned that they should keep their eyes open and where the values mentioned are exactly Rs. 50,000 or Rs. 48,000 or Rs. 49,000 they should take extra precaution of seeing that that property is valued properly. When it was the real value, they need not bother but where there is some doubt, they should re-examine it further."....

This is something for which we have not been able to find an answer. But what we have done is that where the Income-tax Officer or the competent authority has the slightest suspicion or doubt that the property has been undervalued in order to evade the provisions of section 230A, then they should try to make proper valuation."

1.16. The Committee asked whether the problem of under-statement of value of properties could be tackled by insisting on a certificate from an approved valuer in support of the value indicated in the transfer document and if so, whether necessary provision to that effect was proposed to be made in the rules framed under Section 230A or in the Form of Application. The Department of Revenue and Banking have intimated in a note that "the suggestion was considered by the Board in June, 1975 and it was not considered necessary to make such a provision."

1.17. Audit Paragraph also mentions the fact that in a number of cases the information available in the applications for obtaining Income Tax clearance certificates, was not made use of in Direct Taxes assessments. In this connection the Committee desired to know whether these omissions had since been rectified and if so, what additional demand had been raised and collected. The Committee also wanted to know whether responsibilities for the lapse had been fixed in any of these cases. In reply, the Department of Revenue and Banking have furnished a statement, a summary of which is given below:—

C.I.T's. Charge	Audit Objection in brief	No. of cases to which objection relates	Rectificatory action taken
1	2	3	4
West Bengal .	(i) Information contained in the application u/s 230A is not made use of in Direct Taxes assessments.	10	Action completed in 2 cases 2 cases being looked into. In 6 cases wealth is below taxable limit.
	(ii) Applicant appeared to be prima facie liable to wealth tax but no steps were taken to assess him to wealth tax.	7	Assessments completed in 4 cases, pending in 1 case. Wealth is below taxable limit in 2 cases.

1	2	3	4
Bombay . .	(i) Values shown in the transfer documents differed from those shown in Direct Taxes assessments but no action was taken.	10	Assessments reopened in 3 cases. Report called for from C.I.T. in 2 cases C.I.T. asked to take necessary action in 2 cases Explanation of ITO called for in 1 case. No under-assessment in 2 cases.
	(ii) No attempt was made to tax capital gains.	1	Assessment has been reopened.
Andhra Pradesh .	Value shown in the transfer document differs from the value on which wealth tax was levied.	2	C.T.O. has been warned for the lapse. Assessment rectified.

1.18. Since there had been large-scale violation of Section 230A, the Committee desired to know whether any review had been conducted by the Department/Central Board of Direct Taxes to see how far the provisions of Section 230A were complied with by the transferors of properties and the registering authorities. The Department of Revenue and Banking have in a written note stated that no review has been conducted by the Central Board of Direct Taxes.

1.19. However, on 13 June, 1975 the Central Board of Direct Taxes had addressed a letter to the Commissioners of Income Tax on the following lines:

(i) In spite of the clarification given in Board's letter dated 6-8-73 addressed to Chief Secretaries of all the State Governments and copies endorsed to all the Commissioners that what is relevant for the purpose of Section 230A is the value of the property and not the value of the interest which is transferred, the registering officers have been registering the documents without taking into account value of the property.

(ii) Commissioners of Income-tax should get in touch with the Inspectors General of Registration and bring to his notice the aforesaid clarification; and

(iii) Commissioners of Income-tax should manage to have periodical test checks carried out in the offices of the Registering officers so as to ensure that the provisions of Section 230A of the Income Tax Act were being complied

with. The check may be carried out once in 6 months, the first check being carried out before 31st August, 1975.

1.20. Though the Board issued instructions for carrying out periodical test checks, Commissioners of Income Tax, Amritsar, Patiala and Pune have reported that no test checks were carried out by them. The reports received from some other charges have indicated that test checks are not being carried out at regular intervals. In the case of C.I.T's. charges of Bombay, Kanpur and Meerut, such a check was last conducted in September—November, 1975.

1.21. Since Section 230A was introduced in 1964 and amended from 1 October, 1971 so as to extend its scope to transfer of agricultural land also, the Committee wanted to know whether apart from issuing their letter dated 6 August, 1973 to the Chief Secretaries the Board had taken any other action to ensure implementation of Section 230A. The Department of Revenue and Banking have stated in reply that "No other action seems to have been taken between September, 1971 and June, 1975 to ensure compliance by the registering officers with the provisions of Section 230A of the Income Tax Act, 1961."

1.22. In another letter addressed to the Commissioner of Income Tax on 13 June, 1975, the Board had desired that "where there is a reasonable doubt about the value of the property shown for the purposes of transfer and the tax arrears in the case of the transferer exceed the value of the property shown in the document, the Income Tax Officer should seek the opinion of the Valuation Cell before issuing 230A certificate."

1.23. Asked how many cases of understatement of value in transfer deeds were referred to the Valuation Officer in terms of Board's aforesaid letter of 13 June, 1975, the Department have intimated that reports received from 12 charges were to the effect that no case was referred to the Valuation Cell.

1.24. Implementation of Section 230A presupposes effective coordination between the Income-tax Officers and the Registering Officers under the administrative control of the State Governments and periodical collection of information about registration of transfer deeds in respect of immovable properties valued at more than Rs. 50,000. The Committee understand that under Circular dated 26 May, 1958 issued by the Central Board of Direct Taxes the Departmental Officers were required to gather information relating to transfer of immovable properties from registration officers, both in

respect of agricultural and non-agricultural properties. This exercise was to be repeated every year.

1.25. Further, under the instructions issued by the Board on 16 November, 1964, the Inspecting Assistant Commissioners were to ensure proper collection and utilisation of information from registration offices by effective control over this work.

1.26. On 23rd December, 1971, the Board issued instructions emphasizing the need for evolving a system of exchange of information with the State Governments authorities which might be useful for gift tax in respect of agricultural lands.

1.27. The Committee were exercised over the problem of collection of information from the State Governments about transfers of agricultural land. In paragraph 3.10 of their 50th Report (1972-73), the Committee had recommended that:

> "The Committee have reasons to believe that the Board have not taken steps to ensure that all cases of gifts of agricultural land are brought to tax. In this connection they would refer to the position in law as decided by the Supreme Court in Nazareth Case [AIR 1970, SC—999 (Vol. 57 C—208)] that gifts of agricultural land are subject to tax under the Gift Tax Act. The Committee would, therefore, urge Government to issue strict instructions to the lower formations and to devise measures to ensure that they would also like to have review of the position conducted with a view to ascertaining the extent of non-levy of tax on such gifts in the past. The results of such a review may be reported to the Committee."

1.28. In paragraphs 1.28 and 1.29 of their 103rd Action taken Report (1973-74) the Committee referred to the 'alarming' situation of a large number of gifts of agricultural land having been not subjected to gift tax. In paragraph 1.38 of their 193rd Report (1975-76) they had suggested a specific review of the certificates issued by the Income tax Department relating to agricultural lands, under Section 230A of the Act so as to ascertain how the information available within the Department in this regard was utilised for the assessment and levy of gift tax.

1.29. The Committee enquired whether any regular system of coordination and exchange of information had since been laid down for this purpose. In reply, the Department of Revenue and Banking have stated in a note that "No regular system of coordination

and exchange of information between the Income-tax officers and Registering Officers for the purpose of section 230A has been laid down." However, according to the Department "instruction had existed for a long time that arrangements should be made, as a part of survey operations, for collecting information from the records of Registration Offices so that this information could be utilised suitably for the purpose of direct taxes. More recently, as a result of introduction of Chapter XXA in the Income-tax Act, it was now mandatory for the Registering Officers to send to the Department, statements in the prescribed form (No. 37G) relating to transfer of immovable property of values exceeding Rs. 10,000/- (vide Instruction No. 842). On 12 June, 1975, instructions have been issued to the effect that these forms or the information contained therein should be passed on to the Income-tax Officers/Assistant Controllers dealing with cases of transferors and transferees for utilisation in the course of income-tax, wealth tax, gift-tax and estate duty, proceedings."

1.30. Asked whether the desirability of Registering Officers submitting to the assessing authorities periodical returns of transfers of immovable property registered by them was considered by the Department at any time as a possible counter check, the Department have replied in the negative.

1.31. Apart from transfers of immovable property, large scale transfer of shares of Housing Cooperative Societies especically in big urban towns and cities also take place. While transfer of immovable property requires registration under the Section 17 of the Indian Registration Act, the transfer of shares of flats of Housing Cooperative Societies do not require registration under the existing law.

1.32. The Select Committee on the Taxation Laws (Amendment) Bill, 1971 had, however, in para 15 of their Report recommended that "the Registration Act and other relevant laws should be amended to treat transfers of shares of Housing Cooperative Societies as immovable property requiring registration of transfer."

1.33. The Wanchoo Committee (Direct Taxes Enquiry Committee) had in Para 2.203 in its final report submitted in December, 1971 made the following recommendation:

> "....it may be provided by law that ownership flats, whether acquired through the medium of cooperative housing societies or otherwise would be deemed to be immovable

property for purposes of the Transfer of Property Act, 1882 and that transfer of such flats shall be required to be registered under the Indian Registration Act, 1908 in the same manner as any other immovable property."

1.34. Since the recommendation of the Select Committee and the recommendation made by the Direct Taxes Enquiry Committee (Wanchoo Committee) were similar, the Department of Revenue and Banking made a reference to the Ministry of Law, Justice and Company Affairs on 5 July, 1972 for processing these two recommendations. On the 15 November, 1972 the Ministry of Law, Justice and Company Affairs advised that there was no legal objection to amend the law so as to require compulsory registration of documents by which onwnership flats were transferred by deeming them to be immovable property for the purposes of the Transfer of Property Act, 1882 and the Registration Act, 1908. After considering the views of that Ministry, the Department accepted the said recommendation and requested that Ministry to take necessary steps to amend the said two enactments. The Ministry of Law forwarded on 2 January, 1973 a draft Bill proposing to amend the Transfer of Property Act, 1882 and the Registration Act, 1908 and requested the Department to offer comments thereon in consultation with the Department of Cooperation, Department of Company Affairs and the Ministry of Works & Housing. It is stated that the Department of Company Affairs and the Ministry of Works and Housing concurred in the proposed Bill. The Department of Cooperation also intimated its concurrence, subject to a minor modification in the Bill. The last of these replies was received from the Department of Cooperation on 18 June, 1973.

1.35. The draft Bill was also considered in the Department of Revenue and Banking and certain clarifications were sought from the Ministry of Law and Justice on 5 December, 1973. The Department of Revenue and Banking have intimated that by the 24 December, 1976 the Ministry of Law, Justice and Company Affairs had not sent the requisite clarifications. On 20 December, 1976 the Ministry of Law, Justice and Company Affairs are stated to have intimated to the Department of Revenue and Banking that their previous papers on the subject were not readily available and that efforts were being made to locate the relevant file. The Ministry of Law had requested the Department that meanwhile copies of the earlier papers might be sent to them to enable them to examine the case, which are stated to have been duly forwarded to them.

1.36. The facts contained in the foregoing paragraph make it amply clear to the Committee that the provisions of Section 230A of the Income Tax Act, 1961 are not being implemented in letter and spirit and that the field officers are paying scant regard to the instructions being issued by the Board from time to time to make the implementation of this Section more effective. The Committee would like to emphasise that the responsibility of the Department of Revenue and Banking does not end with the issue of instructions to lower formations. The Department have also to devise information systems and control mechanisms so as to ensure the implementation of the legislative measures and explanatory or supplementary instructions issued by them from time to time. Since effective implementation of the provision of Section 230A depends on the close coordination between the Registration Officers who are under the State Government and the Income-tax Assessing Officers, the Committee consider it of utmost importance that a regular system of coordination between the two authorities is evolved so as to plug effectively the loopholes for tax evasion which Section 230A seeks to do.

1.37. The Committee find that though the Application Form prescribed for grant of Certificate under Section 230A (Form 34A) appears to be a comprehensive one and seems to have been designed to detect even new cases of escapement from various direct taxes, it does not contain any clause requiring the transferor to furnish details of all the transfer deeds registered by him in a year. The Committee feel that these details would help to detect instances of splitting up of transfers of immovable property to circumvent the provisions of Section 230A. In a note furnished to the Committee, the Department have intimated that the question of amending the application form so as to require the applicant to furnish such details was being examined by them. The Committee fould like to be informed of the action taken by the Government in this regard.

1.38. Audit has pointed out that apart from transfer of immovable property, large-scale transfers of shares of Housing Cooperative Societies especially in big urban towns and cities, also take place. While transfer of immovable property requires registration under Section 17 of the Indian Registration Act and therefore attracts the provisions of Section 230A of the Income Tax Act, 1961, the transfers of shares of flats of Housing Cooperative Societies do not require registration under the existing law and are outside the ambit of Section 230A. The Committee recall in this connection that the Wanchoo Committee (December, 1961) and the Select Committee on the Taxation Laws (Amendment) Bill, 1971 had both recom-

mended that transfers of shares of Housing Cooperative Societies should be deemed as immovable property for the purpose of Transfer of Property Act, 1882 and should be required to be registered under the Indian Registration Act, 1908 in the same manner as any other immovable property. On a reference made by the Department of Revenue & Banking, the Ministry of Law, Justice and Company affairs had advised the Department on 15 November, 1972 that there was no legal objection to amend the law for this purpose. The Committee regret although a period of four years has elapsed, the proposed legislation is still to be enacted and brought on the statute book. The only progress that has been made in this matter is routine consultation at official level among the concerned authorities. They would like that the proposed legislative measures should be brought before Parliament without further delay.

CHAPTER II

FUNCTIONING OF THE VALUATION CELLS

Audit Paragraph

The results of functioning of the Valuation Cells are below:—

(1) No. of Valuation Units/Districts:

Year	*No. of Valuation units*	*No. of Valuation Districts functioning*
1972-73	20	Nil
1973-74	80	8
1974-75	80	10

(2) No. of cases referred to the Valuation Cells:

Year	*Wealth-tax*	*Gift-tax*	*Estate Duty*
1972-73	535	2	200
1973-74	1,724	30	189
1974-75	11,022	61	285

(3) Total amount of Valuation declared by the assessees:

(In lakhs of rupees)

Year	*Wealth-tax*	*Gift-tax*	*Estate Duty*
1972-73	3768·01	2·19	441·34
1973-74	2740·90	21·31	146·65
1974-75	9636·99	47·73	201·84

(4) No. of cases decided by the Valuation Cells and the total amount of valuation made by the Cells:

(In lakhs of rupees)

Year	Wealth-tax		Gift-tax		Estate Duty	
	No. of cases	Total amount	No. of cases	Total amount	No. of cases	Total amount
1972-73	2,504	7747·32	4	3·42	171	975·72
1973-74	529+ 57*	5204·69	21+ 2*	45·27	195+ 34*	488·38
1974-75	5707+ 206*	19583·49	36+ 3*	70·15	98+ 14*	359·31

* The cases returned to Income-tax Officers.

(5) No. of cases pending in the Valuation Cells on 1-4-1975:

	Number
Wealth-tax	8,355
Gift-tax	32
Estate Duty	247

(6) Expenditure incurred on Valuation Cells during 1972-73, 1973-74 and 1974-75:

Year	Expenditure
	Rs.
1972-73	4,36,240
1973-74	26,29,282
1974-75	61,94,372

[Paragraph 12 of the Report of the C&AG of India for the year 1974-75, Union Government (Civil), Revenue Receipts, Vol. II, Direct Taxes.]

2.2. For the purpose of levy of different taxes, fair market value has to be adopted by the assessing officer in respect of various capital assets, the fair market value, in this context, being the estimated price, which in the opinion of the assessing authority, the asset would fetch if sold in the open market on the relevant date.

2.3. Finding that there has been a large-scale tax avoidance under all the direct taxes by under-statement of the returned values of assets, often even on the basis of certificates of registered valuers obtained and filed by the assessees, thereby defeating the socio-economic policy of the Government to make investment in real estate, especially of unaccounted money unattractive the Central Government established in October, 1968 a Departmental Valuation Cell.

2.4. The Cell was set up in the Income-tax Department to assist the Income-Tax Officers in detecting under-valuation of urban immovable properties. It was manned by qualified and experienced officers drawn from the CPWD and attached to the Income-tax Department on deputation basis. Initially it was decided to create eight property Valuation Units (Each headed by an Executive Engineer) two each under the administrative control of Commissioners of Income Tax, Madras, Delhi, Ahmedabad and Luknow. The Valuation Units thus created looked after the work relating to cost of construction of properties for purposes of income-tax assessments and determination of the market value of the assets for purposes of proper assessment of Wealth tax, Gift-tax, Estate Duty and Capital Gains tax, etc. and also to represent the Income-tax Department before the appellate authorities *viz.*, the Appellate Assistant Commissioners of Income-tax and the Appellate Tribunal. To ensure a co-ordinated approach in the matter and proper supervision of the work of the various units, a post of Superintendent Engineer was also created in the Board's office. Besides supervising the work of Executive Engineers, he attended to the work of evaluation of costs in very important cases.

2.5. The Taxation Laws (Amendment) Act, 1972, brought about important changes in the provisions of Direct Taxes Acts, relating to valuation machinery for properties. An elaborate valuation machinery for valuation of immovable properties other than agricultural land was set up in the Income-tax Department and statutory authority was conferred on the officers of the Cell. This machinery was headed by two Chief Engineers and manned by a large number of Superintendent Engineers, Executive Engineers and other complementary staff. The most important amendment was the insertion of Section 16A(i) in the Wealth-tax Act which permitted reference of the valuation of any asset to the valuation officer under certain circumstances. Similar provisions were made in the Income-tax Act (Section 55A) and the Gift-tax Act [Section 15(6)]. The valuation determined by the

Valuation officers as a result of those references is binding on the assessing officers.

2.6. Asked if any study or review had been undertaken to see as to how far the objectives in setting up the Departmental Valuation Cell had been achieved, the Department of Revenue and Banking/Central Board of Direct Taxes have intimated:

> "The Department of Revenue and Banking/Central Board of Direct Taxes have not carried out any direct study or review to see how far these objectives have been achieved. It may, however, be pointed out that the periodical reports on the working of the Valuation Cell are received in the Board's office. The Board is also making a sample study to find out as to how far the valuation made by the departmental valuation cell has been confirmed by the appellate authorities."

2.7. According to Instruction No. 365 dated 28 December, 1971 issued by the Central Board of Direct Taxes, the types of cases which were required to be referred to the Valuation Cell are:

(i) all cases involving incorrect valuation of immovable property which are being processed for possible prosecution;

(ii) all cases of estate duty, wealth tax and gift tax:

(a) where the property is wholly rented and is fetching a net rent of Rs. 10,000 per year or more; if the value declared by the accountable person/assessee is less than 8 times the net annual rental value;

(b) where the property is partly rented and is fetching a net rent of Rs. 10,000 per year or more; if the value of the rented part taken into consideration for the valuation of the whole property is less than 8 times of the net rent;

(iii) all cases under the Income-tax Act where there is a reasonable suspicion that the assessee has understated the value of immovable property by Rs. 50,000/- or more;

(iv) all cases of estate duty, wealth-tax and gift-tax where the accountable person/assessee has shown the value of

any individual immovable property at Rs. 5 lakhs or more;

(v) all cases of estate duty, gift-tax and wealth-tax, where the value of any individual immovable property has been shown at less than Rs. 5 lakhs but where the Assistant Controller of Estate Duty/Wealth-tax Officer estimates the under-valuation of the property at least by 20 per cent with a monetary minimum of Rs. 50,000/- subject to the prior approval of the Controller of Estate Duty/Commissioner of Income-tax; and

(vi) all cases of income-tax, estate duty, wealth tax and gift-tax where in the opinion of the Commissioner/Controller of Estate Duty it is considered necessary in the interest of revenue, for reasons to be recorded, to refer the valuation of an immovable property to a Valuation Cell."

2.8. In order to lend statutory support to references made to Valuation Cell and to make the valuation determined by a Valuation Officer binding on the assessing officer, amendments were carried out to the Income Tax Act (Section 55-A), Wealth Tax Act (Section 16A) and Gift Tax Act [Section 15 (6)] by the Taxation Laws (Amendment) Act, 1972 from 1 January 1973. All these amendments are on the same lines and provide for a reference:

(i) Where the value returned on the basis of certificate of a registered valuer is, in the opinion of the assessing officer, less than fair market value;

(ii) In any other case, where, in the opinion of the assessing officer, the fair market value of the asset, exceeds the returned value, by more than such percentage of the returned value of the asset by more than such amount as may be prescribed in this behalf;

(iii) Where in the opinion of the assessing officer it is necessary to do so having regard to the nature of the asset and other relevant circumstances.

2.9. The prescribed percentage and the amount are 33-1/3 per cent and Rs. 50,000 under all the three taxes *viz.* Income Tax, Wealth Tax and Gift Tax. In view of these amendments, the Board issued consequential procedural instructions *vide* their Instruction No. 490 dated 22 December, 1972.

2.10. Para 14.9 of the Report of the Comptroller and Auditor General of India for the year 1974-75, Union Government (Civil) Revenue Receipts, Volume II, Direct Taxes cites several cases which apparently merited a reference to the Valuation Cell but were in fact not so referred. These cases are:

(i) In Ahmedabad, a self occupied property, in a residential-*cum*-commercial locality, and on a land area of 5,980 sq. yards was returned and assessed to wealth-tax at Rs. 2.50 lakhs in the assessment year 1963-64 to 1969-70. The value was not reassessed/revised up wards at any stage during these years, nor was it referred to the Valuation Cell. In the assessment year 1968-69, the assessee produced a certificate from an approved valuer showing the value of the property at Rs. 2,40,000. As a result of an objection raised by Audit in 1972, the valuation was referred to the Valuation Cell, who, in October, 1974 determined the value of the property at Rs. 19.47 lakhs on 31 March 1967, Rs. 22.83 lakhs on 31 March 1968 and Rs. 25.93 lakhs on 31st March, 1969. On the basis of this valuation, the short recovery of wealth-tax in the 3 assessment years would be of the order of Rs. 2.84 lakhs.

Similarly, in another case a property with a land area of 15,600 sq. yards was returned and assessed at Rs. 5.50 lakhs for the assessment year 1968-69. The assessment was completed in March, 1973. Though the value exceeded Rs. 5 lakhs, no reference was made to the Valuation Cell.

(ii) In Bombay, the number of cases referred to the Valuation Cell for re-valuation of properties was 310 in 1973-74 and 185 in 1974-75 as against the total number of wealth-tax assessees *viz.*, 45,256 and 47,985 as on 31 March, 1974 and 31 March, 1975, respectively.

In one case, an assessee constructed two buildings, very near each other, in Colaba at the same time and declared their values as Rs. 47,14,987 and Rs. 50,59,260. The former property was valued by the Departmental Valuation Cell, on a reference made to them under the Income-tax Act, at Rs. 77,50,000. The valuation of the other property was not referred to the Valuation Cell.

(iii) In Rajasthan, out of 746 properties reviewed, only seven were found to have been valued by the depart-

mental Valuation Cell. The Commissioner had issued instructions in November, 1973 that all properties whose returned value is Rs. 2.00 lakhs or more should be referred to the Valuation Cell. It was,, however, noticed that in the case of 11 properties these instructions had not been followed.

2.11. While inviting attention to the aforesaid cases, the Committee asked what action, had been taken by the Board on these cases. In reply, the Board have intimated on 25 March, 1977:—

"The Board by their letter dated 16-10-1976 addressed to Commissioners of Income Tax, Bombay, Gujarat and Rajasthan requested them to take corrective action in respect of all cases on the basis of the views expressed by the Audit. The reports received from the Commissioners are under process."

2.12. The Committee pointed out that Audit had mentioned only a few instances and it was just likely that there might have been more cases where references to Valuation Cell were not made. The Committee, therefore, desired to know if any review had been carried out to find out all such cases. In reply, the Department have intimated:

"No such review has been carried out."

2.13. Asked if the Board had devised any machinery to ensure that all such cases as are required to be referred to the Valuation Cell are actually so referred, the Department have stated:

"The Board have not devised any special machinery for this purpose. The IACS would normally keep these points in mind while inspecting the work of ITOs." S

2.14. The Committee learnt that according to a note sent to Audit on 29 March, 1975 in connection with paragraph 51 of the Report of the Comptroller & Auditor General of India for the year 1973-74, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes, the number of cases decided by the Valuation Cell in 1972-73 and 1973-74 were 988 and 5,049 on a total valuation of Rs. 97.02 crores and Rs. 115.17 crores respectively. The corresponding figures given for the Audit Report 1974-75 as printed in sub-para 4 of the Audit para were, however, 679 and 745 with a total valuation of Rs. 87.26 crores and 57.38 crores respectively. Explaining the reasons for the

wide variation between the above two sets of figures, the Department of Revenue and Banking in a note have stated:

> "The figures appearing in para 12 of the C&AG's Report for the year 1974-75 were those which were furnished to Audit in response to Annexure VII to their D.O. letter dated 10 September 1975 which required information in respect of cases referred to the Valuation Cells for Wealth Tax, Gift Tax and Estate Duty purposes, whereas the figures given in the Note forwarded with the Board's letter dated 29 March 1975 related to the working of the Valuation Cells as a whole and hence figures relating to all cases (under the Wealth Tax, Gift Tax and Estate Duty Act as well as others) handled were given. There was, therefore, no discrepancy in the two sets of figures."

2.15. In view of the above clarification that Valuation Cell handled not only cases under the Wealth Tax Act, Gift Tax Act and the Estate Duty which were given in the Audit paragraph but also cases under the Income Tax Act as well as other cases, the Committee desired to have the figures of the total number of cases (category-wise) which were decided by the Valuation Cell during the years 1972-73, 1973-74 and 1974-75. In reply, the Department have furnished the following data:

Sr. No.	Categories	Total No. of cases decided by Valuation Cell during—		
		1972-73	1973-74	1974-75
1	Investment cases	179	295	725
2	Acquisition cases under Chapter XXA of Income Tax	27	3744	7113
3	Acquisition cases under Chapter XXA which were referred 2nd time and subsequently	..	41	284
4	Capital gain	16	40	199
5	Wealth Tax Act	504	529	5,707
6	Estate Duty Act	171	195	98
7	Gift Tax Act	4	21	36
8	Misc. & Tax Recovery	20	102	229
9	Tribunal Cases.	67	83	64
		988	5049	14455

2.16. The Committee were given to understand that in the figures furnished to Audit on 29 March 1975, it was indicated that the Valuation Cell had detected under-valuation to the extent of Rs. 35.33 crores in 1971-72, Rs. 42.54 crores in 1972-73 and Rs. 34.04 crores in 1973-74. The Committee desired to know if assessments had been made in all these cases at the valuation determined and penalties levied for concealment. In reply, the Department of Revenue and Banking have stated:

> "The data called for is not available. It may be pointed out that there is unavoidable time-gap between valuation and assessment and subsequent imposition of penalty, if any."

2.17. In Paragraph 12.5 of their 186th Report (5th Lok Sabha) Committee while stressing the need for setting up an efficient statistical organisation have observed:

> "In Chapter III of this Report, extracts of various recommendations of this Committee have been given in which the importance of strengthening the statistical machinery has been repeatedly stressed. The Committee would like particularly to draw attention to paragraphs 1.23 to 1.26 of their 51st Report (Fifth Lok Sabha). In these paragraphs the Committee had deplored the failure of the Central Board of Direct Taxes to establish a proper machinery for furnishing up to date statistics so as to ensure a more accurate forecast of revenues. However, apart from stating that a Committee had been set up, under the Chairmanship of a Joint Secretary of the Department of Statistics, to look into the statistical framework of the Income-tax Department and to make suitable recommendations for streamlining and systematizing it, no concrete steps appear to have been taken. This was clearly pointed out in paragraphs 1.9, 1.10 and 1.14 of the 150th Report (Fifth Lok Sabha). The latest All India Income-tax Statistics that is available in cyclostyled form relates to the year 1971-72 and this too is deficient in many respects. There has been, to the knowledge of the Committee, no All India Statistics in respect of other Direct Taxes. The Committee, would, therefore, strongly urge Government to speed up action on the setting up of an efficient statistical organisation which should give all necessary data promptly and contemporaneously with the framing of the Budget, so that not only the Ministry of Finance but also the

Members of Parliament at the time of discussion of the Budget could have the advantage of complete information in respect of all aspects of tax levy and collection. On several occasions, the Central Board of Direct Taxes were also unable to furnish promptly to the Committee complete and updated information relating to the statistical paragraphs included in Chapter I of the Volume of the Report of the Comptroller and Auditor General of Revenue Recepits relating to Direct Taxes, on account of the absence of a sound statistical base within the organisation when set up, as recommended by the Committee, should also be in a position to give all information in this regard required by the Committee.

2.18. In this context, the Committee wanted to know if there was any machinery in the Central Board of Direct Taxes to guide, supervise and co-ordinate the working of the Valuation Cells. The Department have stated:

"The District Valuation Officer performs the administrative functions of watching the performance of the Valuation Officers/Assistant Valuation Officers and giving them expert guidance in case of difficulty."

2.19. When asked if there was any organisation to collect and monitor all the data connected with the functioning of the Valuation Cells in a systematic manner and if not, whether any thought had been given to it, the Department have replied:

"Such functions are performed by the Chife Engineer (Valuation), Delhi and the Chief Engineer (Valuation), Madras, both of whom have purely administrative and coordinating functions. Their functions include co-ordination between the activities of the Valuation Cells and the other Wings of the Income-tax Department and to ensure that the field officers in the Cells are performing their activities efficiently and effectively. Each V.O./A.V.O. has to forward a copy of his valuation report to the Chief Engineer through which the Chief Engineer keeps a watch on the quality of work being performed by these officers. He obtains Monthly and Quarterly Returns from all his officers to ascertain the pendency and disposal and discusses with his officers how to reduce the pendencies.

The Chief Engineers/D.V.O.s also hold periodical meetings with the Commissioner's of Income Tax etc. to review the various aspects of the valuation work.

The Board exercises controls through exhaustive Monthly and Quarterly reports received from Chief Engineers. Periodical discussions are also held by the Member (WT) with the Chief Engineers to discuss various aspects."

2.20. The number of cases pending with the Valuation Cell as on 1 April, 1975 and 1 April, 1976 was as under:

As on	Wealth Tax	Gift Tax	Estate Duty	Total
1-4-1975	8,355	32	247	8,634
1-4-1976	8,906	54	184	9,144

2.21. If cases under the Income Tax Act and other cases referred to the Valuation Cell are also taken into account, the actual pendency as on 1 April, 1976 comes to 11,682. The break up of 11,682 pending cases category-wise and region-wise is given below:

S. No.	Category	No. of Cases pending as on 1-4-1976		
		Delhi Region	Madras Region	Total
				Nos.
1.	Valuation relating to proceeding under Income-Tax Act	387	185	572
2.	Valuation relating to XXA of Income-tax Act.	1321	410	1731
3.	Valuation relating to XXA of Incoeme tax Act referred 2nd time and subsequently	17	..	17
4.	Valuation relating to Wealth-tax	4756	4150	8906
5.	Valuation relating to Estate-Duty	155	29	184
6.	Valuation relating to Gift-Tax	20	34	54
7.	Valuation relating to Capital Gain Tax	30	68	98
8.	Valuation relating to recovery of Tax Arrears and Misc. cases	38	46	84
9.	Reference relating to Valuation of Immovable property disputed in appeal before tribunal	12	24	36
	TOTAL	6736	4946	11,682

2.22. The Committee called for age-wise analysis of pending cases. In reply, the Department have informed the Committee:

> "The information is not readily available."

2.23. The Committee pointed out during evidence that though the number of valuation units had increased from 20 in 1972-73 to 80 in 1973-74 and 1974-75, the number of pending cases had kept on increasing and that if this alarming trend continued arrears might not get cleared in the foreseeable future. In reply, the representative of the Department has stated:

> "It is a fact that our pendency is increasing from year to year but our disposals are also increasing from year to year."

2.24. In the same context, the Chairman, Central Board of Direct Taxes has clarified:

> "There has been deficiency in the rule (rule 3-A of the Wealth Tax Rules) also which also to some extent is responsible for this accumulation of the work in the Valuation Cell. Previously we had laid down limits for various types of officers in the Valuation Cell. For instance the Regional Valuation Officer was merely to supervise the work of the Cell under his control and the District Valuation Officer can value properties exceeding Rs. 5 lakhs. The next below valuation officer can value properties exceeding Rs. 2 lakhs but not exceeding Rs. 5 lakhs and the Assistant Valuation Officers can value properties upto Rs. 2 lakhs. What was happening was that one of the officers got accumulated too much of work and another one did not have enough work and then there could be no re-adjustment of work between them. ***We have now amended the rule so as to see that this maladjustment in the functioning is dealt with sutably."

2.25. Subsequently, the Department of Revenue and Banking in a note furnished after evidence have explained the main reasons for this backlog thus:

> "(i) Cases, where the V.Os do not have any statutory powers for enforcing production of documents/information, required for valuation and inspection of property. In such cases, after the efforts of the V.Os have failed, the ITOs/IAC/ACED/DCED are requested and reminded for obtaining documents and enforcing inspection of the property;

(ii) Cases, where the VOs have statutory powers for enforcing production of documents/information, etc., but the assessees delay the proceedings by requests for adjournment either for genuine difficulties or by way of dilatory tactics;

(iii) Injunctions through courts restraining the VOs from proceeding with the valuation;

(iv) Lack of co-operation by the assessee or their positive resistence of the actual inspection of the property;

(v) Considerable delay is also caused by the assessees themselves due to late submission of their objections to the VOs' preliminary estimate and asking for frequent extensions;

(vi) Development of some staff of valuation cell on survey of the posh localities."

2.26. Rule 3-A of the Wealth Tax Rules as amended w.e.f. 15 December 1976, stipulates that:

3-A JURISDICTION OF VALUATION OFFICERS

1. Regional Valuation Officers shall exercise, within such areas as the Board may direct, general supervision over the work of District Valuation Officers, Valuation Officers, and Assistant Valuation Officers.

2. District Valuation officers, Valuation Officers and Assistant Valuation Orfficer in respect of such areas and in relation to such classes of assets as the Board may direct.

3. Where, under any directions issued under sub-rule (2) the functions of a Valuation Officer in relation to any class of assets, being buildings or lands or any rights in buildings or lands, in respect of any area have been assigned to a District Valuation Officer, Valuation Officer and an Assistant Valuation Officer, such functions shall be performed by the District Valuation Officer, the Valuation Officer or, as the case may be, the Assistant Valuation Officer as provided hereunder:

(i) if the value of the asset as declared in the return made by the assessee under section 14 or section 15 exceeds Rs. 10 lakhs or if the asset is not disclosed or the value of the asset is not declared in such return or no such return has been made and the value of the

asset, in the opinion of the Wealth-tax Officer, exceeds the aforesaid amount, the functions shall be performed by the District Valuation Officer;

(ii) if the value of the asset as declared in the return made by the assessee under section 14 or section 15 exceeds Rs. 2 lakhs but does not exceeds Rs. 10 lakhs or if the asset is not disclose or the value of the asset is not declared in such return or no such return has been made and the value of the asset in the opinion of the Wealth-tax Officer, falls within the aforesaid limits, the functions shall be performed by the Valuation Officer; and

(iii) if the value of the asset as declared in the return made by the assessee u/s. 14 or section 15 does not exceed Rs. 2 lakhs, or if the asset is not disclosed or the value of the asset is not declared in such return or no such return has been made and the value of the asset, in the opinion of the Wealth-tax Officer, does not exceed the aforesaid amount, the functions shall be performed by the Assistant Valuation Officer. Provided that the District Valuation Officer referred to in clause (i) having jurisdiction in respect of the area may, if he considers it necessary or expedient so to do for the purpose of proper and efficient management of the work of valuation, himself perform such functions in relation to any asset referred to in clause (ii):

Provided further that the Valuation Officer referred to in clause (ii) having jurisdiction in respect of the area may, if he considers it necessary or expedient so to do for the purpose of proper and efficient management of the work of Valuation, himself perform such functions in relation to any asset referred to in clause (iii).

4. Where the valuation of any asset, being building or land or any right in any building or land, referred to the district Valuation Officer is pending with him on the 15th day of December, 1976 being the date of commencement of the Wealth-tax (Fourth Amendment) Rules, 1976, the District Valuation Officer shall transfer the reference to sub-rule (3) if the value of the asset as declared in the return made by the assessee under section 14 or section 15 does not exceed Rs. 10 lakhs, or, if the asset is not disclosed or the value of the asset is not declared in such return or no such

return has been made the value of the asset, in the opinion of the District Valuation Officer, does not exceed the said amount."

2.27. Questioned as to why the charges in the aforesaid rule could not be brought about earlier than 15 December 1976, the witness has deposed:

"The problem came to our notice a few months ago***** when we started analysing the causes, this rule was found to be one of the causes*****. This rule we decided to amend only recently. Since it is to have prospective effect, it will come into force with effect from 15 December 1976."

2.28. Since new cases would also be coming up every year to the Valuation Cell, thus making the problem of clearance of arrears more difficult, the Committee wanted to know if apart from amendment of Rule 3-A of the Wealth Tax Rules, the Department of Revenue and Banking had taken or proposed to take up other steps to clear the backlog of the pending cases. In reply, the Department have listed the following steps which have been taken by the Central Board of Direct Taxes to reduce the number of pending cases :

(i) Instruction to the Chief Engineers to the effect that:

(a) Bigger cases should be disposed of on priority basis; and

(b) Suitable time-limit should be fixed within which Valuation Officers should submit their reports.

(ii) Instructions to the Chief Engineers to send age-wise and cause-wise pendency lists so that necessary control can be exercised in the matter.

(iii) Instructions to Commissioners of Income Tax (Incharge of Acquisition Ranges) that they should meet the District Valuation Officers occasionally with a view to sorting out problems that may arise in the functioning of the Valuation Cells.

(iv) A letter has been addressed to the Chief Engineers saying that attempts should be made to dispose of all cases which have been pending for more than one year as on 1-3-1977 by 30-6-1977 and that if any cases remain undisposed of on the said date, a list giving detailed reasons for pendency should be sent to the Branch.

2.29. To dispel Committee's apprehensions that when attempts were being made to clear the backlog of cases, there was always the possibility of cases yielding less revenue getting precedence over higher revenue yielding cases, the Chairman, Central Board of Direct Taxes assured during evidence:

> "We will fix the priority in such a way that the cases yielding more revenue will be taken up first till the backlog has been cleared."

2.30. Asked if any instructions fixing such a priority had been issued, the witness has replied in the negative.

2.31. The Committee further desired to know if any time limit had been set by which the Valuation Cell was required to furnish reports on cases referred to it for Valuation, the Chairman, CBDT, stated:

> "We did not set the time limit."

2.32. The Committee enquired that in such instances how was it ensured that Valuation cell give its reports, well before an assessment was due to become time barred. In reply, the Chairman, Central Board of Direct Taxes has elucidated:

> "What you say is absolutely correct. We will try to ensure this by fixing a much smaller period for the submission of the report of the Valuation Officer so that he does not wait till the last minute to submit the report. It has got to be ensured that valuation report is received well in time before the case can be time barred. Assessments which are likely to get time barred are to be completed before end of December. These are the instructions."

2.33. The Committee enquired if laying down of 4 years' limit on completion of wealth tax assessments by assessing officers as compared with only 2 years limit laid down under the Income Tax Act had possibly given more latitude to the Valuation Cell and led to accumulation of arrears. Clarifying the position the Chairman, Central Board of Direct Taxes, has stated:

> "Some say this (i.e. time limit of 4 years for completion of Wealth Tax assessments) is too large and it should be reduced. We will consider this aspect too. In regard to Wealth Tax you know the period has to be larger than income tax cases. There are various problems of valuation of immovable properties, shares in limited companies and various forms of assets. These are controversial in nature

and so this time limit has to be more. If it is found that 2 years is good enough, we will not hesitate to bring it to 2 years."

2.34. Since the staff of the Valuation Cells which already had backlog of cases on their hand was being utilised for carrying out survey of posh localities in various metropolitan cities, the Committee enquired if it was due to shortage of staff that arrears in the valuation cell were mounting up year after year. In reply, the Chairman, Central Board of Direct Taxes, has stated:

"It is a fact that we do need more staff. There can be no two opinions about it***. The Staff Inspection Unit carried out a study the year before last and with great difficulty we could persuade them to an additional strength of about 600 persons for our income tax work; but they wanted it to be in three phases; one instalment then, one instalment after three years and one instalment after another three years."

2.35. The Committee desired to know if better results could not be achieved by way of increasing the efficiency of the staff and systematic planning of work-load rather than increasing the staff. The Chairman, Central Board of Direct Taxes, has expressed the view thus:

"Increase in efficiency and better planning can cause marginal reduction in arrears. For substantial reduction in arrears, larger staff is needed."

2.36. Asked if increase in staff could help yielding greater revenues and if so to what extent, the witness has stated:

"The Finance Ministry does not want to look at this aspect. I have told that any expenditure on this Department is not to be called expenditure at all; it is an investment. If you spend a lakh of rupees on this department, in return you are likely to get at least Rs. 25 lakhs. I am collecting nearly Rs. 2000 crores and my cost of collection is 1.8 per cent. If I am given more staff and the wherewithal to improve my efficiency, the revenues are bound to increase. The number of assessees will increase. The number of search and seizure cases will increase. As a said, they do not try to make a correlation between the results which are liekly to be achieved and the expenditure that is sought to be increased."

2.37. In this context, the Secretary, Ministry of Finance has clarified the position as under:

> "This question of staff in the Income tax Department has been under fairly continuous review. * * * * * * * We have sanctioned 223 extra posts. * * * *. While it is relatively easy to get posts sanctioned because it merely means taking the approval of the Government and issuing sanction orders, this does not by itself mean strengthening the department because people have to be recruited and recruitment also takes time. He has also to go through a certain amount of experience before he may be let loose on assessment cases."

2.38. In furtherance of their socio-economic policy a Departmental Valuation Cell was set up by Government in October 1968 with the avowed object of preventing large-scale avoidance of taxes by understatement of the returned value of assets and making investment of unaccounted money in real estate unprofitable and unattractive. The Departmental Valuation Cell, which was set up to inter alia assist the Income Tax Officers in detecting under-valuation of urban immovable properties, was manned by qualified and experienced officers drawn from the CPWD and attached with the Income Tax Department on deputation basis. The Taxation Laws (Amendment) Act, 1972 brought about important changes in the provisions of the Direct Taxes Acts, relating to valuation machinery for properties. An elaborate valuation machinery for valuation of immovable properties other than agricultural land was set up in the Income Tax Department and statutory authority was conferred on the officers of the Cell. The Committee are surprised that although the Cell has been functioning for over 8 years, Government have not carried out any direct study or review to see how far the objectives in furtherance of which the Valuation Cell was set up had in fact been achieved. Except for some periodical reports on the working of the Valuation Cell and sample studies, no concerted efforts were made to carry out examination in depth about the functioning of the Departmental Cell and the impact it has made in preventing the escapement of tax. The Committee desire that an immediate review of the working of the Departmental Valuation Cell may be undertaken and the results intimated to the Committee. A note about the functioning of the Cell should also be specifically included in the Annual Report of the Ministry to bring out how far the Cell has been able to subserve the objectives with which it has been set up.

2.39. The Committee find that on 28 December, 1971 the Central Board of Direct Taxes issued detailed instructions laying down the types of cases which should be referred by the assessing officers to the Valuation Cell. By amendment of the Taxation Laws (Amendment) Act, 1972, with effect from 1 January, 1973, it was provided that the valuation determined by the Valuation Officer would be binding on the assessing officer. The amending Act of 1972 stipulated the types of cases which should be referred to the Valuation Cell but it is regrettable that despite the issuance of departmental instructions supported by statutory provisions, a number of cases which merited a reference to the Valuation Cell were in fact not referred to it. Details of several cases have been given by Audit in paragraph* 14.9 of their Report for the year 1974-75, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes.

2.40. In this connection, the Committee would particularly mention that in Ahmedabad a short recovery of wealth tax to the extent of Rs. 2.84 lakhs in the three assessment years ending 31 March 1969 on the basis of value of a self-occupied property in the residential-cum-commercial locality was determined by the Valuation Cell in October, 1974. Similarly, property with a land area of 15,600 sq. yards was returned and assessed at Rs. 5.50 lakhs for the assessment year 1968-69. Though the value exceeded Rs. 5 lakhs, no reference was made to the Valuation Cell. In Bombay, the number of cases referred to the Valuation Cell for re-valuation of properties was only 310 in 1973-74 and 185 in 1974-75 as against the total number of wealth tax assessees viz. 45,256 and 47,985 as on 31 March, 1974 and 31 March 1975, respectively. In one case, an assessee constructed two buildings, very near each other, in Colaba at the same time and declared their values as Rs. 47,14,987 and Rs. 50,59,260. The former property was valued by the Departmental Valuation Cell, at Rs. 77,50,000, but the valuation of the other property was not referred to the Valuation Cell. In Rajasthan out of 476 properties reviewed only seven were found to have been valued by the Cell. Though the Commissioner had issued instructions in November, 1973 that all properties whose returned value was Rs. 2.00 lakhs or more should be referred to the Valuation Cell, it was noticed that in the case of 11 properties those instructions had not been followed.

2.41. The Central Board of Direct Taxes wrote to the Commissioners of Bombay, Gujarat and Rajasthan on 16 October, 1976 about the cases cited by Audit for taking corrective measures. The Committee need hardly point out that after the issue of detailed instruc-

*Reproduced in para 3.9 of PAC Report.

tions about the type of cases which are required to be referred for valuation to the Valuation Cell, any omission in this behalf should be seriously viewed and strict action taken against those found to be remiss in this behalf. The Committee would also like adequate institutional arrangements to be made in the field, at the Commissioner's level as also in the Board's Office to make sure that the instructions issued in this behalf are strictly given effect to by all concerned.

2.42. The Committee find that as against 20 valuation units in 1972-73, there are now as many as 80 valuation units. The expenditure incurred on valuation cells has increased from Rs. 4.36 lakhs in 1972-73 to Rs. 61.94 lakhs in 1974-75. The number of cases decided by the Valuation Cells were 988 in 1972-73, 5,049 in 1973-74 and 14,455 in 1974-75. The rate of disposal was no doubt stepped up but the fact cannot be gainsaid that the cell accumulated as on 1 April 1976 a backlog of 11,682 cases. According to the information furnished to Audit by the Department of Revenue and Banking on 29 March 1975, the Valuation Cells were able to detect under-valuation to the extent of Rs. 35.33 crores in 1971-72, Rs. 42.54 crores in 1972-73 and Rs. 24.04 crores in 1973-74. The Committee are, however, surprised that the Department do not know as to whether the enhanced value determined by the Valuation Cell was in fact adopted by the Assessing Officers for finalising the assessments and the amount of additional tax which was gathered on this account. Information is also not available about the penalties levied and collected from the assessees for concealment. Further it is not known whether information contained in the reports of the Valuation Officers was used in re-opening earlier years' assessments wherever called for. It is necessary that the Department should have a review made at least, in the metropolitan cities, of the action taken on the valuation reports in all these respects. The Committee would like to know the result of the review early. Another lacuna which the Committee have noted is the absence of an age-wise/cause-wise analysis of pending cases. They are said to be "not readily available".

2.43. The Committee would like to recall earlier recommendation made by them in their 51st, 150th and 186th Reports (Fifth Lok Sabha) emphasising the need for setting up of an efficient statistical organisation under the Board to have meaningful and contemporaneous data for assisting the Government in taking decisions. The Committee are yet to be informed that the requisite statistical organisation has come into being.

2.44. The Committee are perturbed to find that the Valuation Cells have still a large number of cases on hand awaiting disposal.

According to the Department of Revenue and Banking on 1 April, 1976 there were 6,736 pending cases in Delhi region and 4,946 pending cases in Madras region making up a total of 11,682 pending cases in all. It is further observed that 70 per cent of the pending cases in Delhi region and 83 per cent in Madras region relate to valuations under the Wealth Tax Act. Though disposal of pending cases is increasing from year to year, the Committee feel that considering the large number of new cases which are referred to the Valuation Cell each year, the Cell may not, at this rate, be able to clear the back-log. For example, while the number of new wealth tax cases referred to the Cell was only 535 in 1972-73, new cases of wealth tax increased to 1,724 in 1973-74 and to 11,022 in 1974-75. The reasons for such a high pendency of cases are varied and these have been mentioned in para 2.25 of this Report. The Committee have been informed that in order to reduce the number of pending cases with the Valuation Cell, besides amending Rule 3-A of Wealth Tax Act with effect from 15 December 1976, the Chief Engineers have also been asked by the Department to (i) dispose of bigger cases on priority basis, (ii) fix suitable time limit within which Valuation Officers should give reports on references made to it, (iii) send age-wise and cause-wise lists of pending cases for effective control, (iv) make attempts to dispose of by 30 June 1977 all cases which have been pending for more than one year as on 1 March 1977 and give a report on cases which are not disposed of. The Committee have also been informed that the Commissioners of Income Tax have been asked to meet the District Valuation Officers occasionally to sort out problems, if any. One of the reasons advanced for delay in finalisation of cases by the Valuation Cell is stated to be the dilatory tactics adopted in some cases by the assessees in submitting the requisite documents and information. The Committee need hardly point out that in such cases stern action should be taken against the assessees so as to act as a warning to others.

2.45. The Chairman, Central Board of Direct Taxes has conceded during evidence that Rule 3-A of the Wealth Tax Rules was deficient and had led to some extent to accumulation of work in the Valuation Cell. The aforesaid rule provided that Regional Valuation Officer was merely to supervise the work of the Cell under his control, while the District Valuation Officer could value properties exceeding Rs. 5 lakhs only, the Valuation Officer could value properties exceeding Rs. 2 lakhs but not exceeding Rs. 5 lakhs and the Assistant Valuation Officer was to handle cases of property valuing upto Rs. 2 lakhs. This is stated to have resulted in uneven load of work among various categories of officers. The Committee regret that

though this rule had remained in operation for a number of years, its adverse effect was noticed by the Department only recently. Since the rule has now been amended with effect from 15 December, 1976 to deal with the mal-adjustments in its functioning, the Committee desire that operation of the Rule as amended may be kept under review by the Department. The Committee would like to know in due course how the amended Rule has made for more expeditious finalisation of cases.

2.46. The Committee are surprised to note that the Central Board of Direct Taxes has not fixed any priorities for disposal of cases by the Valuation Cell. The Committee feel that while efforts already under way to clear the backlog of pending cases may continue, care may be taken to see that, in the process, cases capable of yielding less revenue do not get precedence merely because of the fact that such cases had been lying with the Cell for a longer time. The Committee urge that as assured during evidence, priorities should be fixed by the Board in such a way that cases expected to yield higher revenue are handled by the Valuation Cell on top priority basis.

2.47. The Committee also find that though the number of cases pending with the Valuation Cells had kept on increasing year after year, the Central Board of Direct Taxes had not laid down any time limit by which the Cell should finalise its reports on cases referred to it. The Committee recommend that time limit for finalisation of valuation reports may be laid down so that reports are available to the assessing officers well before the assessments become time-barred under various Direct Taxes Acts.

2.48. The Committee note that while the Income-tax assessments are required to be completed within two years, the time that has been laid down for completion of wealth tax assessments is four years. The Chairman, Central Board of Direct Taxes has pleaded during evidence that the time limit for wealth-tax assessments had to be higher because unlike income tax assessments, wealth tax assessments involved problems of valuation of property and other forms of assets. When the Committee pointed out that laying down of a higher time limit for completion of wealth tax assessments might have given more latitude to the Valuation Cell, and thus led to accumulation of arrears, the Chairman, Central Board of Direct Taxes assured the Committee that this aspect would be considered. The Committee would like to be apprised of the result of consideration of the matter.

2.49. What has surprised the Committee more is the fact that while the Valuation Cell had a backlog of as many as 11,684 pending cases as on 1st April, 1976, some of its staff was diverted by the Department and put on an entirely different type of work viz. survey of posh localities. While discussing the question of augmentation of staff strength in the context of mounting arrears of work in the Valuation Cell, the Chairman, Central Board of Direct Taxes, has expressed the view that "increase in efficiency and better planning can cause marginal reduction in arrears. For substantial reduction in arrears, larger staff is needed." He has stated that if he was given more staff and the wherewithal to improve efficiency "the revenues are bound to increase." In this connection, the Committee have also been given to understand that with the collection of nearly Rs. 2,000 crores as revenue, the cost of collection of revenues came to only about 1.8 per cent. The Finance Secretary stated during evidence that the question of increase in staff in this Department had been under "fairly continuous review" and that 223 extra posts had already been sanctioned for the Income Tax Department. The Committee are, however, conscious of the fact that placing of too much reliance on augmentation of staff strength may prove counter-productive in the long run. They, therefore, stress the need for fixing realistic norms of work, deployment of staff on a more scientific basis and a greater emphasis on expeditious and conclusive disposal of cases, particularly those with large tax implications.

CHAPTER III

VALUATION OF URBAN IMMOVABLE PROPERTIES

Audit paragraph

The Income-tax Act and other direct taxes enactments have been repeatedly amended in recent years with a view to preventing evasion of taxes through under-valuation of immovable properties. The provision made in 1964 about the production of a tax clearance certificate for registration of transfer documents in respect of properties valued at more than Rs. 50,000 and flaws noticed in the actual administration of this provision were pointed out in paragraph 12 of the Audit Report 1973-74.

3.2. The Income-tax Act, 1961 was also amended through the Taxation Laws (Amendment) Act, 1972 with effect from 15th November, 1972 to introduce a new chapter—Chapter XXA authorising the Department to acquire an immovable property, where such property is transferred by sale or exchange and the true consideration for such transfer is concealed with the object of evading taxes. Under these new provisions acquisition notices were issued in 8258 cases upto 31st March, 1975. Of these, the proceeding were dropped in 2,785 cases. Acquisition orders were made in 136 cases covering 120 properties, whose total consideration, as stated in the instruments of transfer, was Rs. 1.28 crores against the fair market value of Rs. 2.59 crores. None of the acquisition orders had however, become final as on 31st March, 1975 and not a single property had been acquired by that time.

3.3. The subject of valuation of properties is itself of considerable importance not only in the normal working of the various direct taxes, but more so in the proper implementation of the said new provisions made specifically to tackle the problem of under-valuation of properties.

3.4. The basic principle underlying the valuation of properties as laid down in the various Direct Taxes Acts is that the value of any property shall be estimated to be the price which, in the opinion of the assessing authority the property would fetch, if sold in the open market. It has been judicially held that the Statute does not contemplate actual sale or the actual state of the market but only

enjoins that it would be assumed that here is an open market and the property can be sold in such a market and on that basis the value has to be found out.

3.5. The Public Accounts Committee have repeatedly, expressed concern about the extent to which property values are depressed in tax returns. The Audit Report (Civil) on Revenue Receipts, 1969 mentioned a case in paragraph 58(a) where two urban properties declared for wealth-tax at Rs. 1,80,000 and Rs. 1,00,000 were acquired/purchased by a State Government and a University at Rs. 26.40 lakhs and Rs. 10 lakhs respectively. While commenting upon this case, the Public Accounts Committee (Fourth Lok Sabha) in paragraph 1.88 of their 117th Report, emphasised the need to undertake a survey of all metropolitan properties in accordance wih a time-bound programme. The Committee reiterated the suggestion in their 25th and 88th Reports and the Board issued instruction No. 265 through their letter No. 326|6|70-WT, dated 12th January, 1971 that a time-bound programme for survey should be drawn-up.

A test check conducted in respect of certain localities in a few major cities indicated the following position:—

(i) In Ahmedabad, no regular or special survey was carried out by the Department in a recently developed posh locality, either to locate new assessees or to detect evasion of taxes through under-valuation of properties.

(ii) In Bhubaneswar, no special survey was conducted in pursuance of the recommendations of the Public Accounts Committee but a general survey was carried out from August 1974 in a few areas only. Out of survey reports received till March, 1975, follow-up action had been taken only in 230 cases.

(iii) In Bombay, routine surveys had been undertaken since July, 1972 but there was no effective procedure for follow-up action on the results of these surveys. There was no evidence of any special survey, as required by the Public Accounts Committee, having been conducted till March, 1975.

(iv) In Calcutta, it was noticed that the surveys conducted by the Department covered only shops and premises and the

surveys were conducted at random and not in any systematic manner. There was no scheme for an overall survey of immovable properties in areas developed in the recent past in and around Calcutta.

(v) In Delhi, only a partial survey was conducted in a selected locality and the survey reports did not contain essential details like the cost and nature of construction. No extracts of these survey reports were found in the assessment records of the concerned assessees and some of the assessing officers expressed complete unawareness of the receipt of any such extracts. A correlation of the survey reports with the records in the Land and Development Office showed that, in many cases, the persons shown as owners in the survey reports were different from those shown as such in the records of the Land and Development Office.

(vi) In Hyderabad, a limited survey was conducted in 1974. The survey was a new-case-oriented one and was confined to certain old and established business area. The survey registers did not contain any information about the owners of the buildings or details relating to the area of site, nature of construction, date and the cost of construction.

(vii) In Jaipur and Udaipur, surveys were conducted in some localities/colonies but these were incomplete and did not cover all the properties in a locality or all localities of the city. Follow-up action was also not found complete as the survey reports had not been forwarded to the assessing officers in all cases.

(viii) In Kanpur, a partial survey was conducted but there was no evidence of any follow-up action. The results of survey were passed on to two assessing officers having jurisdiction over the localities in August, 1973 but these were not available in those offices at the time of audit. In one of the assessing offices the results were stated to have been misplaced.

3.6. In relation to house properties, the Central Board of Direct Taxes have, by executive instructions, [*vide* Board's circular No. 4-D (W.T.) of 1965 dated 30th July, 1965] indicated two methods of valuation which could be adopted in cases where market values cannot be ascertained with due regard to the nature, size and locality of the property, the amenities available and the prices prevail-

ing for similar assets in the same locality or in the neighbourhood. The first of these two methods, called the capitalisation method involves capitalisation, at the rate of return expected from house properties, of the net annual average income from the property. This method is suited mainly to the case of properties which are fully developed and fetch economic rent. The fairness of the results obtained would depend on the correctness of the net annual average income on the one hand and the multiplier adopted for capitalisation on the other. The second method called the land and building method, involves valuing the land and the building separately. This method is more suitable in important cities where land has a very high value and the income from the building does not, often, give a proper idea as to the value of the land on which it is situated.

3.7. In May, 1969 the Central Board of Direct Taxes issued instructions that, where on the basis of a Valuer's certificate, the value of a property is shown at a higher figure in a certain year as compared to its value declared in the earlier years, the earlier assessment should be reopened only in cases where the assessee had failed to furnish all relevant details in the earlier years and not in cases where the higher valuation had resulted from a difference in the method of valuation adopted. The Board also stated that where an assessee, filing a return for the first time on the basis of a Valuer's certificate, had not filed any return in the earlier years on a *bona fide* belief that the value of his assets was below the taxable limit, no action should be taken for the earlier assessment years. These instructions were revised, at the instance of Audit in June, 1970, to provide that even where the higher valuation in the subsequent year was attributable to a different basis of valuation, the earlier assessments should be reopened if the difference in valuation exceeded 25 per cent of the value adopted in the earlier years and the assessee could not plausibly explain the difference. The revised instructions also provided that where a return was filed for the first time on the basis of a Valuer's certificate, an enquiry should be made in regard to the earlier years so as to reopen earlier assessment, if it was found that the assessee was liable to wealth-tax in any earlier year.

3.8. It was noticed during the test check that the Valuers, generally, adopted the income capitalisation method for the valuation of house properties. There were, however, cases where this method

was not followed, though it was the appropriate method or where it was applied incorrectly. Some instances are given below:

(i) In Ahmedabad, a building property constructed on a lease-hold plot of 3,691 sq. yds. at a returned cost of Rs. 6,20,325 was valued by the Valuation Cell at Rs. 8,76,000 in December, 1970. The value was determined on the basis of the fair average rate of construction. It did not include the value of lease-hold rights, the cost of lifts and the cost of temporary garages. The Valuer had stated that this could not be taken to be the value of the property which would depend on the income that the property was fetching.

During the previous year relevant to the assessment year 1969-70 the total effective rent realised from this building was Rs. 3,52,291 and even on the basis of taking the value at 8 times the net annual rental income, the value of the property would be over Rs. 14 lakhs. The assessment was, however, made at Rs. 8.76 lakhs.

(ii) In Kanpur, a house property constructed in 1967-68 was not returned or assessed to wealth tax for the assessment year 1968-69 though it had been completed and let out prior to the relevant valuation date i.e., 31st March, 1968. The cost of the building was estimated by an approved Valuer in September, 1968 at Rs. 2,11,267 and the value of land (3,011 sq. yds.) at the prevailing municipal market rate of Rs. 60/- per sq. yard for this locality was Rs. 1,80,660. The total value of the property not assessed to tax for 1968-69 was thus, Rs. 3,91,930.

For the assessment years 1969-70 to 1971-72, the property was assessed to tax at a value of Rs. 2,65,825 on the basis of the value computed by an approved Valuer on the land and building method. For the assessment year 1972-73, the property was valued by another Valuer on the basis of the income capitalisation method and the annual value was multiplied by ten. If the same method with the same multiplier was followed for the assessment years 1969-70 to 1971-72, the value of the property would work out to Rs. 4 lakhs as against Rs. 2,65,825 taken for assessment.

(iii) In Hyderabad, two properties were valued at Rs. 5,42,685 on the basis of land and building method. Under income

capitalisation method the value of these properties would work out to Rs. 8,05,800.

In 3 cases where housing properties were valued on income capitalisation method, it was noticed that there was an under-valuation of Rs. 2.64 lakhs per year, either because of the adoption of a lower net income in respect of the property or due to the adoption of a higher yield rate.

3.9. In 1968, the Government of India set up its own Valuation Cells in Ahmedabad, Bombay, Calcutta, Delhi, Lucknow and Madras for the valuation of properties for purposes of assessment to direct taxes. The Central Board of Direct Taxes issued instructions, from time to time, about the types of cases to be referred by the departmental authorities to these Valuation Cells. In December, 1971, in Instruction No. 365 issued through circular F. No.319/5/70-WT, dated 28th December, 1971, the Board directed that, apart referring cases where a reference is considered necessary in the interest of revenue, the following types of cases should be referred to the Valuation Cells:

(i) Cases under the Income-tax Act, where there is a suspected under-valuation of Rs. 50,000 or more;

(ii) Cases under other direct taxes;

(a) where the net annual value is not less than Rs. 10,000 and the declared value is less than 8 times the net annual rental value, or

(b) where the returned value is Rs. 5 lakhs or more, or

(c) where there is a suspected under-valuation of 20 per cent, with a monetary minimum of Rs. 50,000.

In 1972, the various direct tax enactments were amended through the Taxation Laws (Amendment) Act, 1972 to provide a statutory basis for reference of the question of valuation to the Valuation Cells. According to the rules framed under the amended Acts, in the case of wealth-tax a reference would lie to the Valuation Officer, if, in a case supported by the certificate of a registered Valuer, the assessing officer is of the opinion that the returned value is less than the fair market value and, in any other case, the assessing officer considers that the fair market value exceeds the returned value by more than 33-1/3 per cent or Rs. 50,000, whichever is less.

Instances were noticed during the test check where cases, which apparently called for a reference to the Valuation Cell, were not so referred. A few instances are given below:—

(i) In Ahmedabad, a self occupied property, in a residential-cum-commercial locality, and on a land area of 5,980 sq. yards was returned and assessed to wealth-tax at Rs. 2.50 lakhs in the assessment years 1963-64 to 1969-70. The value was not reassessed/revised upwards at any stage during these years, nor was it referred to the Valuation Cell. In the assessment year 1968-69, the assessee produced a certificate from an approved valuer showing the value of the property at Rs. 2,40,000. As a result of an objection raised by Audit in 1972, the valuation was referred to the Valuation Cell, who in October, 1974 determined the value of the property at Rs. 19.47 lakhs on 31st March, 1967, Rs. 22.83 lakhs on 31st March, 1968 and Rs. 25.93 lakhs on 31st March, 1969. On the basis of this valuation, the short recovery of wealth-tax in the 3 assessment years would be of the order of Rs. 2.84 lakhs.

Another similar property with a land area of 15,600 sq. yards was returned and assessed at Rs. 5.50 lakhs for the assessment year 1968-69. The assessment was completed in March, 1973. Though the value exceeded Rs. 5 lakhs, no reference was made to the Valuation Cell.

(ii) In Bombay, the number of cases referred to the Valuation Cell for re-valuation of properties was 310 in 1973-74 and 185 in 1974-75 as against the total number of wealth-tax assessees *viz.* 45,256 and 47,985 as on 31st March, 1974 and 31st March, 1975 respectively.

In one case, an assessee constructed two buildings, very near each other, in Colaba at the same time and declared their values as Rs. 47,14,987 and Rs. 50,59,260. The former property was valued by the departmental Valuation Cell, on a reference made to them under the Income-tax Act, at Rs. 77,50,000. The valuation of the other property was not referred to the Valuation Cell.

(iii) In Rajasthan, out of 476 properties reviewed, only seven were found to have been valued by the departmental Valuation Cell. The Commissioner had issued instructions in November, 1973 that all properties whose return-

ed value is Rs. 2.00 lakhs or more should be referred to the Valuation Cell. It was, however, noticed that in the case of 11 properties these instructions had not been followed.

3.10. The Public Accounts Committee had also suggested in paragraph 2.7 of their 117th Report (1969-70) and again in paragraph 1.24 of their 25th Report (1971-72) that it would be necessary to devise adequate checks over the work of Valuers to ensure that valuation is correctly and fairly done. The Wealth-tax Rules empower the Board not to register any Valuer, if in their opinion, such Valuer has been guilty of misconduct in his professional capacity. The test check revealed that the valuation by Valuers was always much lower than that by the departmental Valuation Cell. Thus—

(i) In Calcutta, out of 13 cases studied, 4 cases valued by approved valuers were subsequently valued by the departmental Valuation Cell. The departmental valuation worked out to be more in each case, the percentage of increase varying from 31 to 100. The Department had not, however, tried to prepare any list of valuers, whose estimates were invariably or generally lower than those of the Department itself.

(ii) In Hyderabad, in 10 cases, all but one of which had been valued by approved Valuers, it was seen that the rates of land and unit costs of building were substantially lower than the rates adopted by the Valuation Cell for similar properties in the same areas and at the same time. On the basis of rates adopted by the Valuation Cell, the under-valution, in these cases, worked out to 42 to 70 per cent or a total of Rs. 12.60 lakhs per year.

(iii) In Kanpur, the value of land of a property was returned at Rs. 1,02,400 for the assessment years 1969-70 to 1972-73 on the basis of an approved Valuer's report, who computed the value at Rs. 32 per sq. yard. The Municipal market rate of land in that locality was Rs. 85 per sq. yard for the assessment year 1968-69, and Rs. 130 per sq. yard in July, 1973.

The departmental Valuation Cell valued the land for the assessment year 1973-74 at the rate of Rs. 127 per sq. yard. Adopting a graded rate of increase in the market rate from time to time, the aggregate under-valuation

for the assessment years 1969-70 to 1972-73 would work out to Rs. 9,97,4000.

In the case of another property in the same locality, an approved Valuer adopted the rate of Rs. 35 per sq. yard in the valuation of a building property on a land area of 2,540 sq. yards. The valuation was accepted for the assessment years 1973-74 and 1974-75. On the basis of the valuation given by the Valuation Cell in the other case, there would be an aggregate under-valuation of Rs. 4,52,120 in the two assessment years.

(iv) In Rajasthan, in the case of seven properties referred to the Valuation Cell, the valuation by the Cell was more than that returned on the basis of the approved Valuers' certificates to the extent of 21.7 to 296.4 per cent. Further, the valuation certificates did not, in many cases, contain vital information like location, area of land, built up area, specifications of construction, etc. Sometimes the value of land was not included or was included only partially.

3.11. In paragraph 1.89 of their 117th Report (1969-70) and again in paragraph 5.32 of their 119th Report (1973-74), the Public Accounts Committee had emphasized the need to establish a proper coordination among different direct taxes assessments and also between the Central and States Taxes Departments to improve the quality of tax administration. The present test check revealed a lack of such coordination in many cases resulting in loss of revenue. It also revealed cases where information already available with the Department was not made use of in the interest of revenue. A few instances are given below:

(i) In Ahmedabad, a house property jointly owned by five individuals was assessed to wealth-tax at less than Rs. 6.00 lakhs on the basis of an approved Valuer's report. In the estate duty assessment of one of the co-owners completed in February, 1974, the value of the property was taken as Rs. 17,47,900 on the basis of the departmental Valuation Officer's report of October, 1973. The Wealth-tax Officer did not refer this case to the Valuation Officer at any stage though the value exceeded Rs. 5 lakhs. Even after the departmental valuation for estate duty purposes, the higher value was not adopted in the Wealth-tax assessment. The failure to refer the case to the Valuation Cell and to co-ordinate

the value ascertained for estate duty resulted in an aggregate under-assessment of wealth of Rs. 26.69 lakhs for 5 years for only two co-owners; the records of the remaining co-owners were not made available.

(ii) In Bombay, a house property at Peddar Road, jointly, owned by 6 persons, was returned and assessed to wealth-tax at Rs. 10,57,897 during the assessment years 1957-58 to 1960-61. The property was acquired by the Government of India in July, 1961 at a compensation of Rs. 22,37,349. In the assessment to capital gains tax, the Appellate Tribunal accepted the assessee's claim in September, 1974 based on an approved Valuer's report, that the valuation of the property as on 1st January, 1954 was Rs. 19,26,900. There was still no attempt to revise the valuation in the wealth-tax assessment for the assessment years 1957-58 to 1960-61.

(iii) In Bombay, also a multi-storeyed building on Warden Road was officially valued by the Department in January, 1972. According to the valuation report, the cost of each flat of about 2,200 sq. ft. carpet area in this building would be Rs. 3.30 lakhs. It was, however, noticed that an assessee, owning a flat in this building, returned the value of her flat for the assessment years 1973-74 and 1974-75 at Rs. 1,27,000 as per valuation of an approved Valuer made on 5th June, 1973. The Department accepted this return. On the basis of the Department's own valuation, there would be an under-assessment of Rs. 2.03 lakhs in each of the assessment years. This would also call for a review in the case of all other 46 flat owners in this building.

In another case, a flat in a multi-storeyed building at Cumballa Hill, returned at Rs. 3 lakhs was officially valued at Rs. 3.50 lakhs as on 31st March, 1973. This valuation was not made use of by the Department in the revision or completion of assessments of the other 71 flats owners in the same building, though much lower valuation was returned in their cases.

In still another case, departmental valuation of a property in Cuffe Parade, made for the purpose of Income-tax Act, came to Rs. 77.50 lakhs as against the declared value of Rs. 47,10,987. The revision of the wealth-tax

assessments of flat owners for this building which was apparently called for, was not, however, taken up.

(iv) In Rajasthan, the State Government levy a tax on the value of urban lands and building under the Rajasthan Lands and Buildings Tax Act, 1964. The principles of valuation under this Act are the same as those under the Central Direct Taxes enactments. The State Lands and Buildings Tax Department had worked out land rates for various urban localities as on 31st March, 1973 on the basis of the rates given in the returns filed by the assessees, rates obtained in actual sales, reserve prices fixed and rates received during auctions held by the Urban Improvement Trusts/Municipalities, etc. On a review of 15 cases, it was seen that the values assessed to wealth-tax were lower by 21.6 to over 100 per cent than the values determined by the State Lands and Building Tax Department for the same properties. A similar lack of co-ordination was noticed in the following instances:

(a) Although many properties in the cities of Jaipur, Jodhpur and Udaipur have vast landed areas and land prices have risen very steeply in the last few years, the Valuers, as well as the assessing officers, were found to have continued with the old low rates, resulting in large scale under-valuations of such properties. Thus, in the valuation of seven properties situated in Mirza Ismail Road in Jaipur, the Valuers had adopted rates of land ranging from Rs. 7.50 to Rs. 80 per sq. yard during the years 1967 to 1971, though the value of land in this area was being assessed at Rs. 630 per sq. metre as on 31st March, 1973 by the State Lands and Buildings Tax Department.

(b) A commercial building property at Mirza Ismail Road. Jaipur was assessed to wealth-tax on the basis of value of land computed at Rs. 160 per sq. yard for show room land, Rs. 60 per sq. yard for workshop land and Rs. 50 per sq. yard for petrol pump land making up a total of Rs. 1,67,250. Similar lands in nearby commercial buildings, were valued by other Valuers at Rs. 250 per sq. yard in March, 1969 and Rs. 350 per sq. yard in March, 1973. There would be an aggregate under-valuation in this case of over Rs. 13 lakhs during the three assessment years, 1970-71 to 1972-73.

(c) In Jodhpur, a house property assessed to wealth-tax at Rs. 2.90 lakhs to Rs. 3.50 lakhs during the assessment years 1969-70 to 1973-74 had a land area of 22,967 sq. yards. This land was valued at Rs. 3 per sq. yard on the basis of a valuation made in 1964 for the assessment year 1957-58. The Urban Improvement Trust had fixed a reserve price of Rs. 18 per sq. yard for plots in this area in January, 1970 and the State Lands and Buildings Tax Department had fixed a rate of Rs. 44 per sq. yard for similar lands in this area in March, 1973. On the basis of these rates, there would be an aggregate under-valution of about Rs. 18 lakhs during the assessment years 1969-70 to 1973-74.

(d) Another property assessed to wealth-tax at Rs. 2,91,135 to Rs. 3 lakhs during the assessment years from 1969-70 to 1974-75, had a land area of 28,047 sq. yards. This land was valued at Rs. 3 per sq. yard. The rates adopted by some other Valuers for similar plots in the same area during these years varied from Rs. 15 to Rs. 25 per sq. yard. The reserve price fixed by the Urban Improvement Trust, in January, 1970 for this area, was Rs. 22.50 per sq. yard and the rate fixed by the State Lands and Building Tax Department in March, 1973 was Rs. 28.35 per sq. yard. There would be an aggregate under-valuation of about Rs. 32 lakhs in the 6 assessment years from 1969-70 to 1974-75.

(e) In two other cases, landed properties of 64,603 and 48,800 sq. yards in the same area in Jodhpur were assessed during the assessment years 1965-66 to 1972-73, at rates below Rs. 2 per sq. yard. The rate based on actual sales in another case in the same area rose from Rs. 9 per sq. yard in 1965-66 to Rs. 33.30 per sq. yard in 1972-73. The State Lands and Building Tax Department had valued similar land in that area at Rs. 45 per sq. yard in March, 1973. Even on the basis of the former graded rate, the aggregate under-valuation in these two cases would be over Rs. 55 lakhs in the said assessment years.

(f) A building in Jaipur was assessed to wealth-tax at the same figure of Rs. 1,95,000 in 4 assessment years, 1968-69 to 1971-72. The land area of 8,237 sq. yards was valued at Rs. 5 per sq. yard for developed land (875 sq. yards)

and Rs. 10 to 15 per sq. yard for undeveloped land (7,362 sq. yrds.). According to the Collector, the prevailing rate in September, 1970 was Rs. 50 per sq. yard. Adjacent vacant plots were auctioned by the Urban Improvement Trust in July, 1972 at an average rate of Rs. 52.50 per sq. yard. The State Land and Building Tax Department valued the land in this area at Rs. 70 per sq. metre in March, 1973. On a conservative estimate, there would be an aggregate under-valuation of Rs. 11 lakhs in the said four assessment years.

3.12. As the values of urban properties keep on increasing from year to year, the Central Board of Direct Taxes had issued instructions in July, 1969 (circular No. 6/11/69 WT, dated 3rd July, 1969) to the effect that the assessable values of such properties once determined should ordinarily be left undisturbed in two subsequent assessment years only. Instances where the assessable values were not revised over much longer periods were noticed in Ahmedabad, Hyderabad and Jaipur.

In Rajasthan, the plinth area rates prescribed by the State P.W.D. in March, 1968 were adopted for calculating the cost of building. These rates, according to the Superintending Engineer of the Departmental Valuation Cell, were not suitable for this purpose, as these were meant basically, for calculation of standard rents of Government buildings in which the specifications used are considerably different as compared to private buildings. The Superintending Engineer had stated in November, 1974 that the Departmental Valuation Cell itself had been following the Central said State P.W.D. rates were "very low and unrealistic." The departmental Valuation Cell itself had been following the Central Public Works Department plinth area rates and cost indices circulated by the Central Board of Direct Taxes for the guidance of the assessing authorities in December, 1971 (Instruction No. 365 issued through circular F. No. 319|5|70 WT, dated 28th December, 1971).

The Commissioner had issued instructions in August, 1972 that the property values computed on the State P.W.D. plinth area rates of 1968 should be stepped up progressively in the subsequent years. It was, however, noticed that 234 urban properties belonging to 151 assessees and valued at over Rs. 1.35 crores were valued by the assessing officers at the same price in 2 to 7 successive assessment years from 1968-69 to 1974-75.

3.13. In Rajasthan, in over 2/3rd of the 476 cases reviewed, essential details like area of land, built-up area, specifications of construction, site and building plans, copies of purchase deeds, etc., were not obtained. As a result, not only, in most of the cases, the values as returned by the assessees were accepted or they were marginally increased on agreed basis without making any effort to ascertain the market values on the relevant valuation dates, but also

concealment of wealth went unnoticed in some cases. A few instances are given below:—

(a) In returning for wealth-tax a property consisting of land and building, an assessee in Jaipur, had been returning the area of land as 69,382 sq. ft. since the assessment year 1957-58. The assessee sold 45,757 sq. ft. of this land in two lots in September, 1958 and April, 1970. The balance of land was measured by a valuer as 73,260 sq. ft. Apparently, the original area of land was 1,19,017 sq. ft. instead of 69,382 sq. ft. as returned and accepted. The aggregate amount of wealth escaping assessment over the 13 years from 1957-58 to 1969-70 would be over Rs. 23 lakhs.

(b) An assessee in Jodhpur had been returning a land area of 44,000 sq. ft. with a building property since the assessment year 1957-58. The valuation certificates of approved Valuers furnished by the assessee in the assessment years 1968-69 and 1971-72, however, showed the area of land as 1,38,177 sq. ft. Thus, for a period of 11 years from 1957-58 to 1967-68 the land area was short returned and assessed by 94,177 sq. ft. making for an aggregate escapement of wealth of over Rs. 11 lakhs.

(c) In Udaipur, two plots of land jointly owned by six brothers had been returned during the assessment years 1965-66 to 1972-73 with an area of 1,72,464 sq. ft. In the assessment year 1973-74, the total area of these plots was taken as 3,88,044 sq. ft. A land area of 2,15,580 sq. ft. thus escaped assessment during the said 8 years making up an aggregate escapement of wealth of over Rs. 40 lakhs.

(d) In Jodhpur, an undeveloped land area of 15,361 sq. yeards with a building property was assessed to wealth-tax at the rate of 28 paise per sq. yard, while similar undeveloped plots were valued at rates ranging from Rs. 1.50 to Rs. 22.50 per sq. yard. The developed part of this plot itself was valued at Rs. 18 per sq. yard. The aggregate under-valuation in the 9 assessment years from 1966-67 to 1974-75 would be of the order of Rs. 24 lakhs.

3.14. The Ministry have stated (January, 1976) that necessary information has been called for from the field formations.

[Paragraph 14 of the Report of the C&AG of India for the year 1974-75, Union Government (Civil), Revenue Receipts Vol. II, Direct Taxes.]

A. Acquisition of properties concealing true consideration

3.15. An immovable property is to be valued, for the purpose of direct taxes, at a price which, in the opinion of the assessing authority, the asset is estimated to fetch if sold in the open market on the relevant date. The phrase 'if sold in the open market' does not contemplate actual sale or the actual state of the market but only enjoins that it should be assumed that there is an open market and the porperty can be sold in such a market even hypothetically. The market price is the price at which a seller and a purchaser are willing to sell and purchase respectively. Valuation of immovable properties under one or the other recognized methods of valuation is generally the responsibility of the assessing authority. When with effect from 1 April, 1969, the penalty provisions for concealment were made more stringent, the Government extended the facility to the assessees/accountable persons to get the valuation done and certified by approved and registered valuers and return the value of the assets concerned on the basis of such certificates. The Audit has pointed out that despite this, values of properties continued to be under-stated by the assessees/accountable persons in the income-tax, wealth-tax and gift-tax returns and estate duty accounts and the transfer deeds executed and registered in relation to transfer of assets. Under-statement of values were noticed by the Audit even in cases where an approved valuer had done the valuation.

3.16. From the year 1960 onwards, the value of immovable properties registered a phenomenal increase due to all round economic development and growth of urban areas. This increase has, however, not been reflected in the value of immovable properties returned and assessed resulting in evasion/avoidance of direct taxes. According to Audit, the return from immovable properties increased but much more in the shape of capital appreciation of the properties. The percentage yield from real estate, hovered, due to ontinuous increase in their value, between 5 per cent to 8 per cent. On account of speculative gains resulting from investment in real estate, such investments have become a heaven for the persons having unaccounted money.

3.17. The Income-tax Act, 1961 was amended by the Taxation Laws (Amendment) Act, 1972 with effect from 15 November, 1972 to introduce a new Chapter—Chapter XX-A—authorising the Department to acquire an immovable property, where such property is transferred by sale or exchange and the true consideration for such transfer is concealed with the object of evading taxes.

3.18. The Committee desired to know the objectives sought to be achieved by the introduction of Chapter XX-A in the Income-tax Act with effect from 15 November, 1972 and how far these objectives have been achieved. In a note, the Central Board of Direct Taxes stated:

> "Taxation Laws (Amendment) Act, 1972 inserted a new Chapter XXA in the Income-tax Act, 1961 with effect from 15-11-1972 with the object of countering evasion of tax through under-statement of the value of the immovable properties in transfer deeds and also to stop circulation of black money by empowering the Central Government to acquire immovable properties including agricultural lands at prices which correspond to those recorded in the transfer deeds plus solatium of 15 per cent thereof.

3.19. Action under the aforesaid provisions is taken if the following three conditions are satisfied—

(i) That the competent authority has reason to believe that the immovable property is of a fair market value exceeding Rs. 25,000;

(ii) He has reason to believe that the fair market value of such property exceeds the apparent consideration therefor by more than 15 per cent of such apparent consideration; and

(iii) He has reason to believe that the consideration for such transfer as agreed to between the parties has not been truly stated in the instrument of transfer with the object of either facilitating the reduction or evasion of the liability of the transfer or to tax in respect of any income (including capital gains) arising from the transfer or facilitating the concealment of any income or any monies or other assets which have not been or which ought to be disclosed by the transfer for the purposes of the Indian Income-tax Act, 1922, Income-tax Act, 1961 or Wealth-tax Act, 1957."

3.20 Audit paragraph points out that though under these new provisions acquisition notices were issued in 8,258 cases upto 31 March 1975, proceedings had been dropped in 2,785 cases. Acquisition orders were made in 136 cases covering 120 properties whose total consideration, as stated in the instruments of transfer, was Rs. 1.28 crores against the fair market value of Rs. 2.59 crores. None of the acquisition orders had, however, become final as on 31 March 1975 and not a single property had been acquired by that time.

3.21 In the course of his evidence before the Committee in March 1978, the representative of the Department of Revenue handed over to the Committee a statement showing the progressive figures upto 31st January 1978 of action taken in pursuance of the provisions regarding acquisition of immovable property on incorrect valuation introduced in the Income-tax Act, 1972. The statement is reproduced below:—

Statament showing the position in respect of cases of Acquisition Property under Chapter XXA of Income-Tax Act, 1961.

Period	No. of notices issued	Acquisition order passed	Properties involved	Apparent consideration	Fair Market Value	No. of proceedings dropped	Pendency of proceedings	No. of orders have actually become final	No. of properties vested u/s 2691(4)
1	2	3	4	5	6	7	8	9	10
[PROGRESSIVE]					(Rupees in Crores)				
31-3-74 . . .	4191	26	23	0·16	0·30	NOT AVAILABLE		Nil	Nil
31-3-75 . . .	8187	136	119	1·33	2·80	2701	5350	Nil	Nil
31-3-76 . . .	13689	232	210	2·95	5·37	5004	8453	Nil	Nil
31-3-77 . . .	17917	286	259	3·59	45	8146	9085	8	4
31-1-78 . . .	18979	315	288	3·70	6·64	10161	8494	15	4

3.22. It would be seen from the above statement that upto 31st March, 1975, out of 8187 cases in respect of which the acquisition notices were issued acquisition orders were passed in only 136 cases but not a single property had been acquired by Government. During evidence on 15th November, 1976, the representative of the Government indicated that as on date the acquisition had become final in five cases. The Chairman, Central Board of Direct Taxes amplified:

> "That means in these five cases either the assessees have accepted the position or they have not succeeded in appeal. After an acquisition order is passed, the assessee is entitled to go in for an appeal before the Income-tax Appellate Tribunal. That by itself takes not less than one to two years to decide the matter. Thereafter, if the order goes against the assessee, the assessee has a right to go to the High Court which takes several years to finalise."

3.23. Indicating the reasons for the slow progress in the matter of passing acquisition orders and orders becoming final, the note of the Board has stated:

> "The acquisition order is quasi-judicial order and can be passed only after certain statutory processes which are fairly time consuming are gone through. The parties to be proceeded against have to be given adequate hearing. The hearings generally raise contentious issues both of law and fact. The orders of acquisition are appealed in most of the cases and become final only after they are confirmed and no further appeal is pending...."

3.24. Explaining the procedure followed in this regard during evidence, the representative of the Department has deposed:

> "The procedure is like this that when a property is transferred, a report in a particular prescribed form is received from the Registrar of Properties wherever the value of it exceeds Rs. 10,000. Then, on the basis of that, the competent authority makes up his mind whether the true market value exceeds the prescribed margin. And then he issues a show cause notice to the transferor, transferee and other persons concerned.

But, if after hearing the parties concerned, the competent authority comes to the view that the market value does not really exceed the value shown in the deed, that is, if it does not exceed the specification margin, then he drops the proceedings.".

3.25. The Department of Revenue were asked to offer suggestions to streamline the processes of acquisition of property, by amendment of law, if necessary. They have, in their communication dated 23rd February, 1978, stated that "the Board have not examined the question of amendment of law to streamline statutory processes which have to be gone through before acquisition orders become final." The Board has, however, taken the following steps for expeditious disposal of acquisition proceedings:

"(i) The Director of Inspection (R&S) have recently completed a study to identify causes for slow process of disposal of acquisition proceedings under Chapter XX of the Income-tax Act, 1961.

(ii) The Commissioners of Income-tax incharge of Acquisition Ranges have been asked *vide* d.o. No. 316/8/77-WT, dated 7th May, 1977 (a) to plan the work in such a manner that the pendency on 1st April, 1978 is reduced to 50 per cent of what it was on 1st April, 1977, (b) that all the cases which were more than one year old on 1st April, 1977 are disposed of by 31st March, 1978. They have also been asked to chalk out a time-bound programme for each Acquisition Range and to exercise personal supervision and effective control over their performance.

(iii) All Commissioners of Income-tax in-charge of Acquisition Ranges have been asked *vide* d.o. No. 316/105/77-WT, dated the 6th August, 1977 to locate the causes of slow movement and send a report to the Board giving their recommendations for speeding up the rate of disposal. The reports from most of the Commissioners of Income-tax have been received and are being examined for further action."

3.26. A reason given for not acquiring even a single property under Chapter XXA of the Income-tax Act, 1961 has been indicated in a note furnished to the Committee as follows:

"No property had been acquired so far because the procedure regarding taking over and maintenance of properties etc. had to be finalised. This has been done very recently and it has been decided that the properties shall be taken over

and managed by the Central Public Works Department. It is expected that process in this regard would be accelerated now."*

3.27. During evidence also the fact that not a single property* had been acquired till March 1975 was pointed out. Asked if in this context, the provision can be said to have achieved any positive result, the Chairman, Central Board of Direct Taxes has stated:

"I wish to make a submission that this provision should not be viewed in the context of the results achieved in the form of acquisition of properties. This has to be viewed in the light of its deterrent effect as a whole. What we have to see is that the people now realise that if they pass too much money under the table, then what might happen is that the property may get lost. Now it is our experience and probably, anybody who goes around, would be noticing that the amount of black money that used to pass under the table for the purchase of these properties has considerably diminished."

3.28. During evidence in November 1976, the Committee also desired to know the reasons for dropping as many as 33 per cent of the cases (2701 cases dropped out of 8187 cases). The representative of the Department has explained:

"These are dropped where the competent authority is satisfied that acquisition proceedings do not lie."

3.29. In a note furnished on 20th March, 1978, the Department have indicated the reasons for dropping such a large number of cases as follows:

(i) The directions contained in Board's F. No. 328/113/72-WT, dated 28th August, 1973 were acted upon.

(ii) The fair market value, after hearing the parties was found not to exceed Rs. 25,000.

(iii) The fair market value was ultimately found not to exceed 115 per cent of the apparent consideration.

(iv) The difference between the fair market value and 115 per cent of the apparent consideration was marginal.

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*As would be seen from para 3.21, by 31st January, 1978, in 15 cases the acquisition orders had become final and the number of properties vested in Government under Section 2691 (4) were 4.

(v) Object of concealment or tax evasion as per Section 269C(i)(a) and (b) not found to be present in the transaction.

(vi) The transaction was found on enquiry not to be a sale but a gift, mortgage or conveyance by public auction etc. and did not come within the purview of Chapter XXA of the Income-tax Act, 1961.

3.30. Subsequently, during evidence on 20th March, 1978, the representative of the Department of Revenue revealed that the total number of cases of transfer of property valued at more than Rs. 10,000 reported to revenue by the Registration Officers upto 31st January, 1977, came to 45,84,200. As indicated earlier, the number of notices of acquisition issued upto 31st March, 1977, were 17,517 out of which proceedings were dropped in 8,146 cases. That out of a total of nearly 46 lakh cases reported by the Registration Officers, only 17,517 were picked up by the competent authority as cases fit for the issue of the notices, showed that the officers of the Revenue Department had sifted the cases carefully and with full sense of responsibility. How then, the representative of the Department of Revenue was asked, it happened that more than 50 per cent of the cases were ultimately dropped. In reply, the representative of the Ministry stated that the officers "have to look into it precisely within the time available" and at that stage "they would not have all the evidence with them." Accordingly, "naturally they would err on the safe side.... from the point of revenue."

3.31. It was further pointed out to the representative of the Department of Revenue that it appeared that the officers designated as the "competent authority" had the infinite power to decide whether a particular case should be processed against or not and that there was perhaps no mechanism whereby it could be found out whether the decision of the officer not to proceed against a particular case was correct or not. In reply, the witness stated:

"The Inspecting Assistant Commissioner (Acquisition) is the deciding authority. He decides the case after receiving information, by way of local reports, etc. He may send his Inspector, he may himself visit the place and he may make any investigation and find out the fact."

Further, according to him, "The Commissioners are there. They are supposed to supervise the proceedings of the competent authority."

3.32. In this context the representative of the Department of Revenue was asked whether it was open to a private person to pursue a case of under-valuation of property involving loss to revenue. The witness clarified that a private person, who had knowledge of an under-valued transaction in regard to transfer of immovable property, could "come forward and tell us" and "it is our duty to look into it". But it is for the Department to decide whether or not it was "a matter which deserves to be looked into". According to witness, the status of the person giving information is merely that of an "informer".

3.33. The Committee enquired if issue of notices of acquisition without looking into the cases thoroughly within 9 months of the registration of the document and later dropping a large number of cases did not cause unnecessary harassment to the people. In reply, the Chairman, Central Board of Direct Taxes, has explained:

> "It is true that the period of 9 months is fairly long, but between the time we receive information from the registration authorities and the time we receive intimation from our valuers about their assessment, considerable time lapses. Since *prima facie* we have been informed that value is under-stated by over 15 per cent, we cannot take the risk of not taking action. It is true it does cause some harassment to those against whom notices have issued. But we are helpless in this because when *prima facie* there is a case, we have got to take action, and it is only when the assessee is given an opportunity to prove his case and satisfies the competent authority that the value put by him was correct within he margin of 15 per cent, that proceedings have to be dropped."

3.34. The Committee desired to know the steps taken or proposed to be taken to obviate undue harassment. The Chairman, Central Board of Direct Taxes, has stated:

> "This harassment could be avoided only in one way; we should start proceedings only after a full verification of the value of property, after giving an opportunity to the assessee and after consultation with the valuers has been arrived at. If you ask whether this process can be completed within 9 months, I would say no, because hundreds of properties are being registered every day. If we ask our valuation machinery to give complete verification, or complete foolproof valuation of the property within a parti-

cular period when hundreds of properties are being registered, I think we will be asking for the impossible. So unless there is a *prima facie* case, we should not start proceedings. If we have to do that after giving an opportunity to the assessee and after complete verification, if we start doing that in the case of all properties which are communicated to us to have been registered, it would be an impossible task."

3.35. Section 269-P of the Income-tax Act lays down that the registering officer shall, at the end of every fortnight forward to the competent authority one set of statements in respect of transfers of immovable property received by him during the fortnight. The Committee, therefore, enquired whether this information was being received by the competent authorities regularly. The Chairman, Central Board of Direct Taxes, has stated:

"We are receiving intimation from the registering authorities. Where we find it has not been received, we remind them."

3.36. A non-official memorandum to the Committee described the manner in which the procedures for acquisition of immovable properties laid down in Chapter XXA of the Income-tax Act, 1961, were being applied and administered as "ineffective, inefficient and lethargic". The memorandum had pointed out a specific case of Kerala where under-valuation of a transferred property came to the notice of the authorities concerned and the proceedings were initiated. Although the deal was executed and registered on 20th August, 1974, the requisite notification under Section 269D was published in the official gazette dated 7 June, 1975. The publication of the notice had rendered the notice infructuous and the case escaped the proceedings under Chapter XXA of the Income-tax Act. Thus, according to the memorandum, "immovable properties involving black money transactions are rendered nugatory and ineffective by gross negligence, omission or inaction on the part of persons who are to enforce the said law".

3.37. Section 269D(1) provides for the initiation of proceedings for the acquisition of property by the competent authority "by notice to that effect published in the official gazette". It is also provided that "no such proceedings shall be initiated.... after the expiration of a period of 9 months from the end of the month in which the instrument of transfer in respect of such property is registered under the Registration Act, 1908."

3.38. By the end of 31 January, 1978, in 18,970 cases, notices of acquisition of property were issued. According to the information furnished by the Department (Appendix II) out of 8,187 cases in which notices were issued up to 31 March, 1975, in 74 cases the decision to initiate the proceedings was taken within 9 months from the date of registration of the property but, as the publication of the notice in the official gazette was after the expiry of the period of 9 months, the notices had become time-barred and the cases could not be proceeded with. In another statement handed over to the committee by the witness during evidence on 21st March, 1978, the Department has given the information upto 30 September, 1978 (Appendix II). The statement indicates the following position.

No. of cases which got time-barred

Period	No. of cases
Upto 1974-75	8
1975-76	
1st quarter	133
2nd quarter	24
3rd quarter	1
4th quarter	4
1976-77	
1st quarter	2
2nd quarter	5
3rd quarter	1
4th quarter	Ni
1977-78	
1st quarter	Nil
2nd quarter (i e. upto 30-9-77)	1
TOTAL	179

3.39. During evidence, it was revealed that the gazette of 7 June, 1974 contained as many as 48 cases which were published after the expiry of 9 months from the date of registration, rendering the proceedings in all such cases time-barred and consequentially infructuous. Explaining the high incidence of such cases during the first quarter of 1975-76 (there were as many as 133 cases in this quarter), the representative of the Department stated:

> "There is a plausible explanation for this.... We have only circumstantial evidence for that.... The notices were

sent by name to the Manager of Printing Press, Faridabad. The Manager happened to be one Mr..... Some of the notices were sent in his name. Mr..... happened to be transferred to Gangtok and so they were sent to Gangtok and (from there) they were returned with a forwarding letter and a copy of that came to the Board and we immediately issued instructions saying that henceforth they should not send notices (for publication to the Manager of Printing) by name.....

We do not have any direct evidence but it is our belief that many of the notices must have been like that..... After that there have been one or two (such cases) but they are practically negligible."

3.40. The representative of the Department also stated that the statutory provision for the publication of the notices in the gazette "has become a little cumbersome" and that "an amendment of this particular aspect of the provision could be made." Later, during evidence, he further stated: "We are amending the law and it will be retrospective."

B. *Under-valuation of Properties and Surveys*

3.41. While considering draft para No. 58(a) of Audit Report (Civil) on Revenue Receipts 1969, in which non-assessment of capital gains amounting to Rs. 33.60 lakhs was reported, the Committee in para 1.88 of their 117th Report (4th Lok Sabha) (1969-70) had observed:—

"An important issue which emerges from this case is the magnitude of the problem of under-valuation of the value of properties for tax purposes. These are not stray cases. The Committee have also in para 1.30 of their 100th Report (4th Lok Sabha) drawn attention to the result 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 return filed by the assessees. These cases illustrate the extent to which property values are depressed in tax returns. The Committee note that for proper valuation of properties a Valuation Cell has been created by Government. The Committee have already emphasized the need to undertake a survey of all metropolitan properties in accordance with a time-bound programme (para 1.31 of their 100th Report). They would like immediate action in this regard."

3.42. In para 1.11 of the same Report, the Committee had also laid stress on external surveys and systematic analysis and processing of information collected. In yet another para (2.7) of the same Report, the Committee observed:

> "The procedure 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 and to check up whether there had been any evasion of wealth-tax and to report the progress made by the end of 1970. Another measure that the Department should adopt to have a check on valuation is a system of integrated return for wealth and income-tax (for assessees who are liable to pay both)".

3.43. Recommendations of the Committee in regard to census were reiterated in para 1.19 of their 25th Report (5th Lok Sabha) (1971-72). In para 1.18 and 1.23 of their 25th Report, the Committee laid stress on the survey to be conducted in respect of all metropolitan properties in accordance with a time-bond programme.

3.44. The Board instructed in their instruction No. 265 (letter No. 326/6/70-WT dated 12-1-1971) that a timebound programme for survey should be drawn up. In a reply furnished by the Ministry Para 2.3 of PAC's 50th Report (5th Lok Sabha) to the committee it was stated that the Board had asked the Commissioners of Wealth-Tax to start a planned programme of survey from 1st April, 1971. It was also stated that they had been able to do this on a selective basis, because of a shortage of inspectors. The Finance Ministry in a reply Para 2.7 of PAC's 88th Report (5th Lok Sabha) (1972-73) stated "in 1971-72 nearly 4 lakh premises were surveyed and in 1970-71 about 2,32,000 premises were surveyed. A special number of inspectors were put on the job and a total of nearly 39,000 new cases were discovered as a result of this in the years 1970-71 and 1971-72."

3.45. The Committee in para 2.8 of their 88th Report (5th Lok Sabha) (1972-73) referred to para 1.23 of their 25th Report (5th Lok Sabha) (1971-72) wherein it was found that as a result of census of house properties 5,477 cases had been detected. The Committee desired to know the number of cases detected till the year 1971-72 as also its break-up city-wise and charge-wise. The information submitted by the Ministry in respect of some important Commissioner's

charges (city-wise information was stated to be available) was as follows:—

New cases—10,836

Name of the Commissioner's Charge	No. of Cases
A. P. I & II	370
Assam	294
Bihar	486
Orissa	58
Bombay	2324
Poona	394
Delhi	2992
Jaipur	297
Gujarat I, II & III	271
Kerala	212
Madhya Pradesh	923
Madras	167
Mysore	94
Punjab	722
Lucknow	259
Kanpur	255
West Bengal	572
Vidharba and Marath Wada	146

3.46. In para 1.14 of the Action Taken Report No. 118 (5th Lok Sabha) on their 88th Report (5th Lok Sabha) the Ministry stated as follows:—

"Instructions have already been issued (dated 20-7-1973) for intensifying survey operations and to divert a substantial number of inspectors for survey work. Very recently with a view to rope in new wealth-tax assessees instructions have been issued to all the Commissioners of Income Tax to make a survey of house properties with annual letting value of Rs. 5,000 and more. Commissioners have been complaining of shortage of inspectors and the question of augmentation of the strength of inspectors is under consideration of the Ministry. The Central Board of Direct

Taxes are also conducting a study of the utilisation of present strength to the inspectors so as to see whether more inspectors could not be diverted for survey work from the existing strength."

3.47. The recommendations of the Committee about streamlining the procedure for valuation of assets were reiterated in their 25th, 50th and 88th Reports (5th Lok Sabha). The Ministry as per para 2.10 of the 103rd Report of the Committee (5th Lok Sabha) on Action Taken on their 50th Report stated in regard to streamlining of the procedure for valuation of assets, as follows:—

"....the Board have already issued comprehensive instruction No. 365 dated 28-12-1971 for the guidance of the officers. In addition to the 8 existing valuation units, 8 more additional valuation units have been created. When the officers join in these 8 additional units the pending cases referred to the Cell will come down. Further with the enactment of the Taxation Laws (Amendment) Act, 1972, the Valuation Cell has been strengthened and reorganised. The Valuation Officers taken on deputation from the C.P.W.D. would not only augment the existing strength of the Valuation Cell but would also be instrumental in framing detailed and more realistic valuation on reports by utilising their new statutory powers for recording statements, entering the premises to be valued and summoning of witnesses etc."

3.48. In paragraph 14(5) of the Audit Report there is a long list of defects in the surveys and follow up action in Ahmedabad, Bhuvaneswar, Bombay, Calcutta, Delhi, Hyderabad, Jaipur, Udaipur and Kanpur. During evidence, the Committee enquired whether the reasons for these defects have been analysed with a view to taking remedial action thereon. The representative of the Department has stated:—

"Most of it relates to general surveys to discover new assessees. The main reason for the defects was lack of concerted effort in the sense that individually or organisationally there was no direct responsibility fixed for achieving certain results or doing certain things. In a circle there will be 4 or 5 I.T.Os.

3.49. Answering the question as to what action was taken against the defaulting officers, the witness has stated:—

"If an ITO is entrusted with several duties like assessment, survey and others, it becomes difficult for the supervisory

authority to exercise control. So, in 1974 we issued very detailed and positive instructions that survey shall be the responsibility of each Commissioner. He in turn will make one Inspecting Assistant Commissioner responsible for the survey in his jurisdiction. In turn, the survey work is entrusted exclusively to a number of ITOs who have nothing else to do except the survey. Each Commissioner was asked to appoint one ITO assisted by 6 or 7 inspectors. They were to work on a pattern which was laid down by the Commissioner. Reports were to come to the Commissioner every month and reports in turn were to go to the Board. These were reviewed by the Board and the Commissioners month after month."

3.50. Subsequently, at the instance of the Committee, Department furnished the following note, stating that the reasons for the defects in the surveys, results of the general surveys, and indicating the results of the general surveys, year-wise, during the period 1972-73 to 1975-76:—

"In so far as the survey carried out in the cities of Ahmedabad, Bhubaneshwar, Bombay, Calcutta, Delhi, Hyderabad, Jaipur and Kanpur is concerned, it was noticed that the follow-up action was generally delayed. This position had arisen due to lack of concerted effort and adequate and proper feed-back. Within the number of officers and staff available only a limited strength can be deployed for the purpose. Guidelines were issued in 1974 [F. No. 415/9/74-IT(Inv)] dated 30th July, 1974 for systematising survey operations."

Results of the survey year-wise, during the period from 1972-73 to 1975-76, are as under:—

Year	No. of new I. T. assessees	No. of new WT assessees	Total	No. of Voluntary returns received from the new assessees
1972-73 (10 months only)	89,419	4,267	93,686	Not available
1973-74	60,461	9,219	69,680	Do.
1974-75	1,33,462	2,770	1,36,232	1,08,012
1975-76	82,890	5,719	88,609	1,48,408

The progress of survey operations is being constantly reviewed. The Commissioners are advised, as necessary, to take adequate steps for ensuring a better performance."

3.51. The representative of the Department was asked as to whether the overall position about the metropolitan cities, apart from what is mentioned in the Audit Paragraph, was reviwed by the Department. He stated that—

"So far as immovable properties are concerned, they were covered last year by a special squad, *i.e.*, survey of posh localities and important buildings in those areas and that was done for three months. It has again been resumed towards the end of June and systematic survey of new constructions, big buildings, multi-storeyed buildings, etc. in regard to their value and whether they are correctly accounted for, is going on. 11 cities are covered by this posh locality survey. They are Ahmedabad, Bombay, Bangalore, Calcutta, Delhi, Hyderabad, Jaipur, Madras, Nagpur, Poona and Kanpur."

3.52. In response to another question, the witness elaborated the special drive undertaken in 1975 as follows:

"In the context of valuation of conspicuous construction, a survey was started last year in July by a special squad. For three months, we carried on this work. It was confined to 11 cities, and 5495 premises were surveyed. Estimated un-disclosed investment in these premises was 28 crores and 96 lakhs. We have resumed this survey toward the end of June, 1976 and upto the end of October, 2375 premises have been surveyed and according to the preliminary estimate, the value of undisclosed or undervalue assessed comes to 33 crores and 35 lakhs. So far as the follow-up action is concerned, I would like to submit that that would be relevant for the last year's Survey."

3.53. The Committee desired to know the specific steps taken during this period to detect large scale tax evasion in respect of urban immovable properties. In a note, the Central Board of Direct Taxes have informed the Committee as follows:—

"Survey of urban immovable properties forms an important segment of the survey operations conducted by the Department. Special attention is given to collection of information regarding construction of new buildings.

Special squads have also functioned in some of the bigger cities for detecting unaccounted investment/undervaluation in luxury houses. Proceedings under Chapter XXA of the Income-tax Act, 1961 for acquisition of immovable properties have been initiated in a number of cases.

The pace of search and seizure operations for unearthing unaccounted income/wealth has been stepped up. This includes cases of unexplained investment in urban immovable properties.

In a large number of cases, action has been initiated under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976."

3.54. The Central Board of Direct Taxes have, at the instance of the Committee, furnished to them the details of the results achieved by the special drive launched in 1975 as follows:

S. No.	Name of City	No. of premises surveyed	Estimated undisclosed investment under valuation detected (Rs. in lakhs)
1.	Ahmedabad	55	185.12
2.	Bombay	2300	602.00
3.	Bangalore	292	137.00
4.	Calcutta	98	250.00
5.	Delhi	1295	433.00
6.	Hyderabad	16	15.17
7.	Jaipur	17	15.20
8.	Madras	485	865.42
9.	Nagpur	72	153.85
10.	Poona	877	174.93
11.	Kanpur	30	152.34
12.	Patiala	69	1.45
		5606	2985.48

3.55. In this connection, the Central Board of Direct Taxes have intimated that:

".....The more posh localities were selected for survey in the first instance. Of the assessees whose premises were covered by the Special Survey Squads, over 1400 made declaration of income/wealth under the Voluntary Disclosure of Income and Wealth Act, 1976; income and wealth declared being Rs. 4.35 crores.

The functioning of the Special squads was suspended in October, 1975 for appraisal of results achieved, processing of information collected and taking further action as necessary. So far as the progress of assessment work is concerned, information presently available shows that 733 Income-tax and 532 Wealth-tax assessments have been completed by the end of December, 1976; extra amount of income and wealth assessed being Rs. 59.07 lakhs and Rs. 651.24 lakhs respectively. Special Squads functioned again during June, 1976 to December, 1976 with the object of:—

(a) detection of unaccounted investment in the construction of luxury houses;

(b) detection of money spent on lavish and ostentatious living.

The Scheme consists of the following three steps:

(a) Collection of basic data from authorities in Municipal and Development Administrations;

(b) Spot inspection—to be undertaken by Valuation Squads, each squad consisting of an Income-tax Officer Class-I and an Executive Engineer with such inspectorial and other assistance as considered necessary;

(c) Feed back—monthly reports by the concerned ITO/IAC to the IAC (Property Survey)."

3.56. The Committee were informed that a survey of properties in certain posh localities of Bombay like Juhu-Vile Parle, Malabar Hill, Pali Hills, etc. had been carried out and that considerable amounts of under-statements of valuation had been discovered in the localities visited. The Committee desired to know the results

of this survey together with relevant statistical data. In a note, the Central Board of Direct Taxes intimated as follows:

> "In so far as Bombay is concerned, in 1975 Special Squads surveyed some buildings in the posh localities of Cuffe Parade, Malabar Hill, Worli and Bandra. The number of premises surveyed and estimated undisclosed investment/under-valuation detected being 2300 and Rs. 602 lakhs respectively.
>
> During 1976, survey operations have been carried out in Colaba, Juhu-Vile Parle, Parli Hills, Malabar Hill and Bandra etc. as per information presently available, the number of premises surveyed being 1292 and estimated unaccounted for investment/under-valuation above Rs 11.1 crores."

3.57. The Committee referred to the following recommendation made in Paragraph 1.88 of their 117th Report (4th Lok Sabha) (1969-70) emphasizing the need to undertake a survey of all metropolitan properties in accordance with a time-bound programme and enquired whether the latest review had given them the clear picture as to whether they were moving efficiently or otherwise. The representative of the Department has replied:

> "We are moving in the matter fairly efficiently. I would not say that all the areas and all the properties which should be surveyed have already been surveyed. The work is going on and we hope that over a period of time which will not be too long, we will cover all the important areas."

3.58. The Committee enquired as to what would be the broad assessment of the quantum of money which could come into the country's coffers, if accurate collection of taxes was ensured. The Chairman, Central Board of Direct Taxes replied:

> "Very high-powered Committees have tried to undertake this exercise, but there were differences of opinion amongst them. So, I would not like to hazard a guess in this respect."

The witness has, however, added:

> "I think with better management, greater efficiency and better scrutiny it is possible to increase our tax collection."

3.59. The Committee enquired whether it was true that there was still a lot of ground to be covered in evaluating metropolitan properties. Conceding the position during evidence, the Chairman Central Board of Direct Taxes stated:

> "There is a lot of ground to be covered yet. But, as I submitted earlier, I am afraid, I have again to suspend those operations during the months of January, February and March, because I am getting pressure from the Commissioners that their other work is suffering. For that reason, they would like these people to come back to the desk."

3.60. Apart from citing a few instances, Audit Paragraph mentions that the test check carried out has revealed the following general defects in the valuation of immovable properties:

(i) Lack of systematic survey of localities in Ahmedabad, Bhubaneswar, Bombay, Calcutta, Delhi, Hyderabad, Jaipur, Udaipur and Kanpur;

(ii) Instances in Ahmedabad, Kanpur and Hyderabad were income capitalisation method was not followed even though it was the appropriate method or where it was applied incorrectly;

(iii) Instances in Ahmedabad, Bombay and Rajasthan where cases, which apparently called for a reference to the Valuation Cell, were not so referred;

(iv) Valuation by Valuers in Calcutta, Hyderabad, Kanpur and Rajasthan was always much lower than that by the Departmental Valuation Cell;

(v) Instances of lack of coordination among different direct taxes assessments and also between the Central and State taxes departments to improve the quality of tax administration Ahmedabad, Bombay and Rajasthan;

(vi) Instances where assessable values were not revised for more than two years in Ahmedabad, Hyderabad and Jaipur; and

(vii) Instances in Rajasthan where essential details like area of land, built up area, specifications of construction, site and building plans, etc. were not obtained.

3.61. The Committee wanted to know the action taken to look into specific cases brought to notice as a result of text check and

to remove the general defects found in valuation of immovable properties. In reply, the Central Board of Direct Taxes have intimated that:

"The Board by its letter F. No. 326/58/75-WT dated 3-1-1976 forwarded the details to the concerned Commissioners of Income-tax with a request that a detailed note giving full facts of the case should be sent to the Board. As these reports were found to be inadequate in some respects, the Board by their letter F. No. 326/56/76-WT dated 16-10-1976 requested the concerned Commissioners of Income-tax to take remedial action in specific cases on the basis of the views expressed by the Audit. The reports from some Cs IT are still awaited.

The Board have also addressed the Commissioners of Income-tax, drawing their attention to the general defects pointed out by the Audit and requesting them to take necessary steps to avoid the recurrence of these defects."

3.62. The Committee desired to know whether in the light of the Audit findings disclosed in this comprehensive review, any attempt has been made by the Board to segregate the procedural defects from individual errors with a view to taking suitable remedial measure and whether suitable instructions/guidelines have been issued in the matter. The Central Board of Direct Taxes have informed the Committee that the matter was under consideration.

C. Methods of Valuation of House Properties

3.63. During evidence the Committee desired to know the different methods adopted to evaluate immovable properties. The representative of the Department has explained:

"For the valuation of immovable properties, we generally adopt three methods. One is comparable sales method—when we can get information and data regarding the actual sales of a comparable property. Failing that we have two other alternatives—the rent capitalisation method and land and building method. The rent capitalisation method is generally adopted where the rents are controlled by rent control legislations. Otherwise, we can find out what is the reasonable maintainable rent of a property. In the case of self-occupied houses, we adopt land and building method. Here we

determine the value of the land separately and the value of the property separately and then add them.

Under the rent capitalisation method, there are two factors which go into the computation. One is, what is known as the annual rental from that building. Here, we take the gross annual rental from the building minus certain deductions. The second factor is the number of years of purchase, *i.e.* what is the reasonable rate of return which can be expected from the property and then we multiply, on that basis. If the remaining life of the property is, roughly, less than 50 years, then we apply the discounting formula to find out the reversionary value of the land."

3.64. The Committee desired to know whether and if so, in what manner, pugree or salami could be brought to tax to ensure that there was no less of revenue on this account. In reply, the representative of the Department stated:—

"It is a fact that pugree or salami was being paid for renting premises. Now, where the Income-tax Officer has a suspicion that the rental income of a particular property should fetch more, he has to alert himself. He gets alerted as to why this property is getting less rent when this property was eligible to get a larger amount of rent. And that should be a red signal for him. After having got that red signal, he has to concentrate on proving that some pugree has passed hands. Here, the difficulty arises. If he assumes that the normal rent of this property should have been this, and hence so much pugree has passed hands, and he makes an addition, no appallate authority will let it stand unless he has got some evidence. This becomes a part of the larger problem of tax evasion. This means that whatever money was paid in the form of black money is being kept by some body else. For that, as you are aware, we have started our operations of swarches and seizures, and scrutinising accounts more thoroughly and cross-checking of accounts. Unless we come across some sort of investment which is not explainable, we cannot do anything, because the appellate authority requires proof, and it is impossible to produce any evidence of pugree having passed. This is our problem."

3.65. The Committee enquired what criterion were followed

to determine as to which method of valuation should be followed in various cases. The representative of the Department has stated:—

> "....large number of instructions had been issued in the past on the subject but as these leave some gap which needed consideration and clarification, we have tried to solve this problem in two ways. One is that we now have the expert advice of the valuation cell. However, there are inherent difficulties in determining the exact value of a property and it leads to unnecessary litigation. After all, our valuation cell is not the last word on the value of a property. The whole thing goes to the appellate authority and we have seen that in several cases the value put by the department is not accepted by them. So, we have a few months ago set up a Committee to examine all aspects to see whether it is possible to put this valuation of immovable property on the basis of some objective criteria."

3.66. Replying to the question as to why the appellate authorities do not accept the valuation as determined by the departmental valuation cell, the Chairman, Central Board of Direct Taxes has stated:

> "The valuation of a property done by a valuer can also be contested by the other party because that party has also got a valuer, and both are equally qualified to value property. My valuer adopts one criterion for valuing the property and the other valuer adopts a different criterion. It is open to the appellate authority to accept his valuation or my valuation.
>
> The need for this committee has arisen because of the Urban Land Celling Act due to which the entire complexion of valuation of urban property will undergo a change, as the properties which are sought to be valued are generally costly ones. Urban ceiling has come into force now. If in the case of an 'A' class city somebody owns a piece of land which is a thousand sq. metres, he is entitled to keep only 500 Sq. metres, he is not allowed to sell the balance without obtaining the approval of the competent authority. Even the remaining 500 Sq. metres the Government is entitled to take over at a price to be fixed. How am I going to value that property?"

3.67. The Committee enquired whether in the midst of a plethora of instructions issued from 1957 to 1976 any definite guidelines had been issued for the guidance of Valuation Officers to enable them to select the right method. The representative of the Department stated:—

"....there is another aspect involved in the rent capitalisation method and that is the multiplier which is based on the reasonable rate of interest which is taken into account. We started with twenty times the rental value. It was in the good old days when the rate of interest was about 4 per cent. In some cases it is ten times and in some cases, it is fifteen times. Particularly in view of these difficulties, we thought that we should try to lay down a common factor, a definite multiplier.

My Chief Engineer of the Valuation Cell is here. If you so desire, I would request him to explain to the Committee as to why different rates are adopted in some individual cases."

3.68. The Chief Engineer, Valuation Cell, Madras, thereupon explained as follows:—

"The rent capitalisation method takes the net income available from the property as the basis and derives the capital value of the property, rather, the fair market value of the property that will be obtained in an open market by the process of capitalisation. In this capitalisation process, we take the rate of interest that is normally available on capital investments and in the case of immovable properties we have to add also an element of sinking fund on account of the depreciation in the value of the property and for redemption of this capital at the end of its life. When the multiplier is derived on this basis, these two factors may be different for any two properties taken for comparison. For example, if one property is 50 years old and the remaining life is only 10 years while another property may be only 10 years old and the remaining life is 50 years, in that case, the sinking fund element will be different for the two cases. We also take the rate of interest that was normally prevalent at the time the property was put up. The rates of interest have varied from 1965 to date and therefore, these rates also will be

different in the case of different properties. Because of these variations the variation in the multiplier or the capitalisation factor crops up."

3.69. As already stated, the question of laying down some objective criteria for determining the multiplier for purposes of valuation has been referred to a Committee on valuation of immovable properties. The Committee desired to know the terms of reference of this Committee and whether the Committee had since submitted its Report. In a Note dated 28 March, 1977 the Central Board of Direct Taxes have stated as follows:—

"The Committee's terms of reference were as under:—

(i) To evolve objective criteria/guidelines for the valuation of various kinds of immovable properties including agricultural land; and

(ii) To evolve to the extent possible suitable rules which may be incorporated for this purpose in the wealth tax Rules.

However, it was subsequently decided that the Committee could confine itself to the task of drawing up of guidelines for the valuation of residential properties only, for the time being.

The Committee's report has since been received and is under consideration of the Board."

D. Setting up of Valuation Cells

3.70. During evidence, the Committee desired to know the genesis and functions of the Departmental Valuation Cells, the representative of the Department stated in evidence:—

"The valuation cell was set up for the first time in 1968 on an informal basis to assist the income-tax officers and other assessing authorities in the proper determination of the value of immovable properties. To begin with, we had one Superintending Engineer and eight Executive Engineers. Later on, in December, 1971, we augmented the strength by eight Executive Engineers. Afterwards, with the passing of the Taxation Laws Amendment Act, 1972, the valuation cell was given a statutory basis. Thereafter, the strength has been augmented considerably with the result that we have now two posts of

Chief Engineers, ten posts of Superintending Engineers, eighty posts of Executive Engineers and eighty-two posts of Assistant Engineers supported by the complement staff of junior engineers, etc.

Before the Taxation Laws Amendment Act, 1972 came in, we had laid down a detailed instruction No. 365 dated December, 1971 in which the Board spelt out the various types of cases which the Income-tax officers should refer to the valuation cell for a proper determination of the market value of the property. I may read out. It says, that the following types of cases shall be referred to the valuation cell:—

(1) All cases involving incorrect valuation of immovable property which are being processed for possible prosecution.

(2) All cases of estate duty, wealth-tax and gift-tax where the property is wholly rented and is fetching a net rent of Rs. 10,000 per year or more, if the value declared by the accountable person is less than eight times the net annual rental valued and where the property is partly rented and is fetching a net rent of Rs. 10,000 or more, if the value of the rented part taken into consideration for the valuation of the whole property is less than eight times the net rent.

(3) All cases under the Income-tax Act where there is a reasonable suspicion that the assessee has understand the value of the immovable property by Rs. 50,000 or more.

(4) All cases of estate duty, wealth tax and gift tax where the accountable person or assessee has shown the value of any individual immovable property as Rs. 5 lakhs or more.

(5) All cases of estate duty, gift tax and wealth tax where the value of any individual immovable property has been shown as less than Rs. 5 lakhs but where the Assistant Controller of Estate Duty or the Wealth Tax Officer estimate an under-valuation of the property by at least 20 per cent with a monetary minimum of Rs. 50,000, subject to the prior approval of the Controller of Estate Duty or the Commissioner of Income Tax.

(6) All cases of income-tax, estate duty and wealth tax and gift tax where, in the opinion of the Commissioner or the Controller, it is considered necessary in the interests of revenue, for reasons to be recorded, to refer the valuation of immovable property to the Valuation Cell."

E. Action against the Approved Valuers

3.71. The Public Accounts Committee had in paragraph 2.7 of their 117th Report (1969-70) (4th Lok Sabha) and again in paragraph 1.24 of their 25th Report (1971-72) recommended that it would be necessary to devise adequate checks over the work of Valuers to ensure that valuation is correctly and fairly done. The Wealth-tax Rules empower the Board not to register any Valuer, if in their opinion, such Valuer has been guilty of misconduct in his professional capacity. The test check conducted by Audit has revealed that the valuation by Valuers was always much lower than that by the departmental Valuation Cell. Some such instances are enumerated at Serial Nos. (i) to (iv) of Sub-paragraph 3.10 of the Audit Paragraph.

3.72. The Committee desired to know the action taken against the Valuers, where the valuation done by them reveals an underestimation of a serious nature. The Chairman, Central Board of Direct Taxes, has stated during evidence as follows:—

"We have come across quite a few cases. Particularly in Gujarat, we have found that a particular valuer had the habit of continuously valuing property at a very low figure. We took notice of it and then the Commissioner of Income-tax issued a show-cause notice why recognition granted to him should not be withdrawn. He went in writ to the Gujarat High Court and the High Court stopped further action being taken.

Then we referred the matter to the Ministry of Law, who advised us that it would not be competent for the Board or for the Commissioner to take any action against him for disqualification, because some authority other than the punishing authority should say that he has committed some offence. We are stuck there. This opinion of the Law Ministry has been received only recently."

3.73. Further elaborating the position about the action to be taken against such Valuers, whose valuation is of doubtful nature, the Chairman, Central Board of Direct Taxes, stated:—

> "....if these were left entirely to me, I would have been guided by Section 34AD and I would have taken action against the valuer to derecognise him or deregister him. As a layman's reading of the provisions of the law, I have every right if I find that he is guilty of misconduct and if it has to be my finding, to take, action against him. If the Law Ministry's opinion is found to be correct, then we must amend the law. Otherwise, what happens is this. These valuers have no association; there is no body to which they are affiliated." In the case of Chartered Accountants, they have an Institute of Chartered Accountants and that Institute can take disciplinary action against them when it declares them to be guilty of misconduct. That can enable me to take action against them. In the case of valuers, there is no institution or body which can declare them guilty of misconduct. In that event they can do anything they like. So after these meetings are over, we will take it up seriously with the Law Ministry. We would request them to have a second look at the provisions in the light of various other provisions of the rules or Act. If they are still of that view. I would certainly come before you to amend the law and to take powers to de-register those people."

3.74. The particulars of the Valuer of the Gujarat have been furnished to the Committee in a note from the C.B.D.T., which *inter-alia* has stated:—

> Shri Z was an approved Valuer u/s 4(3) of the Estate Duty Act as per Board's letter F. No. 5|39|66-ED dated 16-9-1966. The term of this appointment expired on 26th July, 1971. He, therefore, applied on 12th July, 1971 for renewal of his appointment u/s 4(3) of the Estate Duty Act. Report of the CIT, Gujarat was called for. The CIT reported that the applicant was not cooperating with the Department in the matter of furnishing report in the proforma prescribed by the Board and was found to be grossly undervaluing the properties. The Board, therefore, rejected the applicant's request for renewal of his appointment and this

decision was conveyed to the applicant in the Board's letter dated 17th December 1971. The applicant challenged the decision of the Board in a writ petition. The High Court of Gujarat passed an order on the petition filed by Shri.....quashing the decision of the Government contained in the letter dated 17th December 1971, and (ii) directing the Union of India to dispose of the application of the petitioner latest by 1st January 1975 after giving the petitioner an opportunity to make his submissions in support of his application.

The application for registration as a valuer of immovable property under section 34AB of the Wealth Tax Act, 1957 was also submitted in March, 1973. While decision on the application was pending, the applicant filed a writ a petition in the Gujarat High Court challenging the constitutional validity of provisions of Section 34AB of the W.T. Act and praying that he should be deemed to have been registered as a registered valuer under the provisions of the WT Act, 1957, because the Government of India had not given any reason for not registering him till that date. The writ filed by the applicant was admitted by the Division Bench of the Gujarat High Court. The High Court directed that the Board should dispose of the petitioner's application for registration as a valuer u/s 34AB of the W.T. Act before 1st December 1974 whereas in respect of the writ petition in the Estate Duty case the Court directed for the application to be decided before 1st January 1975. Following the Law Ministry's advice in the case of Shri 'X', the appointment of the valuer, Shri 'Z' was renewed under the E.D. Act and he was also registered as a valuer under the W.T. Act, 1957.

In the case of Shri X Law Ministry had expressed an opinion that the finding regarding the applicant being guilty of misconduct in his professional capacity shall have to be from an agency other than the Board, which finding should be the basis for the opinion of the Board rendering him unfit to be registered as a valuer.

The entire matter relating to the circumstances under which a person could be refused registration under the Wealth-tax Act or de-registered under Section 34AB or 34AD as

the case may be is under consideration on in consultation with the Law Ministry."

3.75. The Committee desired to know whether any survey has been conducted by the Board with a view to ensure that the work of valuation is done by the approved valuers in accordance with the guidelines issued by the Department. The Chairman, Central Board of Direct Taxes has explained:—

"We have issued instructions to the Commissioners to keep a watch over the valuers who are found to be under-valuing the property in a fairly large number of cases. But if a valuer is found to have done under-valuation in 8 or 10 cases out of 100 cases, then, of course it is a matter of opinion. He can always say that this is the value I put and somebody else may put it differently."

F. Revision of Assessable Values

3.76. As the values of urban properties keep on increasing from year to year, the Central Board of Direct Taxes had issued instructions in July, 1969 (Circular No. 6/11/69 WT, dated 3rd July, 1969) to the effect that the assessable values of such properties once determined should ordinarily be left undisturbed in two subsequent assessment years only. It has been reported by Audit (*vide* paragraph 3.12) that instances where the assessable values were not revised over much longer periods were noticed in Ahmedabad, Hyderabad and Jaipur.

3.77. It has been reported by Audit that in Rajasthan the Commissioner had issued instructions in August, 1972 that the property values computed on the State P.W.D.'s plinth area rates of 1968 should be stepped-up progressively in the subsequent years. Audit had, however, noticed that 234 properties belonging to 151 assessees and valued at over Rs. 1.35 crores were valued by the assessing officers at the same price in 2 to 7 successive assessment years from 1968-69 to 1974-75.

3.78. Audit has pointed out that in over 2/3rd of the 476 cases reviewed in Rajasthan, essential details like area of land, built-up area, specifications of construction, site and building plans, copies of purchase deeds, etc. were not obtained. As a result, not only in most of the cases, the values as returned by the assessees were in most of the cases, the values as returned by the assessees were making any effort to ascertain the market values on the relevant

valuation dates, but also concealment of wealth went unnoticed in some cases.

3.79. The Committee desired to know whether it was not sufficiently made clear in the instructions dated the 3rd July, 1969 that the value adopted once should be reassessed after two years and if so, the reasons for the failures and deviations mentioned in sub-paragraph 14.12 of the Audit Paragraph. The Committee also enquired whether these instructions have since been suitably modified|clarified. In a note, the Central Board of Direct Taxes stated:

"(a) The Board's instructions dated 3rd July 1969 is enclosed (Appendix I).

(b) The relevant instructions were as under:—

'As the market value of assets does vary from time to time, it may not be possible for the Wealth-tax Officers to invariably adopt the same value for an asset over a period of three years. However, ordinarily they would not disturb the valuation placed on a particular asset for the assessment year 1968-69 while making the Wealth-tax assessments of the two assessment years immediately following, unless the circumstances of the case clearly justify a deviation from the past assessed value.'

As to the reasons for failures reported in sub-paragraph 14.12, the Board requested the Commissioners *vide* their letter F. No. 326|56|76-WT dated 16th October 1976 to take remedial action on the basis of views expressed by the Audit. Their reports are awaited. However, it may be mentioned that in view of the amendments to the Wealth-tax Act providing for statutory references to Valuation Officers, these instructions became out of date and were, accordingly withdrawn *vide* Board's Circular dated 5th April 1974."

3.80. The findings of the Audit as contained in para No. 3.12 go to show that the implementation of the law, rules and orders on the subject is somewhat lax in Rajasthan. The Committee enquired whether the Board have analysed the causes therefor and if so, the remedial measures, if any, taken in this regard. The Central Board of Direct Taxes informed the Committee as follows:—

"The Chief Engineer (Valuation Cell) has been asked to send a report in the light of the views expressed by the Audit."

3.81. The Committee desired to know whether the Rajasthan Government had been consulted before a decision was taken to value properties situated in hat State on the basis of CPWD rates instead of Rajasthan PWD rates (vide Paragraph 9.12 of Audit Report). The Central Board of Direct Taxes have informed the Committee as follows:—

> "The Board vide their letter F. No. 326|74|76-WT dated 10th December, 1976 requested the Chief Engineer (Valuation Cell) to make on the spot study and send a detailed note on the subject. His report which has recently been received, is under consideration. Further report may kindly be awaited."

F. Reversionary Interests

3.82. The property which is to be valued is sometime subject to a charge or mortgage for debts secured on it. Such debts are to be taken into account while computing the market value of the property. But in the case of a property encumbered by existing tenancies, the market value on a sale under vacant possession may not be the same as the market value of the property subject to subsisting tenancies. The difference should not be more than the estimated legal expenses which need be incurred for obtaining eviction of the tenants. This position was accepted by the Ministry vide para 4.10 of the 50th Report of the Committee (5th Lok Sabha) (1972-73) when the Ministry replied as follows:—

> "Even if it were possible to take possession of the property after evicting the lessee, litigation expenses would have to be allowed against the value of the property."

3.83. The Committee having taken note of this reply, recommended in Para 4.11 of their 50th Report (5th Lok Sabha), as follows:—

> "The Committee consider it desirable to lay down suitable guidelines, if not already done, to regulate the determination of the (deceased's) reversionary interest in the leasehold property."

3.84. This position was reiterated in para 1.537 of the 103rd Report of the Committee (Action Taken Report on their 50th Report). In their action taken note in respect of the said para 1.37, the Ministry of Finance have stated:—

> "The draft guidelines drawn up by the Ministry were referred to the Ministry of Law for their advice. The matter is

being examined in the light of the Law Ministry's comments and in consultation with the Chief Engineer. As soon as a final decision is arrived at 'the committee will be informed."

3.85. The Committee desired to know the reasons/difficulties involved in implementing the aforesaid recommendation and the latest position in this regard. In a note, the Central Board of Direct Taxes have stated as follows:—

"In para 4.11 of their 50th Report (1972-73) the PAC recommended that the Board should lay down suitable guidelines, if not already done, to regulate the determination of the deceased's reversionary interest in the leased property. This recommendation was received in the Branch in March, 1973. Immediately the Supdt. Engineer (Valuation Cell) was asked to indicate certain guidelines. On the basis of the guidlines a circular was drafted and sent to the Ministry of Law for their advice. The Ministry of Law were consulted on three occasions and the matter still could not be finalised, because a large number of variable factors entered into calculation of value of reversionary interest and it is difficult to lay down a circular which will exhaustively encompass all the possible cases of valuation. At one stage Ministry of Law had advised in their note dated 29-7-1975 that it is not practical to lay down detailed guidelines in the matter and that as the instructions can only explain broad general proposition, utility of such instructions is nedessarily limited. The comments of the Ministry of Law were communicated to the Revenue Audit. It was also pointed out to the Revenue Audit on 29-4-76 that the Board had issued a circular being Circular No. 7D of 1957 dated 4-5-1957 wherein detailed annexures were attached giving guidelines for valuation of leasehold properties including valuation of reversionary interest and it might not be necessary to issue fresh guidelines. The Audit reiterated that a fresh circular be issued. The matter was, therefore, referred to the Chief Engineer (Val) Cell who then prepared a draft of the circular in the light of the observations made by the C&AG. Final draft instruction has been prepared by the Board-tax Section and the same is under consideration by the Circular Group."

G. Coordination amongst the different direct tax organisations

3.86. In paragraph 1.89 of their 117th Report (1969-70) and again in paragraph 5.32 of their 119th Report (1973-74), the Committee had emphasised the need to establish a proper co-ordination among different direct taxes assessments and also between the Central and State taxes departments to improve the quality of tax administration.

3.87. The Committee pointed out that in spite of their repeatedly pointing out in the past that there was lack of proper coordination among the different direct tax organisations and also between the Centre and the State tax departments and stressing the need for establishing proper co-ordination between these agencies, nothing appears to have been done in this regard. The test check conducted by Audit recently has revealed a lack of such co-ordination in many cases resulting in loss of revenue. It also revealed cases where information already available with the Department was not made use of in the interest of revenue. The Committee desired to know the reasons for this state of affairs. The representative of the Department has stated as follows:—

"On this I would submit three points. Firstly,....instructions have been issued that assessments under various direct tax laws regarding the same assessee should, as far as possible, be taken together. In November, 1973, a circular was issued by the Directorate of O & M Services on the subject of 'Proper Co-ordination between assessments under different Direct Taxes laws'. That circular is divided into three portions. One relates to income-tax and gives illustrations of the types of situations which would involve examination of consequential action under gift tax. Then there is another chart of illustrations of wealth tax proceedings which would involve examination of corresponding action under income-tax and gift tax. The third one relates to Estate Duty proceedings which would involve examination of consequential action under gift tax, wealth tax and income-tax. A large number of illustrations are given, but it has been made clear that these are only guidelines and that they should be kept in mind as also other situations.

Lately, another set of instructions has been issued, again by way of guidelines, relating to utilisation of information in applications under section 230A, *i.e.*, applications for grant of certificates relating to registration of properties. Here,

too, various illustrations have been given about information available in such applications and what action should be taken on the basis thereof under the income-tax Act, the gift tax and wealth tax."

3.88. The Central Board of Direct Taxes have further explained in a note the steps taken to ensure liaison among different tax authorities:—

"The Commissioners of Income-tax have been advised to inspect the Central Information Branches once a year. A system of surprise visits of Income-tax Officers by the Inspecting Assistant Commissioners/Commissioners has been introduced to look into the various aspects of work from the view point of toning up of administration and increasing efficiency.

Liaison with the Sales-tax Department has been made the responsibility of the Special Investigation Branches, renamed as Central Information Branches.

Liaison between the Income-tax, Customs, Central Excise and Enforcement Authorities is ensured through regional, zonal and Headquarters coordination Committees. Useful information is also gathered from other Central Government Departments. A Committee constituted of senior Departmental officers has studied in depth the problem of coordination between the Income-tax and other Government Departments with a view to tackling tax evasion. The Committee's report has been received recently and is under consideration."

3.89. Although the value of immovable properties has registered a phenomenal increase since 1960, such increase has not been reflected fully in the value of immovable properties returned and assessed resulting in considerable loss of revenue to the State. The Committee note that with a view to preventing the evasion of taxes, the Income-tax Act and other Direct Taxes enactments had been repeatedly amended by Government in recent years. One of the important amendments to the Income-tax Act, 1961 was the addition of Chapter XXA by the Taxation Laws (Amendment Act), 1972 (effective from 15 November, 1972) which empowered the Government to acquire an immovable property where such property was transferred by sale or exchange and the true consideration for such transfer was concealed with the object of evading taxes. The Committee have found that upto 31-3-1976 not a single immovable property has been

acquired by Government on this account. It was explained to the Committee that no property could be acquired because the procedure regarding taking over and maintenance of property etc. had to be finalised. The Committee have been told that it has since been decided that properties so acquired would be managed by the CPWD. The Chairman, Central Board of Direct Taxes has gone on record that the efficacy of the new provision of acquisition of property should not be judged by the number of properties actually acquired but in the light of its deterrent effect as a whole. The Committee regret that though the provision for acquired of property was introduced as far back as 1972, the procedure to be followed for acquisition and management of such properties remained undecided till recently with the result that the provision could not be effectively implemented. Now, that these procedures have been settled, the Committee trust that Government will utilise this provision more vigorously as an instrument to curb tax evasion.

3.90. The Committee find that upto 31st January, 1978 acquisition notices were issued in as many as 18,970 cases, under the provisions of Chapter XX-A of the Income-tax Act. Proceedings were dropped in 10,161 cases. Acquisition orders were made in 315 cases covering 288 properties, whose total consideration; as stated in the instruments of transfer, was Rs. 3.70 crores against the fair market value of Rs. 6.64 crores. The Committee have been informed that by 31st January, 1977, acquisition orders had been made in 260 cases. Acquisition orders had become final in 15 cases and in 4 cases the properties have vasted in Government. Explaining the reasons for delay in conformation of a large number of acquisition order, the Department have stated that acquisition order is a quasi-judicial order and entails time-consuming processes of giving adequate hearings to the parties. More often than not, these hearings raise contentious issues both of law and fact. As these orders could be appealed against, they could be taken as confirmed only when no further appeal was pending. If these processes are said to be time-consuming, the Committee fail to understand why the Ministry did not re-examine them with a view to identify the stages at which delays generally occurred and revamped the procedures with a view to streamline them. The Committee hope that Ministry would look into this matter.

3.91. The Committee are concerned to note that of the 18,970 cases in which notices of acquisition of immovable property were issued up to 31-3-1978 proceedings were dropped in as many as 10,161 cases. Notices of acquisition have to be issued within 9 months of the registration of documents transferring immovable property in all cases

where, prima facie, the value is understated by more than 15 per cent. cases where the assessees are able to satisfy the competent authority that the margin or understatement of value does not exceed more than 15 per cent are dropped. The fact that such a large number of cases are dropped clearly indicates that cases are not looked into properly before issuance of acquisition notices, thus causing unnecessary harassment to the people. The Committee recommend that in issuing notices of acquisition of immovable property due caution should be exercised so that as far as possible only genuine cases of understatement of value are proceeded against.

3.92. Section 269D(1) of the Income-tax Act provides for the initiation of proceedings for the acquisition of property by the competent authority "by notice to that effect published in the official gazette." It also provides that "no such proceedings shall be initiated after the expiration of a period of 9 months from the end of the month in which the instrument of transfer in respect of such property is registered under the Registration Act, 1908." The Committee note that upto 30 September, 1977, there have been as many as 179 cases where the decision to initiate the proceedings was taken within 9 months from the date of registration of the property, but, as the publication of the notices in the official gazette was after the expiry of the period of 9 months, the notices had become time-barred and the cases could not be proceeded with. The Committee also observe that out of 179 such cases, as many as 133 occurred during the first quarter of 1975-76. During evidence, a possible explanation was offered for this unusual feature. It was stated that the notices were sent to the Manager of Printing by name. The Manager having been transferred to Gangtok, the notices were delivered to him there. He thereafter forwarded it to the appropriate person. The delay in transit resulted in delay in the printing of the notices in the gazette. The reason for and circumstances of the delay as explained above seems to have a ring of strangeness about it. The Committee was not told of any rule whereunder a notice to the Government Press is to be issued in the name of the person incharge of the Press. Being so, it requires a little bit explanation as to how it is that the competent authorities located in different parts of the country addressed the communications to the Manager of the Government Press in his personal name. The Committee would like this aspect of the matter to be looked into and, if found unwarranted under the circumstances or against the background of the relevant rule, to investigate as to where and in when the responsibility for the grevious mis-direction of the notices rested.

The Committee also note the view of the representative of the Department expressed during evidence that the existing provision

in Section 269D(1) of the Income Tax Act relating to publication of notices in the official gazette "has become a little cumbersome" and that an amendment to this particular provision is under consideration and that the amendment of law will have retrospective effect. The Committee recommend that Government should take an early decision in the matter and bring the necessary amendment before Parliament. The Committee also recommend that the proposed amendment should be given a retrospective effect so as to enable all the cases which had become timebarred in the past being re-opened.

3.93. In their earlier Reports, the Committee had repeatedly expressed their deep concern about the extent to which property values were manipulated in tax returns. In paragraph 1.30 of their 100th Report (4th Lok Sabha), the Committee had drawn attention to the results of a sample survey then conducted by the Valuation Cell, which disclosed that the value of 71 properties in Delhi was 73 per cent more than what was shown in the return filed by the assessees, Further, commenting upon a case where two urban properties declared for Wealth-tax at Rs. 1,80,000 and Rs. 1,00,000 were acquired/purchased by a State Government and a University at Rs. 26.40 lakhs and Rs. 10 lakhs respectively, the Committee in paragraph 1.88 of their 117th Report (4th Lok Sabha) emphasized the need to undertake a survey of all metropolitan properties in accordance with a time-bound programme. In paragraphs 1.11 and 2.7 of the same Report, the Committee laid stress on external surveys and systematic analysis and processing of information collected and streamlining of the procedure for valuation. The question of streamlining the procedure for valuation of assets was reiterated in paragraphs 2.10 and 4.59 of 50th Report and 88th Report of the Committee (Fifth Lok Sabha). In paragraphs 1.18 and 1,23 of their 25th Report (Fifth Lok Sabha) (1971-72), the Committee reiterated their earlier suggestion for conducing survey in respect of all metropolitan properties in accordance with time-bound programme. In pursuance of this, the Board issued instructions in January, 1971 that a time-bound programme for survey should be drawn up. On 20th July, 1973 the Board issued instructions for "intensifying" survey operations and to divert a substantial number of inspectors for survey work. In July, 1974, the Board issued detailed guide-lines for "systematising" survey operations. According to the information made available to the Committee, the number of new assessees discovered as a result of these surveys was 39,000 in 1970-71 and 1971-72, 93,686 in 1972-73, 69,680 in 1973-74, 1,36,232 in 1974-75 and 88,609 in 1975-76. While the results are encouraging, the Committee find that the cost check conducted by Audit in respect of certain localities in major

cities like Ahmedabad, Bhubaneswar, Bombay, Calcutta, Delhi, Hyderabad, Jaipur and Kanpur has revealed that the surveys were conducted at random and not in any systematic manner and that there was by and large, no effective procedure for follow-up action on the results of such surveys. Admitting that "with better management, greater efficiency and better scrutiny, it is possible to increase our tax collections", the representative of the Department has assured the Committee that "over a period of time which will not be too long" all the important areas would be covered. He has, however, pointed out that because of pressure of other work it was not possible for the Department to continue survey operations during January, February and March, 1977. The Committee trust that the Department would henceforth gear up their tax-collecting machinery so as to show better results. The Committee, however, feel that surveys should be a continuing part of the normal operations of the revenue collection system in the country. They reiterate that a time-bound programme should be drawn up for this purpose so as to cover in shortest possible time as many posh areas in metropolitan cities as possible.

3.94. The Committee note that in the context of valuation of conspicuous constructions, a survey was started in July, 1975 by a special squad, which was carried on for three months and confined to 11 cities of Ahmedabad, Bombay, Bangalore, Calcutta, Delhi Hyderabad, Jaipur, Madras, Nagpur, Poona, Kanpur and Patiala. 5,606 premises were surveyed with an estimated undisclosed investment/under-valuation detected in these premises to the tune of Rs. 29.85 crores. The functioning of the special squads was suspended, in October, 1975 for appraisal of results achieved, processing of information collected and taking further necessary action. This survey was resumed towards the end of June, 1976 and upto the end of October, 1976, 2,375 additional premises were surveyed and according to the preliminary estimate, the value of undisclosed investment or under-valuation detected comes to Rs. 33.35 crores.

The fact that the special drive spread over a total period of 7 months during 1975 and 1976 revealed undisclosed investment/ under-valuation to the tune of Rs. 63 crores is indicative of the extent of undisclosed investment in real estate leading to collosal loss of revenue to the State. The Committee appreciate the results of the special drives and hope that efforts in this direction would not only continue but be accelerated.

2.95. The Committee note that the test check conducted by Audit has revealed that the Valuers, generally adopt the income capitalisa-

tion method for the valuation of house properties. This method involves capitalisation, at the rate of return expected from house properties, of the net annual average income from the property. In some cases, this method was not followed, though it was the appropriate method or where followed it was applied incorrectly. A number of such irregular instances have been enumerated in the Audit Report [vide sub-paragraphs 3.8(i) to 3.8 (iii)].

The Committee regret to note that no objective criteria have been laid down so far for determining the valuation of house properties. The Committee have been informed that a Committee on valuation of immovable property appointed by the Government for drawing up of guidelines for the valuation of residential properties have since submitted their report and the same is under the consideration of the Government. The Committee would like to be apprised of the action taken by Government on the recommendations made by the aforesaid Committee.

3.96. In 1968, Valuation Cells were established in some metropolitan cities for the valuation of properties for purposes of assessment to direct taxes. In December, 1971, the Board laid down detailed instructions spelling out the various types of cases which should be referred to the Valuation Cell for a proper determination of the market value of the property. The Committee take a serious view of the fact that as a result of the test check conducted by Audit, a number of cases [enumerated in sub-paragraph 3.9(i) to 3.9(iii) of the Audit Paragraph] were noticed, which apparently called for a reference to the Valuation Cell but which were not so referred. The Committee think that the Central Board of Direct Taxes should take a serious note of the position and issue suitable instructions to the assessing officers.

3.97. Another disclosure made by the test-check conducted by Audit is that the valuation of immovable properties done by approved valuers has very often been much lower than that determined by the Departmental Valuation Cell. A number of such instances have been enumerated in the Audit Report sub-paragraphs 3.10(i) to 3.10(iv). In this connection the Committee would like to recall that in paragraph 2.7 of their 117th Report (4th Lok Sabha) (1969-70) and again paragraph 1.24 of their 25th Report (5th Lok Sabha) (1971-72), they had suggested that it would be necessary to devise adequate checks over the work of valuers to ensure that valuations were done accurately and fairly.

3.98. The Committee find that the Wealth-tax rules empower the Board not to register any valuer, if such valuer has been "found guilty" of mis-conduct in his professional capacity. Section 34 AD of the Wealth-tax Act, 1957 also provides for de-registration of a valuer if he has been "guilty" of mis-conduct in his professional capacity. It has transpired during evidence that though there have been quite a few cases particularly in Gujarat where valuers were guilty of under-valuation of immovable properties, yet the Central Board of Direct Taxes found itself helpless to refuse registration or de-register them because in a case referred to the Ministry of Law the Board was advised that "the finding regarding the applicant being guilty of mis-conduct in his professional capacity, shall have to be from an agency other than the Board, which finding should be the basis for the opinion of the Board rendering him un-fit to be registered as a valuer." The Chairman, Central Board of Direct Taxes has pointed out that the main difficulty in implementing the advice of the Ministry of Law is that valuers have no association of their own nor are they affiliated to any other body who could be expected to look into their professional conduct and give their finding for consideration of the Board. In view of this difficulty the Ministry of Law are stated to have been approached again to have a second look at the provisions of the law. The Committee once again stress the need to discipline the recalcitrat valuers so that they conform to professional ethics in conducting their business. The Committee recommend that if on re-examination it is felt that the statute as it stands at present stands in the way of proceeding against valuers who are guilty of under-valuation of immovable properties, the question of amending the same may be considered in consultation with the Ministry of Law.

3.99. The Committee note that with a view to take into consideration the continuous appreciation in values of urban properties, the Board issued instructions in July, 1969 to the effect that the value of the property adopted once should be reassessed after two years. The Committee are distressed to note that some instances came to the notice of the Audit in respect of Ahmedabad, Hyderabad and Jaipur during test check, where the values were not revised over much longer periods. The Committee would like the Board to examine the reasons for non-implementation of the specific instructions of the Board by the field officers with a view to taking appropriate action against them.

3.100. The Committee note that in Rajasthan, the Commissioner had issued instructions in August, 1972 that property values computed on the State P.W.D.'s plinth area rates of 1968 should

be stepped up progressively in the subsequent years. The Committee regret that despite these instructions, 234 properties belonging to 151 assessees and valued at about Rs. 1.35 crores were valued by the assessing officers at the same price in 2 to 7 successive years from 1968-69 to 1974-75. The Committee would like to know the reasons for ignoring the specific instructions of the Commissioner on this matter and the action taken against erring officers.

3.101. The Committee also view with concern the fact that in Rajasthan in over 2/3rd of the 476 cases reviewed by Audit, esential details like area of land, built up area, specifications of construction site and building plans, copies of purchase deeds, etc. were not obtained. Consequently, the values returned by the assessees had to be accepted without making necessary enquiries. Some such instances have been mentioned in sub-paragraphs 3.13(a) to 3.13(d) of the Audit Paragraph. The Committee recommend that in order to prevent recurrence of such cases, suitable guidelines may be issued so that all relevant and material details necessary to scrutinise the values returned by assessees are invariably called for by the assessing officers.

3.102. The Committee are deeply concerned over the fact that a recommendation made by them as far back as 1972-73 has not been implemented by Government so far. In paragraph 4.11 of their 50th Report (5th Lok Sabha) (1972-73), the Committee had desired that suitable guidelines should be issued to regulate the determination of the deceased's reversionary interest in a lease hold property. This recommendation was reiterated by the Committee in para 1.37 of their 103rd Action Taken Report. The Central Board of Direct Taxes have explained in a Note that on receipt of the Committee's recommendation, they had prepared a draft circular on the basis of guidelines indicated by the Supdt. Engineer (Valuation Cell). Though the Ministry of Law are stated to have been consulted thrice, the matter could not be finalised because a large number of variable factors entered into calculation of value of reversionary interest. At one stage (29 July, 1975), the Ministry of Law had even advised that it was not practical to lay down detailed guidelines in this matter and that as instructions could only explain broad general proposition, utility of such instructions was necessarily limited. When the views of the Ministry of Law were communicated to Revenue Audit, the latter reiterated that guidelines on this subject should be issued. Accordingly, the Board have prepared a circular and are stated to be considering its issue. The Committee recommend that issue of instructions/guidelines may be expedited.

3.103. In paragraph 1.89 of their 117th Report (1969-70) and again in paragraph 5.32 of their 119th Report (1973-74), the Committee

emphasised the need to establish a proper co-ordination among different direct taxes assessments and also between the Central and State Taxes Department to improve the quality of tax administration. The Committee have been informed during evidence that instructions were issued that assessments under various direct tax laws regarding the same assessee should, as far as possible, be taken together. In November, 1973 the Department issued a circular on the subject of "Proper Co-ordination between assessments under different Direct Taxes Laws". In October, 1976 the Board issued instructions on utilisation of information in applications under section 230A and interrelated action under various direct taxes. Despite issue of instructions on various aspects of co-ordination, Government do not seem to have come to grips with the problem. A test check conducted by Audit has revealed lack of such co-ordination in many cases thus resulting in loss of considerable revenue. It has also been revealed that cases are not lacking where information already available with the department was not made use of in the interest of revenue. Details of a few such instances have been given in sub-paragraph 3.11 of the Audit paragraph. The Committee have been informed that reports received from the Commissioners of Income-tax on the specific instances brought out by Audit are under scrutiny. Meanwhile, a Committee consisting of senior Departmental Officers has been appointed to study in depth the problem of co-ordination between the Income-tax and other Government Departments with a view to tackling tax-evasion. The Committee understand that the report of that Committee has already been received and is under consideration of the Department of Revenue and Banking. The Committee would like to be apprised about the recommendations made by that Committee and the decisions of the Department thereon. They need hardly stress that early steps should be taken to find an abiding solution to the problem of lack of co-ordination among various direct tax authorities.

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

NEW DELHI;
April 17, 1978
Chaitra 27, 1900 (*S*)

APPENDIX I

vide Paragraph 3.69

Copy of Letter No. 6|11|69-W.T. dated 3rd July, 1969 from the Secretary, Central Board of Direct Taxes to the Secretary, the Gujarat Chamber of Commerce and Industry, Ahmedabad and copy to all Commissioners of Income Tax.

SUBJECT: Approved Valuer's Certificate for Wealth-tax Assessment.

Please refer to your letter No. FIN/1(1)/1/5361 dated the 9th June, 1969 on the subject.

It has already been clarified by the Central Board of Direct Taxes that assessees may rely on the certificates given by approved Valuers for the assessment year 1968-69, while returning the value of an asset for the subsequent two years also. You have enquired whether it means that the Wealth-tax Officers too would adopt the same value, which has been assessed for the assessment year 1968-69 for the subsequent two assessment years. In this respect, your attention is invited to Section 7 of the Wealth-tax Act which provides that the value of the asset shall be estimated to be the price which in the open market, on the valuation date. As the market value of assets does vary from time to time, it may not be possible for the Wealth-tax Officers to invariably adopt the same value for an asset over a period of three years. However, ordinarily they would not disturb the valuation placed on a particular asset for the assessment year 1968-69 while making the Wealth-tax assessments of the two assessment years immediately following, unless the circumstances of the case clearly justify a deviation from the past assessed value.

APPENDIX II

(*Vide* Para 3.38)

STATEMENT

Sl. No.	Name of the charge	No. of proceedings initiated under Chapter XXA upto 31-3-75	No. of proceedings dropped upto 31-3-75	In how many cases action for initiation of proceedings & publication of notices in the Gazette was completed with 9 month	In how many cases out of (3) action was completed in 9 months but the publication of notice in the Gazette was after the expiry of 9 months.	No. of cases (4) in which proceedings had to be dropped because notice of initiation of proceedings was published beyond limitation period.	Precise reason for dropping the acquistion proceedings.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Delhi	1,299	952	Nil	Nil	Nil	Precise reasons for dropping the acquisition proceedings are as under :—
2.	Kanpur	243	42	241	2	Nil	
3.	Jaipur & Jodhpur . .	229	86	229	Nil	Nil	
4.	Kerala	29	6	29	Nil	Nil	(a) The directions contained in Board's F.No.328/113/72-WT dated 28-8-73 2were acted upon.
5.	Pune	190	86	190	Nil	Nil	
6.	W. Bengal	626	13	623	3	Nil	
7.	A. Pradesh	497	71	496	1	Nil	(b) The fair market value after hearing the parties was found not to exceed Rs. 25,000/-.
8.	M. Pradesh . . .	316	60	316	Nil	Nil	
9.	V. & M. Nagpur . .	36	6	36	Nil	Nil	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
10.	Patiala	296	87	296	Nil	Nil	(c) The Fair market value was ultimately found not to exceed 115% of the apparent consideration;
11.	Tamil Nadu . . .	525	236	525	Nil	Nil	
12.	Assam	64	12	62	2	Nil	
13.	Rohtak	407	113	407	Nil	Nil	(d) The difference between fair market value and 115% of the apparent consideration was marginal.
14.	Bombay	478	153	478	Nil	Nil	
15.	Karnatala	449	117	446	3	Nil	
16.	Orissa	17	4	17	Nil	Nil	
17.	Amritsar	977	116	975	2	Nil	(e) Object of concealment or tax evasion
18.	Gujarat	368	56	368	Nil	Nil	as per Section 269(C)(1)(a) and (b) not found to be present in the transsaction.
19.	Lucknow	306	192	303	3	Nil	
20.	Jullundur	739	238	681	58	Nil	
21.	Bihar	96	55	96	Nil	Nil	(f) The transaction was found on equiry not to be a sale but a gift, mortgage or conveyance by public auction etc. and did not come within the purview of Chapter XXA of the IT Act, 1961.
	TOTAL	8,187	2,701	8,113	74	Nil	

Note : (1) In the report sent *vide* our letter No.236/756/75-A&PAC-I, dated 23-2-78 it was stated that the figures of notices which were published beyond the limitation date, given by the CSIT in some charges were slightly different from the figures supplied earlier in connection with a study for need to amend Sec. 269D(1) and that clarifications were being called for. The clarifications have since been received and the figures as per the clarifications have now been indicated in the statement above.

The gist of clarifications is as under :—

(i) *Karnataka* : The CIT has reported that incorrect figures were given earlier as it was thought that information was to be given in respect of cases in which sales were registered upto 31-3-75.

(ii) *Assam* : The CIT has reported that the IAC(Acqn) thought that information was required to be given in respect of cases where notices u/s 269(D1) had been published beyond the limitation date upto 31-3-75.

(iii) *West Bengal* : The CIT has reported that the information supplied was on the presumption that it was required in respect of cases where notices had been published beyond the limitation date upto 31-3-75.

(iv) *Kanpur*: The CIT has reported that the mistake occurred as the supervisory officer was on leave and the information compiled could not be properly checked.

(v) *Amritsar* : The CIT has reported that IAC(Acq) & ITO(HQRS) thought that the information was required to be given in respect of cases which had become barred by limitation upto 31-3-1975.

(vi) *Lucknow* : In the three cases now reported the notices were printed in the Gazette before or on the limitation date. In two of thesse cases, Allhabad High Court had held that since the Gazette became available for sale only after the limitation date, the notices cannot be held to have been published in time. The same would apply to the 3rd case also.

APPENDIX III

(*Vide* Para 3·38)

Period-wise Analyses of Notices which got time-barred upto 31-8-1977 *as per reports received from the Commissioners of Income-tax*

S. No.	Charge	Total No. of cases	Became barred during F.Y. 1974-75 & Earlier	Became barred during First Qr. of F.Y. 1975-76 (i.e. 30-6-75)	During Quarter Ended on								
					30-9-75	31-12-75	31-3-76	30-6-76	30-9-76	31-12-76	31-3-77	30-6-77	30-9-77
1	2	3	4	5	6	7	8	9	10	11	12	13	14
1.	Amritsa	9	..	8	..	1	..	..	..	..	..	..	..
2.	A. Pradesh	1	1	..	..	..	..	..	..	..	..	..	..
3.	Assam	4	2	..	..	..	..	..	1	1	..	..	..
4.	Gujarat	2	..	2	..	..	..	..	..	..	..	..	..
5.	Jullundur	85	..	62	23	..	..	..	..	..	..	..	..
6.	Kanpur	16	1	15	..	..	..	..	..	..	..	..	..
7.	Karnataka	16	..	15	..	..	..	..	..	..	..	..	1
8.	Kerla	11	..	11	..	..	..	..	..	..	..	..	..

9. Lucknow	6	3	..	1	..	..	2	..	..	..	..	..	
10. M. Pradesh	3	..	..	..	..	3	..	..	..	..	..	..	
11. Pune	2	1	1	..	..	..	..	..	..	..	..	..	
12. Tamil Nadu	1	..	..	..	..	1	..	..	..	..	..	..	
13. W. Bengal	23	..	19	..	..	..	..	4	..	..	..	..	
TOTAL	170	8	133	24	1	4	2	5	1	..	..	1	

Note : Figures given by some of the Commissioners of Income-tax are subject to verifiction with refereene to the Gazettes.

APPENDIX IV

Statement of Conclusions/Recommendations

Sl. No.	Para No. of Report	Ministry/Deptt.	Conclusions/Recommendations
1	2	3	4
1	1.36	Ministry of Finance (Deptt. of Revenue)	The facts contained in the foregoing paragraphs make it amply clear to the Committee that the provisions of Section 230A of the Income Tax Act, 1961 are not being implemented in letter and spirit and that the field Officers are paying scant regard to the instructions being issued by the Board from time to time to make the implementation of this Section more effective. The Committee would like to emphasise that the responsibility of the Department of Revenue and Banking does not end with the issue of instructions to lower formations. The Department have also to devise information systems and control mechanisms so as to ensure the implementation of the legislative measures and explanatory or supplementary instructions issued by them from time to time. Since effective implementation of the provision of Section 230A depends on the close coordination between the Registration Officers who are under the State Government and the Income-tax Assessing Officers, the Committee consider it of utmost importance that a regular system of coordination between the two authorities is evolved so as to plug effectively the loopholes for tax evasion which Section 230A seeks to do.

2	1.37	Do.	The Committee find that though the Application Form prescribed for grant of Certificate under Section 250A (Form 34A) appears to be a comprehensive one and seems to have been designed to detect even new cases of escapement from various direct taxes, it does not contain any clause requiring the transferor to furnish details of all the transfer deeds registered by him in a year. The Committee feel that these details would help to detect instances of splitting up of transfers of immovable property to circumvent the provisions of Section 230A. In a note furnished to the Committee, the Department have intimated that the question of amending the application form so as to require the applicant to furnish such details was being examined by them. The Committee would like to be informed of the action taken by the Government in this regard.
3	1.38	Do.	Audit has pointed out that apart from transfer of immovable property, large-scale transfers of shares of Housing Cooperative Societies especially in big urban towns and cities, also take place. While transfer of immovable property requires registration under Section 17 of the Indian Registration Act and therefore attracts the provisions of Section 230A of the Income Tax Act, 1961, the transfers of shares of flats of housing cooperative Societies do not require registration under the existing law and are outside the ambit of Section 230A. The Committee recall in this connection that the Wanchoo Committee (December, 1961) and the Select Committee on the Taxation Laws (Amendment) Bill, 1971 had both recommended that transfers of shares of Housing Cooperative Societies should be deemed as immovable property for the purpose of Transfer of

1	2	3	4
			Property Act, 1882 and should be required to be registered under the Indian Registration Act, 1908 in the same manner as any other immovable property. On a reference made by the Department of Revenue & Banking, the Ministry of Law, Justice and Company Affairs had advised the Department on 15 November 1972 that there was no legal objection to amend the law for this purpose. The Committee regret although a period of four years has elapsed, the proposed legislation is still to be enacted and brought on the statute book. The only progress that has been made in this matter is routine consultation at official level among the concerned authorities. They would like that the proposed legislative measures should be brought before Parliament without further delay.
4	2.38	Ministry of Finance (Deptt. of Revenue)	In furtherance of their socio-economic policy a Departmental Evaluation Cell was set up by Government in October, 1968 with the avowed object of preventing large-scale avoidance of taxes by under-statement of the returned value of assets and making investment of unaccounted money in real estate unprofitable and unattractive. The Departmental Evaluation Cell, which was set up to *inter alia* assist the Income Tax Officers in detecting under-valuation of urban immovable properties, was manned by qualified and experienced officers drawn from the CPWD and attached with the Income Tax Department on deputation basis. The Taxation Laws (Amendment) Act, 1972 brought about important changes in the provisions

of the Direct Taxes Acts, relating to valuation machinery for properties. An elaborate valuation machinery for valuation of immovable properties other than agricultural land was set up in the Income Tax Department and statutory authority was conferred on the officers of the Cell. The Committee are surprised that although the Cell has been functioning for over 8 years, Government have not carried out any direct study or review to see how far the objectives in furtherance of which the Evaluation Cell was set up had in fact been achieved. Except for some periodical reports on the working of the Evaluation Cell and sample studies, no concerted efforts were made to carry out examination in depth about the functioning of the Departmental Cell and the impact it has made in preventing the escapement of tax. The Committee desire that an immediate review of the working of the Departmental Valuation Cell may be undertaken and the results intimated to the Committee. A note about the functioning of the Cell should also be specifically included in the Annual Report of the Ministry to bring out how far the Cell has been able to subserve the objectives with which it has been set up.

5. 2.39 Do.

The Committee find that on 28 December, 1971 the Central Board of Direct Taxes issued detailed instructions laying down the types of cases which should be referred by the assessing officers to the Valuation Cell. By amendment of the Taxation Laws (Amendment) Act, 1972, with effect from 1 January, 1973, it was provided that the valuation determined by the Valuation Officer would be

1	2	3	4
			binding on the assessing officer. The amending Act of 1972 stipulated the types of cases which should be referred to the Valuation Cell but it is regrettable that despite the issuance of departmental instructions supported by statutory provisions, a number of cases which merited a reference to the Valuation Cell were in fact not referred to it. Details of several cases have been given by Audit in paragraph* 14.9 of their Report for the year 1974-75, Union Government (Civil), Revenue Receipts, Volume II, Direct Taxes.
6.	2.40	Min. of Finance (Deptt. of Revenue)	In this connection, the Committee would particularly mention that in Ahmedabad a short recovery of wealth tax to the extent of Rs. 2.84 lakhs in the three assessment years ending 31 March, 1969 on the basis of value of a self-occupied property in the residential-cum-commercial locality was determined by the Valuation Cell in October, 1974. Similarly, property with a land area of 15,600 sq. yards was returned and assessed at Rs. 5.50 lakhs for the assessment year 1968-69. Though the value exceeded Rs. 5 lakhs, no reference was made to the Valuation Cell. In Bombay, the number of cases referred to the Valuation Cell for re-valuation of properties was only 310 in 1973-74 and 185 in 1974-75 as against the total number of wealth tax assessees viz. 45,256 and 47.985 as on 31 March, 1974 and 31 March, 1975, respectively. In one case, an assessee constructed two buildings, very near each other, in Colaba at the same time and declared their values as Rs. 47,14,987 and

			Rs. 50,59,260. The former property was valued by the Departmental Valuation Cell, at Rs. 77,50,000, but the valuation of the other property was not referred to the Valuation Cell. In Rajasthan out of 476 properties reviewed only seven were found to have been valued by the Cell. Though the Commissioner had issued instructions in November, 1973 that all properties whose returned value was Rs. 2.00 lakhs or more should be referred to the Valuation Cell, it was noticed that in the case of 11 properties those instructions had not been followed.
7.	2.41	Do.	The Central Board of Direct Taxes wrote to the Commissioners of Bombay, Gujarat and Rajasthan on 16 October, 1976 about the cases cited by Audit for taking corrective measures. The Committee need hardly point out that after the issue of detailed instructions about the type of cases which are required to be referred for valuation to the Valuation Cell, any omission in this behalf should be seriously viewed and strict action taken against those found to be remiss in this behalf. The Committee would also like adequate institutional arrangements to be made in the field, at the Commissioner's level as also in the Board's Office to make sure that the instructions issued in this behalf are strictly given effect by all concerned.
8.	2.42	Do.	The Committee find that as against 20 valuation units in 1972-73, there are now as many as 80 valuation units. The expenditure incurred on valuation cells has increased from Rs. 4.36 lakhs in 1972-73 to Rs. 61.94 lakhs in 1974-75. The number of cases decided

*Reproduced in para 3.9 of P.A.C. Report.

1	2	3	4

by the Valuation Cells were 988 in 1972-73, 5,049 in 1973-74 and 14,455 in 1974-75. The rate of disposal was no doubt stepped up but the fact cannot be gainsaid that the cell accumulated as on 1 April 1976 a backlog of 11,682 cases. According to the information furnished to Audit by the Department of Revenue and Banking on 29 March, 1975, the Valuation Cells were able to detect under-valuation to the extent of Rs. 35.33 crores in 1971-72, Rs. 42.54 crores in 1972-73 and Rs. 24.04 crores in 1973-74. The Committee are, however, surprised that the Department do not know as to whether the enhanced value determined by the Valuation Cell was in fact adopted by the Assessing Officers for finalising the assessments and the amount of additional tax which was gathered on this account. Information is also not available about the penalties levied and collected from the assessees for concealment. Further it is not known whether information contained in the reports of the valuation officers was used in re-opening earlier years' assessments wherever called for. It is necessary that the Department should have a review made at least in the metropolitan cities, of the action taken on the valuation reports in all these respects. The Committee would like to know the results of the review early.

Another lacuna which the Committee have noted is the absence of an age-wise/cause-wise analysis of pending cases. They are said to be "not readily available".

9.	2.43	-do-	The Committee would like to recall earlier recommendation made by them in their 51st, 150th and 186th Reports (Fifth Lok Sabha) emphasising the need for setting up of an efficient statistical organisation under the Board to have meaningful and contemporaneous data for assisting the Government in taking decisions. The Committee are yet to be informed that the requisite statistical organisation has come into being.
10.	2.44	-do-	The Committee are perturbed to find that the Valuation Cells have still a large number of cases on hand awaiting disposal. According to the Department of Revenue and Banking on 1st April, 1976 there were 6,736 pending cases in Delhi region and 4,946 pending cases in Madras region making up a total of 11,682 pending cases in all. It is further observed that 70 per cent of the pending cases in Delhi region and 83 per cent in Madras region relate to valuations under the Wealth Tax Act. Though disposal of pending cases is increasing from year to year, the Committee feel that considering the large number of new cases which are referred to the Valuation Cell each year, the Cell may not, at this rate, be able to clear the back-log. For example, while the number of new wealth tax cases referred to the Cell was only 535 in 1972-73, new cases of wealth tax increased to 1,724 in 1973-74 and to 11,022 in 1974-75. The reasons for such a high pendency of cases are varied and these have been mentioned in para 2.25 of this Report. The Committee have been informed that in order to reduce the number of pending cases with the Valuation Cell, besides amending Rule 3-A of Wealth Tax with effect from 15

1	2	3	4
			December 1976, the Chief Engineers have also been asked by the Department to (i) dispose of bigger cases on priority basis, (ii) fix suitable time limit within which Valuation Officers should give reports on references made to it, (iii) send age-wise and cause-wise lists of pending cases for effective control, (iv) make attempts to dispose of by 30 June, 1977 all cases which have been pending for more than one year as on 1st March, 1977 and give a report on cases which are not disposed of. The Committee have also been informed that the Commissioners of Income Tax have been asked to meet the District Valuation Officers occasionally to sort out problems, if any. One of the reasons advanced for delay in finalisation of cases by the Valuation Cell is stated to be the dilatory tactics adopted in some cases by the assessees in submitting the requisite documents and information. The Committee need hardly point out that in such cases stern action should be taken against the assessees so as to act as a warning to others.
11.	2.45	Ministry of Finance (Deptt. of Revenue)	The Chairman, Central Board of Direct Taxes has conceded during evidence that Rule 3-A of the Wealth Tax Rules was deficient and had led to some extent to accumulation of work in the Valuation Cell. The aforesaid rule provided that Regional Valuation Officer was merely to supervise the work of the Cell under his control, while the District Valuation Officer could value properties exceeding Rs. 5 lahks only, the Valuation Officer could value properties exceeding Rs. 2 lakhs but not exceeding Rs. 5 lakhs and the

			Assistant Valuation Officer was to handle cases of property valuing upto Rs. 2 lakhs. This is stated to have resulted in uneven load of work among various categories of officers. The Committee regret that though this rule had remained in operation for a number of years, its adverse effect was noticed by the Department only recently. Since the rule has now been amended with effect from 15 December, 1976 to deal with the mal-adjustments in its functioning, the Committee desire that operation of the Rule as amended may be kept under review by the Department. The Committee would like to know in due course how the amended Rule has made for more expeditious finalisation of cases.
12.	2.46	-do-	The Committee are surprised to note that the Central Board of Direct Taxes has not fixed any priorities for disposal of cases by the Valuation Cell. The Committee feel that while efforts already under way to clear the backlog of pending cases may continue, care may be taken to see that, in the process, cases capable of yielding less revenue do not get precedence merely because of the fact that such cases had been lying with the Cell for a longer time. The Committee urge that as assured during evidence, priorities should be fixed by the Board in such a way that cases expected to yield higher revenue are handled by the Valuation Cell on top priority basis.
13.	2.47	-do-	The Committee also find that though the number of cases pending with the Valuation Cells had kept on increasing year after year, the Central Board of Direct Taxes had not laid down any time limit by

1	2	3	4
			which the Cell should finalise its reports on cases referred to it. The Committee recommend that time limit for finalisation of valuation reports may be laid down so that reports are available to the assessing officers well before the assessments become time-barred under various Direct Taxes Acts.
14.	2.48	Ministry of Finance (Deptt. of Revenue)	The Committee note that while the Income-tax assessments are required to be completed within two years, the time that has been laid down for completion of wealth tax assessments is four years. The Chairman, Central Board of Direct Taxes has pleaded during evidence that the time limit for wealth-tax assessments had to be higher because unlike income tax assessments wealth tax assessments involved problems of valuation of property and other forms of assets. When the Committee pointed out that laying down of a higher time limit for completion of wealth tax assessments might have given more latitude to the Valuation Cell, and thus lead to accumulation of arrears, the Chairman, Central Board of Birect Taxes assured the Committee that this aspect would be considered. The Committee would like to be apprised of the result of consideration of the matter.
15	2.49	-do-	What has surprised the Committee more is the fact that while the Valuation Cell had a backlog of as many as 11,634 pending cases as on 1st April, 1976, some of its staff was diverted by the Depart-

ment and put on an entirely different type of work *viz.* survey of posh localities. While discussing the question of augmentation of staff strength in the context of mounting arrears of work in the Valuation Cell, the Chairman, Central Board of Direct Taxes, has expressed the view that "increase in efficiency and better planning can cause marginal reduction in arrears. For substantial reduction in arrears, larger staff is needed." He has stated that if he was given more staff and the wherewithal to improve efficiency "the revenues are bound to increase." In this connection, the Committee have also been given to understand that with the collection of nearly Rs. 20,000 crores as revenue, the cost of collection of revenues came to only about 1.8 per cent. The Finance Secretary stated during evidence that the question of increase in staff in this Department had been under "fairly continuous review" and that 223 extra posts had already been sanctioned for the Income Tax Department. The Committee are, however, conscious of the fact that placing of too much reliance on augmentation of staff strength may prove counter-productive in the long run. They, therefore, stress the need for fixing realistic norms of work, deployment of staff on a more scientific basis and a greater emphasis on expeditious and conclusive disposal of cases, particularly those with large tax implications.

16.	3.89	-do-	Although the value of immovable properties has registered a phenomenal increase since 1960, such increase has not been reflected fully in the value of immovable properties returned and assessed

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			resulting in considerable loss of revenue to the State. The Committee note that with a view to preventing the evasion of taxes, the Income-tax Act and other Direct Taxes enactments had been repeatedly amended by Government in recent years. One of the important amendments to the Income-tax Act, 1961 was the addition of Chapter XXA by the Taxation Laws (Amendment) Act, 1972 (effective from 15 November, 1972) which empowered the Government to acquire an immovable property where such property was transferred by sale or exchange and the true consideration for such transfer was concealed with the object of evading taxes. The Committee have found that upto 31-3-1976 not a single immovable property has been acquired by Government on this account. It was explained to the Committee that no property could be acquired because the procedure regarding taking over and maintenance of property etc. had to be finalised. The Committee have been told that it has since been decided that properties so acquired would be managed by the CPWD. The Chairman Central Board of Direct Taxes has gone on record that the efficacy of the new provision of acquisition of property should not be judged by the number of properties actually acquired but in the light of its deterrent effect as a whole. The Committee regret that though the provision for acquisition of propery was introduced as far back as 1972, the procedure to be followed for acquisition and management of such properties remained un-decided till recently with the result that the provision could not be effectively implemented. Now, that these procedure have been settled, the

			Committee trust that Government will utilise this provision more vigorously as an instrument to curb tax evasion.
17	3.90	-do-	The Committee find that up 31st January, 1978 acquisition notices were issued in as many as 18,970 cases, under the provisions of Chapter XX-A of the Income-tax Act. Proceedings were dropped in 10,161 cases. Acquisition orders were made in 315 cases covering 288 properties, whose total consideration, as stated in the instruments of transfer, was Rs. 3.70 crores against the fair market value of Rs. 6.64 crores, acquisition orders had become final in 15 cases and in 4 cases the properties have vested in Government. Explaining the reasons for delay in confirmation of a large number of acquisition orders, the Department have stated that acquisition order is a quasi-judicial order and entails time-consuming processes of giving adequate hearings to the parties. More often than not, these hearings raise contentions issues both of law and fact. As these orders could be appealed against, they could be taken as confirmed only when no further appeal was pending. If these processes are said to be time-consuming, the Committee fail to understand why the Ministry did not re-examine them with a view to identify the stages at which delays generally occurred and revamped the procedures with a view to streamline them. The Committee hope that Ministry would look into this matter.
18	3.91	-do-	The Committee are concerned to note that of the 8,258 cases in which notices of acqusition of immovable property were issued, proceedings were dropped in as many as 2,785 cases. Notices of acquisition have to be issued within 9 months of the registration of docu-

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			ments transferring immovable property in all cases where, *prima facie,* the value is understated by more than 15 per cent. Cases where the assessees are able to satisfy the competent authority that the margin or under-statement of value does not exceed more than 15 per cent are dropped. The fact that such a large number of cases are dropped clearly indicates that cases are not looked into property before issuance of acquisition notices, thus causing unnecessary harassment to the people. The Committee recommend that in issuing notices of acquisition of immovable property due caution should be exercised so that as far as possible only geniune cases of understatement of value are proceeded against.
19	3·92	—do—	Section 269D (1) of the Income-tax Act provides for the initiation of proceedings for the acquisition of property by the competent authority "by notice to that effect published in the official gazette." It also provides that "no such proceedings shall be initiated....after the expiration of a period of 9 months from the end of the month in which the instrument of transfer in respect of such property is registered under the Registration Act, 1908." The Committee note that upto 30 September, 1977, there have been as many as 179 cases where the decision to initiate the proceedings was taken within 9 months from the date of registration of the property, but, as the publication of the notices in the official gazette was after the expiry of the period of 9 months, the notices had become time-barred and the cases could not be proceeded with. The Committee also observe that out of 179 such cases, as many as 133 occurred during the first

quarter of 1975-76. During evidence, a possible explanation was offered for this unusual feature. It was stated that the notices were sent to the Manager of Printing by name. The Manager having been transferred to Gangtok, the notices were delivered to him there. He thereafter forwarded it to the appropriate person. The delay in transit resulted in delay in the printing of the notices in the gazette. The reason for and circumstances of the delay as explained above seems to have a ring of strangeness about it. The Committee was not told of any rule whereunder a notice to the Government Press is to be issued in the name of the person incharge of the Press. Being so, it requires a little bit explanation as to how it is that the competent authorities located in different parts of the country addressed the communications to the Manager of the Government Press in his personal name. The Committee would like this aspect of the matter to be looked into and, if found unwarranted under the circumstances or against the background of the relevant rule, to investigate as to where and in whom the responsibility for the grevious mis-direction of the notices rested. The Committee also note the view of the representative of the Department expressed during evidence that the existing provision in Section 269D (1) of the Income Tax Act relating to publication of notices in the official gazette "has become a little cumbersome" and that an amendment to this particular provision is under consideration and that the amendment of law will have retrospective effect. The Committee recommend that Government should take an early decision in the matter and bring the necessary amendment before Parliament. The Committee also recommend that the proposed amendment should be given a retrospective effect so as to enable all the cases which had become timebarred in the past being re-opened.

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20	3·93	Ministry of Finance Deptt. of Revenue	In their earlier Reports, the Committee had repeatedly expressed their deep concern about the extent to which property, values were manipulated in tax returns. In paragraph 1.30 of their 100th Report (4th Lok Sabha), the Committe had drawn attention to the results of a sample survey then conducted by the Valuation Cell, which disclosed that the value of 71 properties in Delhi was 73 per cent more than what was shown in the return filed by the assessees. Further. commenting upon a case where two urban properties declared for Wealth-tax at Rs. 1,80,000 and Rs. 1,00,000 were acquired|purchased by a State Government and a University at Rs. 26.40 lakhs and Rs. 10 lakhs respectively, the Committee in paragraph 1.88 of their 117th Report (4th Lok Sabha) emphasized the need to undertake a survey of all metropolitan properties in accordance with a time-bound programme. In paragraphs 1.11 and 2.7 of the same Report, the Committee laid stress on external surveys and systematic analysis and processing of information collected and streamlining of the procedure for valuation. The question of streamlining the procedure for valuation of assets was reiterated in paragraphs 2,10 and 4.59 of 50th Report and 88th Report of the Committee (Fifth Lok Sabha). In paragraphs 1.18 and 1.23 of their 25th Report (Fifth Lok Sabha) (1971-72), the Committee reiterated their earlier suggestion for conducting survey in respect of all metropolitan properties in accordance with time-bound programme. In pursuance of this, the Board issued instructions in January, 1971

that a time-bound programme for survey should be drawn up. On 20th July, 1973 the Board issued instructions for "intensifying" survey operations and to divert a substantial number of inspectors for survey work. In July, 1974, the Board issued detailed guide-lines for "systematising" survey operations. According to the information made available to the Committee, the number of new assessees discovered as a result of these surveys was 39,000 in 1970-71 and 1971-72, 93,686 in 1972-73, 69,680 in 1973-74, 1;36;232 in 1974-75 and 88,609 in 1975-76. While the results are encouraging, the Committee find that the test check conducted by Audit in respect of certain localities in major cities like Ahmedabad, Bhubaneswar, Bombay, Calcutta, Delhi, Hyderabad, Jaipur and Kanpur has revealed that the surveys were conducted at random and not in any systematic manner and that there was, by and large, no effective procedure for follow-up action on the results of such surveys. Admitting that "with better management, greater efficiency and better scrutiny, it is possible to increase our tax collections." The representative of the Department has assured the Committee that "over a period of time which will not be too long" all the important areas would be covered. He has, however, pointed out that because of pressure of other work it was not possible for the Department to continue survey operations during January, February and March, 1977. The Committee trust that the Department would henceforth gear up their tax-collecting machinery so as to show better results. The Committee, however, feel that surveys should be a continuing part of the normal operations of the revenue collection system in the country. They reiterate that a time-bound programme should be

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			drawn up for this purpose so as to cover in shortest possible time as many posh areas in metropolitan cities as possible.
	21	3.94	Ministry of Finance Deptt. of Revenue	The Committee note that in the context of valuation of conspicuous constructions, a survey was started in July, 1975 by a special squad, which was carried on for three months and confined to 11 cities of Ahmedabad, Bombay, Bangalore, Calcutta, Delhi, Hyderabad, Jaipur, Madras, Nagpur, Poona, Kanpur and Patiala. 5,600 premises were surveyed with an estimated undisclosed investment/ under-valuation detected in these premises to the tune of Rs. 29.85 crores. The functioning of the special squads was suspended in October, 1975 for appraisal of results achieved, processing of information collected and taking further necessary action. This survey was resumed towards the end of June, 1976 and upto the end of October, 1976, 2,375 additional premises were surveyed and according to the preliminary estimate, the value of undisclosed investment or under-valuation detected comes to Rs. 33.35 crores. The fact that the special drive spread over a total period of 7 months during 1975 and 1976 revealed undisclosed investment/under-valuation to the tune of Rs. 63 crores is indicative of the extent of undisclosed investment in real estate leading to collosal loss of revenue to the State. The Committee appreciate the results of the

			special drives and hope that efforts in this direction would not only continue but accelerated.
22.	3·95	-do-	The Committee note that the test check conducted by Audit has revealed that the Valuers, generally adopt the income capitalisation method, for the valuation of house properties. This method involves capitalisation at the rate of return expected from house properties, this method was not followed, though it was the appropriate method or where followed it was applied in-correctly. A number of such irregular instances have been enumerated in the Audit Report [*vide* sub-paragraphs 3.8 (i) to 3.8 (iii)]. The Committee regret to note that no objective criteria have been laid down so far for determining the valuation of house properties. The Committee have been informed that a Committee on valuation of immovable property appointed by the Government for drawing up of guidelines for the valuation of residential properties have since submitted their report and the same is under the consideration of the Government. The Committee would like to be apprised of the action taken by Government on the recommendations made by the aforesaid Committee.
23	3·96	-do-	In 1968, Valuation Cells were established in some metropolitan cities for the valuation of properties for purposes of assessment to direct taxes. In December, 1971, the Board laid down detailed instructions spelling out the various types of cases which should be referred to the Valuation Cell for a proper determination of the market value of the property. The Committee take a serious view

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			of the fact that as a result of the test check conducted by Audit, a number of cases [enumerated in sub-paragraphs 3.9(i) to 3.9(iii) a number of cases [enumerated in sub-paragraphs 3.9(i) to 3.9(iii) a reference to the Valuation Cell but which were not so referred. The Committee think that the Central Board of Direct Taxes should take a serious note of the position and issue suitable instructions to the assessing officers.
24	3·97	Ministry of Finance Deptt. of Revenue	Another disclosure made by the test-check conducted by Audit is that the valuation of immovable properties done by approved valuers has very often been much lower than that determined by the Departmental Valuation Cell. A number of such instances have been enumerated in the Audit Report [sub-paragraphs 3.10(i) to 3.10(iv)]. In this connection the Committee would like to recall that in paragraph 2.7 of their 117th Report (4th Lok Sabha) (1969-70) and again in paragraph 1.24 of their 25th Report (5th Lok Sabha) (1971-72), they had suggested that it would be necessary to devise adequate checks over the work of valuers to ensure that valuations were done accurately and fairly.
25	3·98	-do-	The Committee find that the Wealth-tax Rules empower the Board not to register any valuer, if such valuer has been "found guilty" of mis-conduct in his professional capacity. Section 34AD of the Wealth-tax Act, 1957 also provides for de-registration of a

valuer if he has been "guilty" of mis-conduct in his professional capacity. It has transpired during evidence that though there have been quite a few cases particularly in Gujarat where valuers were guilty of under-valuation of immovable properties, yet the Central Board of Direct Taxes found itself helpless to refuse registration or de-register them because in a case referred to the Ministry of Law the Board was advised that "the finding regarding the applicant being guilty of mis-conduct in his professional capacity, shall have to be from an agency other than the Board, which finding should be the basis for the opinion of the Board rendering him unfit to be registered as a valuer." The Chairman, Central Board of Direct Taxes has pointed out that the main difficulty in implementing the advice of the Ministry of Law is that valuers have no association of their own nor are they affiliated to any other body who could be expected to look into their professional conduct and give their finding for consideration of the Board. In view of this difficulty the Ministry of Law are stated to have been approached again to have a second look at the provisions of the law. The Committee once again stress the need to discipline the recalcitrant valuers so that they conform to professional ethics in conducting their business. The Committee recommend that if on re-examination it is felt that the statute as it stands at present stands in the way of proceeding against valuers who are guilty of under-valuation of immovable properties, the question of amending the same may be considered in consultation with the Ministry of Law.

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26	3·99	Ministry of Finance (Deptt. of Revenue)	The Committee note that with a view to take into consideration the continuous appreciation in values of urban properties, the Board issued instructions in July, 1969 to the effect that the value of the property adopted once should be reassessed after two years. The Committee are distressed to note that some instances came to the notice of the Audit in respect of Ahmedabad, Hyderabad and Jaipur during test-check, where the values were not revised over much longer periods. The Committee would like the Board to examine the reasons for non-implementation of the specific instructions of the Board by the field officers with a view to taking appropriate action against them.
27	3.100	—do—	The Committee note that in Rajasthan, the Commissioner had issued instructions in August, 1972 that the property values computed on the State PWD's plinth area rates of 1968 should be stepped up progressively in the subsequent years. The Committee regret that despite these instructions, 234 properties belonging to 151 assessees and valued at about Rs. 1.35 crores were valued by the assessing officers at the same price in 2 to 7 successive years from 1968-69 to 1974-75. The Committee would like to know the reasons for ignoring the specific instructions of the Board on this matter and the action taken against erring officers.
28	3.101	—do—	The Committee also view with concern the fact that in Rajasthan in over 2/3rd of the 476 cases reviewed by Audit, essential

			details like area of land, built up area, specifications of construction site and building plans, copies of purchase deeds, etc. were not obtained. Consequently, the values returned by the assessees had to be accepted without making necessary enquiries. Some such instances have been mentioned in sub-paragraphs 3.13 (a) to 3.13 (d) of the Audit Paragraph. The Committee recommend that in order to prevent recurrence of such cases, suitable guidelines may be issued so that all relevant and material details necessary to scrutinise the values returned by assessees are invariably called for by the assessing officers.
29	3.102	—do—	The Committee are deeply concerned over the fact that a recommendation made by them as far back as 1972-73 has not been implemented by Government so far. In paragraph 4.11 of their 50th Report (5th Lok Sabha) (1972-73), the Committee had desired that suitable guidelines should be issued to regulate the determination of the deceased's reversionary interest in a leasehold property. This recommendation was reiterated by the Committee in para 1.37 of their 103rd Action Taken Report. The Central Board of Direct Taxes have explained in a Note that on receipt of the Committee's recommendation, they had prepared a draft circular on the basis of guidelines indicated by the Superintendent Engineer (Valuation Cell). Though the Ministry of Law are stated to have been consulted thrice, the matter could not be finalised because a large number of variable factors entered into calculation of value of reversionary interest. At one stage (29 July,

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			1975), the Ministry of Law had even advised that it was not practical to lay down detailed guidelines in this matter and that as instructions could only explain broad general proposition, utility of such instructions was necessarily limited. When the views of the Ministry of Law were communicated to Revenue Audit, the latter reiterated that guidelines on this subject should be issued. Accordingly, the Board have prepared a circular and are stated to be considering its issue. The Committee recommend that issue of instructions/guidelines may be expedited.
30	3.103	Ministry of Finance Deptt. of Revenue	In paragraph 1.89 of their 117th Report (1969-70) and again in paragraph 5.32 of their 119th Report (1973-74), the Committee emphasized the need to establish a proper co-ordination among different direct taxes assessments and also between the Central and State Taxes Department to improve the quality of tax administration. The Committee have been informed during evidence that instructions were issued that assessments under various direct tax laws regarding the same assessee should, as far as possible, be taken together. In November, 1973 the Department issued a circular on the subject of "Proper Coordination between assessments under different Direct Taxes Laws". In October, 1976 the Board issued instructions on utilisation of information in applications under section 230A and interrelated action under various direct taxes. Despite issue of instructions on various aspects of co-ordination, Government do not seem to have come to grips with the problem.

A test-check conducted by Audit has revealed lack of such co-ordination in many cases thus resulting in loss of considerable revenue. It has also been revealed that cases are not lacking where information already available with the department was not made use of in the interest of revenue. Details of a few such instances have been given in sub-paragraph 3.11 of the Audit paragraph. The Committee have been informed that reports received from the Commissioners of Income-tax on the specific instances brought out by Audit are under scrutiny. Meanwhile, a Committee consisting of senior Departmental Officers has been appointed to study in depth the problem of co-ordination between the Income-tax and other Government Departments with a view to tackling tax evasion. The Committee understand that the report of that Committee has already been received and is under consideration of the Department of Revenue and Banking. The Committee would like to be apprised about the recommendations made by that Committee and the decisions of the Department thereon. They need hardly stress that early steps should be taken to find an abiding solution to the problem of lack of co-ordination among various direct tax authorities.

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